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on behalf of aggrieved current and former employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

RUDY B. ORELLANA, individually
and on behalf of other aggrieved
current and former employees,

Plaintiff(s),

v.

ORANGE BANG, INC., DAVID FOX,
RICHARD STAIN and DOES 1 to 50,

Defendants.

CASE NO.: 21STCV10092
[Unlimited Jurisdiction]

**NOTICE OF UNOPPOSED
MOTION AND MOTION FOR AN
ORDER APPROVING
SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE
PRIVATE ATTORNEYS
GENERAL ACT OF 2004;
MEMORANDUM OF POINTS
AND AUTHORITIES;
DECLARATION OF ZORIK
MOORADIAN IN SUPPORT;
PROPOSED ORDER; &
EXHIBITS THERETO**

*Assigned for all purposes to the
Hon. Robert B. Broadbelt, Dept. 53*
Complaint Filed: March 15, 2021

Date: August 16, 2022
Time: 10:00 a.m.
Dept.: 53

OSC: 10/11/22 @ 11 a.m.

PLEASE TAKE NOTICE THAT on August 16, 2022 at 10:00 A.M., or as
soon thereafter as the matter may be heard, in Department 53 of the above-
entitled Court, located at 111 N. Hill St. Los Angeles, CA 90012, Plaintiff Rudy

**MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 - 1**

1 B. Orellana will and hereby does move unopposed for an Order: (1) granting
2 approval of the proposed settlement of claims brought pursuant to the Private
3 Attorneys General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) (“PAGA”) set forth
4 in the parties’ PAGA Settlement (the “Settlement Agreement”); (2) directing
5 disbursement of the Settlement Sum pursuant to the terms of the Settlement
6 Agreement; (3) directing payment of attorneys’ fees not to exceed \$3,300.00 and
7 litigation costs from the Settlement to Plaintiff’s counsel not to exceed \$3,000.00;
8 and (4) dismissing this action with prejudice while retaining jurisdiction of the
9 case until completion of the distribution of the PAGA funds and related
10 administrative duties.

11 This motion will be based on this Notice, the supporting memorandum of
12 points and authorities, the parties’ PAGA Settlement Agreement, the
13 Declaration of attorney Zorik Mooradian, the documents and records on file in
14 this matter, and such additional arguments, authorities, and evidence and other
15 matters as may be presented by the parties hereafter.

16
17
18 DATED: July 26, 2022

MOORADIAN LAW, APC

 **Zorik Mooradian**

By:

Zorik Mooradian, Esq.,
Andrina G. Hanson, Esq.,
Nanor C. Kamberian, Esq.,
Attorneys for Plaintiff
RUDY B. ORELLANA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Rudy B. Orellana (“Plaintiff”) and the allegedly aggrieved
4 employees under the Labor Code’s Private Attorneys General Act of 2004
5 (“PAGA”) respectfully move this Court for an Order granting approval of the
6 proposed Settlement of the above-captioned lawsuit against Defendants Orange
7 Bang, Inc., David Fox, and Richard Stein (collectively, “Defendants”). The
8 proposed Settlement will dispose of the PAGA Released Claims (as defined
9 below) asserted on behalf of Plaintiff and approximately 30 non-exempt
10 employees who worked for Defendants in California at any time between March
11 12, 2020, and the approval of the PAGA settlement (the “Aggrieved
12 Employees”¹).

13 This case arises out of Fair Employment and Housing claims for
14 discrimination and harassment as well as multiple individual wage and hour
15 violations, including violation of PAGA. All the causes of action have been
16 settled.

17 As to the PAGA cause of action which is before this Court for an approval,
18 Plaintiff alleged that Defendants failed to pay Plaintiff and non-exempt
19 Aggrieved Employees all wages due including all minimum wages and overtime
20 wages in violation of Labor Code §§ 510, 1194, and 1197; failed to provide legally
21 compliant rest breaks and pay the corresponding premium penalties to Plaintiff
22 and Aggrieved Employees in violation of Labor Code § 226.7; failed to provide
23 legally compliant meal breaks and pay the corresponding premium penalties to
24 Plaintiff and Aggrieved Employees in violation of Labor Code §§ 226.7 and 512;
25 failed to reimburse Plaintiff and Aggrieved Employees for business related
26 expenses; failed to issue accurately itemized wage statements to Plaintiff and

27
28 1 The individuals identified as “Aggrieved Employees” are “aggrieved” solely for the purposes
of this Settlement.

1 Aggrieved Employees in violation of Labor Code §§ 226(a) and 226.3; and failed
2 to timely pay wages to non-exempt Aggrieved Employees, in violation of Labor
3 Code §§ 201-204. As a result of Defendants' alleged violations of the Labor Code,
4 approximately 30 employees are claimed to have suffered Labor Code violations
5 for about 1,951 aggregate pay periods.

6 In deciding whether to grant approval of the proposed Settlement, the
7 primary issue to be decided is whether the Settlement is fair, adequate, and
8 reasonable. As set forth herein, the proposed Settlement embodies all of the
9 features of a settlement that is fair, reasonable, and adequate, as it is the product
10 of (1) arms-length negotiations, (2) negotiated by attorneys experienced in wage
11 and hour issues, (3) subsequent to undertaking sufficient investigation necessary
12 to evaluate the relative strength and value of the PAGA claim, and (4) it reflects
13 a reasoned compromise based directly on the relative strength and value of the
14 PAGA claim, as well as the risks, expense, complexity and likely duration of
15 further litigation.

16 The value achieved by the Settlement may be gleaned from the fact that
17 the Labor and Workforce Development Agency ("LWDA") and the Aggrieved
18 Employees will receive no less than \$3,700.00. Under the terms of the
19 Settlement, which, pursuant to the operative statute, shall be allocated "75
20 percent to the Labor and Workforce Development Agency . . . and 25 percent to
21 the aggrieved employees." (See Lab. Code § 2699(i). This is a reasonable recovery,
22 because further litigation may have resulted in a net-zero recovery based on the
23 defenses available to Defendants. Mooradian Decl. at ¶ 17.

24 **II. STATEMENT OF THE CASE AND THE SETTLEMENT**

25 **a. The Parties**

26 Defendant Orange Bang, Inc. manufactures and sells various whipped
27 beverages, teas, soft drinks, and Hispanic drinks. Defendant David Fox is the
28 owner and president of Orange Bang. Defendant Richard Stein is the former

1 operations manager of Orange Bang. Defendants employed Plaintiff from
2 December 11, 2003, through March 20, 2020, as a full time, non-exempt employee
3 in Sylmar, California. The Aggrieved Employees are all non-exempt employees
4 of Defendants who worked in California at any time from March 12, 2020, to the
5 approval of this PAGA settlement. Mooradian Decl. at ¶ 5.

6 **b. The Claims Asserted**

7 The bulk of the claims of Plaintiff pertains to the discrimination and
8 harassment causes of action, aside from the individual wage and hour claims. As
9 to the PAGA cause of action, Plaintiff asserts claims that Defendants failed to
10 pay Plaintiff and non-exempt Aggrieved Employees all wages due including all
11 minimum wages and overtime wages in violation of Labor Code §§ 510, 1194,
12 and 1197; failed to provide legally compliant rest breaks and pay the
13 corresponding premium penalties to Plaintiff and Aggrieved Employees in
14 violation of Labor Code § 226.7; failed to provide legally compliant meal breaks
15 and pay the corresponding premium penalties to Plaintiff and Aggrieved
16 Employees in violation of Labor Code §§ 226.7 and 512; failed to reimburse
17 Plaintiff and Aggrieved Employees for business related expenses; failed to issue
18 accurately itemized wage statements to Plaintiff and Aggrieved Employees in
19 violation of Labor Code §§ 226(a) and 226.3; and failed to timely pay wages to
20 non-exempt Aggrieved Employees, in violation of Labor Code §§ 201-204.
21 Plaintiff asserts these claims under PAGA, seeking civil penalties for the alleged
22 Labor Code violations. Mooradian Decl. at ¶ 8.

23 **c. Procedural Posture**

24 On March 12, 2021, pursuant to Labor Code § 2699.3, Plaintiff gave
25 written notice by online filing with the LWDA and by certified mail, return
26 receipt requested, to Defendants of the specific provisions of the Labor Code
27 alleged to have been violated, including the facts and theories to support the
28 alleged violations. Mooradian Decl. at ¶ 6.

1 On March 15, 2021, Plaintiff filed an individual civil complaint against
2 Defendants entitled *Rudy Orellana v. Orange Bang, Inc., et al.*, Los Angeles
3 County Superior Court Case No. 21STCV10092. On March 15, 2021, Plaintiff
4 also secured a “Right to Sue Letter” from the Department of Fair Employment
5 and Housing for Unlawful Discrimination and Harassment at the Workplace
6 under the California Government Code §§ 12940 (a), (j) & (k). On May 17, 2021,
7 Plaintiff filed First Amended Complaint for twelve causes of action, all of which
8 are for individual claims of Plaintiff except for the eleventh cause of which is for
9 violations under PAGA. Mooradian Decl. at ¶ 7.

10 Concurrently with the filing of this Motion, Plaintiff submitted the
11 Settlement Agreement, together with this Motion and all supporting documents,
12 to the LWDA via online upload. A true and correct copy of the email confirmation
13 from the LWDA will be filed separately with this Court prior to the hearing for
14 the approval of the settlement by this Court. Mooradian Decl. at ¶ 23.

15 **d. Plaintiff’s Counsel’s Investigation and Negotiations**

16 Counsel for Plaintiff engaged in formal and informal discovery of
17 Defendants’ alleged Labor Code violations, which specifically targeted
18 evaluating the strength and value of the PAGA claims in preparation for a
19 resolution of this matter. Mooradian Decl. at ¶ 9.

20 Plaintiff’s counsel obtained and reviewed multiple documents, including
21 (i) Plaintiff’s employee files, time records, and wage statements, (ii) policy
22 documents relating to the employment of Plaintiff and other Aggrieved
23 Employees, and (iii) the Aggrieved Employee’s pay and time records for the
24 relevant statutory period. Mooradian Decl. at ¶ 10. This information was used
25 by Plaintiff’s counsel to evaluate the number of alleged violations and the value
26 of the recoverable penalties. *Id.*

27 Based on the information received, Plaintiff’s counsel was able to (i)
28 determine the total number of distinct individuals falling within the definition

1 of “Aggrieved Employee” for the relevant statutory period, and (ii) construct a
2 damage model that calculated the maximum realistic amount of PAGA penalties
3 that could be levied against Defendants within the PAGA Period. Defendants,
4 however, disputed Plaintiff’s claims and disputed both the existence of and
5 extent of liability as alleged by Plaintiff. Mooradian Decl. at ¶ 11.

6 Defendants took a full day’s deposition of Plaintiff on Nov. 18, 2021,
7 primarily on discrimination and wage and hour causes of action. Plaintiff took
8 the position, inter alia, that his termination was as result of discrimination and
9 not Covid workforce reduction, which was argued to the contrary by the
10 Defendants in the case. Mooradian Decl. at ¶12.

11 On February 22, 2022, the parties participated in a mediation session with
12 professional neutral, James Johnston, Esq. During the mediation, the parties
13 engaged in arm’s-length negotiations and were able to agree to an individual
14 settlement regarding Plaintiff’s claims and resolution of the PAGA claims
15 asserted in the action. Mooradian Decl. at ¶13.

16 Since the claims were primarily isolated to Plaintiff, not much value could
17 be attributed to any PAGA wide violations. In particular and as applicable,
18 PAGA claims could be rest and meal break violations more so during the
19 shipping and receiving intervals, which were the primary duties of Plaintiff as
20 the responsible employee for handling truck loading and unloading inventory
21 and not the Aggrieved Employees. Mooradian Decl. at ¶14.

22 The Settlement Agreement sets forth the terms of the Settlement reached
23 by the Parties, marked as **Exhibit A** (Mooradian Decl. ¶16), including the
24 following key points regarding the PAGA settlement:

25 Defendants agree to settle this PAGA claim for the payment of Ten
26 Thousand Dollars (\$10,000.00) (hereinafter the “PAGA Settlement Sum”), which
27 shall be all inclusive, encompassing (i) all payments to the Labor and Workforce
28 Development Agency and Aggrieved Employees, and (ii) Plaintiff’s counsel’s

1 attorneys' fees and costs of suit.

2 The total sum available for payment of PAGA penalties shall be calculated
3 by deducting counsel's fees and costs (\$3,300 in fees and up to \$3,000 in costs)
4 from the \$10,000 PAGA Settlement Sum, yielding approximately \$3,700.00.
5 Seventy-five percent (75%) of this amount, or \$2,775, shall be distributed to the
6 LWDA, and the remaining twenty-five percent (25%) or \$925, shall be
7 distributed to the Aggrieved Employees. *See* Settlement Agreement, at §§ IV. 10-
8 11.

9 All employees that performed work for Defendants during the PAGA
10 Period will receive a pro rata share of the \$925 (25% of \$3,700) allocated to
11 Aggrieved Employees, which shall be distributed based on the number of pay
12 periods each Aggrieved Employee worked for Defendants in California during
13 the time period from March 12, 2020, until the date the Court approves this
14 Agreement. *See* Mooradian Decl., at ¶ 17; Settlement Agreement, at § IV. 11.

15 In exchange for the above settlement consideration, Defendants and the
16 Released Parties shall be entitled to the following release from each and every
17 Aggrieved Employee, including Plaintiff:²

18 Representative PAGA Release. In exchange for the consideration
19 described in Paragraph 7(c) and upon the date the Court enters an
20 order granting approval of this Agreement and Defendants fund the
21 Agreement, Plaintiff, the State of California, and all Aggrieved
22 Employees will fully release and discharge Defendants and their
23 respective heirs, executors, administrators, successors, assignees,
24 parents, subsidiaries and related entities, owners, officers,
25 directors, shareholders, employees, agents, servants,
26 representatives, independent contractors, members, attorneys,
27 insurers, re-insurers, assigns, and affiliates, and any and all other
28 entities with whom they have been, are now, or may hereafter be
affiliated, and any of their affiliated companies, predecessors,
successors and assigns, as well as their past or present officers,

2 This comports with settled California Supreme Court authority. (See *Arias v. Superior Court* (2009) 46 Cal. 4th 969, 986 [concluding that “with respect to the recovery of civil penalties, nonparty employees as well as the government are bound by the judgment in an action brought under the act”].)

1 directors, agents, representatives, attorneys, insurers, re-insurers,
2 assigns, or employees (collectively “Defendants’ Releasees”) from
3 any and all claims for civil penalties under PAGA, including but not
4 limited to any and all claims under PAGA that are pled in the PAGA
5 Claim, or which could have been pled under the PAGA based on the
allegations in the PAGA Claim and LWDA Letter that arose during
the PAGA Period, including but not limited to the PAGA Released
Claims.

6 PAGA Released Claims. Plaintiff agrees that in exchange for the
7 consideration described in Paragraph 7(c) and upon entry of an
8 Order approving the Agreement, all Aggrieved Employees will
9 release any and all PAGA Released Claims against the Releasees
10 that arose during the PAGA Period. Upon entry of the Order
11 approving the Agreement and judgment entered thereon, Plaintiff
and all Aggrieved Employees will be forever barred from pursuing
any and all of the PAGA Released Claims that arose during the
PAGA Period against Defendants’ Releasees.

12 Settlement Agreement, at § IV.8-9.

13 Settlement administration will be conducted by Defendants’ counsel at no
14 additional cost. As detailed herein, Plaintiff’s counsel seeks an award of
15 attorneys’ fees of \$3,300 and litigation costs up to \$3,000. *See* Settlement
16 Agreement, at § IV.10 and Mooradian Decl., at ¶ 24.

17 Finally, under the terms of Settlement, the value of checks uncashed more
18 than 180 days after issuance shall be remitted to the California Department of
19 Industrial Relations – Unclaimed Wage Fund in the names of the Aggrieved
20 Employees to whom the checks were issued. Settlement Agreement, at § IV.13.

21 **III. LEGAL ARGUMENT**

22 **a. Standards for Approval of a PAGA Settlement**

23 The settlement of a PAGA claim requires court approval pursuant to the
24 operative PAGA statute, which states that the “[t]he superior court shall review
25 and approve any settlement of any civil action filed pursuant to this part.” *See*
26 Labor Code § 2699(1)(2).

27 As with any settlement, the Court must be mindful in conducting its
28 inquiry that “[s]ettlement is a compromise, which balances the possible recovery

1 against the risks inherent in litigating further.” *See In re TD Ameritrade Account*
2 *Holder Litig.*, 2011 U.S. Dist. LEXIS 103222, 24 (N.D. Cal. Sept. 12, 2011).
3 Indeed, “the very essence of a settlement is ... ‘a yielding of absolutes and an
4 abandoning of highest hopes” [*Officers for Justice v. Civil Service Com.*, 688 F.2d
5 615, 624 (9th Cir., 1982)], as “it is the very uncertainty of outcome in litigation
6 and avoidance of wasteful and expensive litigation that induce consensual
7 settlements.” *See id.*, at 625. As such, “the settlement or fairness hearing is not
8 to be turned into a trial or rehearsal for trial on the merits” or “judged against a
9 hypothetical or speculative measure of what might have been achieved by the
10 negotiators.” *See id.*

11 Although the operative PAGA statute does not set forth the criteria on
12 which a PAGA settlement is to be judged, it is presumed that a reviewing court
13 may utilize some of the factors for review of a class action settlement under Fed.
14 R. Civ. P. 23 (“Rule 23”), C.C.P. § 382 and Rule 3.769, Cal. Rules of Court, as
15 courts within California have approved settlements of PAGA claims
16 encompassed within class action settlements using Rule 23 criteria.³ However,
17 it is important to underscore that not all Rule 23 factors can be applied, as “a
18 PAGA claim asserted on a non-class representative basis . . . is not considered a
19 class action but a law enforcement action, and therefore does not have to meet
20 the requirements of Rule 23.” *See Casida v. Sears Holdings Corp.*, 2012 U.S. Dist.
21 LEXIS 9302, 8 (E.D. Cal. Jan. 25, 2012); *Thomas v. Aetna Health of Cal., Inc.*,

22 _____
23 ³ As held by the Ninth Circuit, evaluation of a class action settlement under Rule 23 “[involves]
24 a balancing of several factors which may include, among others, some or all of the following:
25 [1] the strength of Plaintiffs’ case; [2] the risk, expense, complexity, and likely duration of
26 further litigation; [3] the risk of maintaining class action status throughout the trial; [4] the
27 amount offered in settlement; [5] the extent of discovery completed, and the stage of the
28 proceedings; [6] the experience and views of counsel; [7] the presence of a governmental
participant; and [8] the reaction of the class members to the proposed settlement.” *See Linney v.*
Cellular Alaska P’ship, 151 F.3d 1234, 1242 (9th Cir., 1998). “Not all of these factors will
apply to every class action settlement” and “[u]nder certain circumstances, one factor alone
may prove determinative in finding sufficient grounds for court approval.” *See Nat’l Rural*
Telcoms. Coop. v. DIRECTV, Inc., 221 F.R.D. 523, 525-526 (C.D. Cal. 2004).

1 2011 U.S. Dist. LEXIS 59377 (E.D. Cal. June 2, 2011); *Mendez v. Tween Brands,*
2 *Inc.*, 2010 U.S. Dist. LEXIS 66454 (E.D. Cal. June 30, 2010). Based thereon, a
3 court’s review of a PAGA settlement necessarily implicates the following unique
4 features that render the approval process completely distinct from approval of a
5 class action settlement under Rule 23 or C.C.P. § 382 and Rule 3.769 Cal. Rules
6 of Court. First, in evaluating the adequacy of the settlement amount, the Court’s
7 focus is not concerned with the amount which “aggrieved employees” are to
8 receive, but rather, must focus on the total settlement amount in achieving
9 PAGA’s objective.

10 While “[a PAGA] action is ... designed to protect the public and penalize
11 the employer for past illegal conduct” [*Mendez*, 2010 U.S. Dist. LEXIS 66454, at
12 11], a reviewing Court must take into account the fact that settlement of a PAGA
13 claim – like any settlement – involves a “compromise” that stops short of
14 rendering findings of liability and damages. Moreover, the Court must not lose
15 sight of the fact that “[u]nlike a class action seeking damages or injunctive relief
16 for injured employees, the purpose of PAGA is to incentivize private parties to
17 recover civil penalties for the government that otherwise may not have been
18 assessed and collected by overburdened state enforcement agencies.” *See Ochoa-*
19 *Hernandez*, 2010 U.S. Dist. LEXIS 32774, at 12.

20 **b. The Settlement Meets All the Criteria for Approval**

21 Applying the Rule 23 fairness factors – limited to those compatible with
22 the unique PAGA considerations detailed above – the proposed Settlement
23 embodies all of the key features of a settlement that is fair, reasonable, adequate,
24 and as such, meets all the criteria necessary for approval.

25 In conducting a review of a settlement, it is generally recognized that an
26 “agreement . . . reached through arms-length negotiation between experienced
27 parties . . . is entitled to a presumption of fairness.” *See Anderson v. Nextel Retail*
28 *Stores, LLC*, 2010 U.S. Dist. LEXIS 43377, 44 (C.D. Cal. Apr. 12, 2010).

1 A presumption of fairness exists here, as the proposed Settlement (1) is
2 the product of arms-length negotiations brokered through a respected third party
3 neutral, Mooradian Decl. at ¶¶ 13-14, (2) that was negotiated by counsel with
4 significant experience in similar wage and hour litigation, *see id.*, at ¶¶ 2-4, and
5 (3) which occurred after counsel had conducted sufficient investigation to
6 evaluate the strength and potential value of the PAGA claims, as well as
7 evaluating the risks of litigating this claim through trial. *See id.*, at ¶¶ 9-14.
8 Based thereon, the court should give considerable weight to the competency and
9 integrity of counsel in assuring itself that the Settlement Agreement represents
10 an arm's-length transaction entered without self-dealing or other potential
11 misconduct.

12 The relative strength of the PAGA claims brought by Plaintiff weighs in
13 favor of the Court finding that the settlement is fair, adequate, and reasonable,
14 as Defendants maintained numerous defenses to the theories of penalty-liability
15 put forward by Plaintiff that, if successful, had the potential to completely
16 eliminate any recovery.

17 This case addresses violations of important employee protections
18 embodied in the California Labor Code—namely, that Defendants failed to pay
19 Plaintiff and California non-exempt Aggrieved Employees all wages due
20 including all minimum wages and overtime wages in violation of Labor Code §§
21 510, 1194, and 1197; failed to provide legally compliant rest breaks and pay the
22 corresponding premium penalties to Plaintiff and Aggrieved Employees in
23 violation of Labor Code § 226.7; failed to provide legally compliant meal breaks
24 and pay the corresponding premium penalties to Plaintiff and Aggrieved
25 Employees in violation of Labor Code §§ 226.7 and 512; failed to reimburse
26 Plaintiff and Aggrieved Employees for business related expenses; failed to issue
27 accurately itemized wage statements to Plaintiff and Aggrieved Employees in
28 violation of Labor Code §§ 226(a) and 226.3; and failed to timely pay wages to

1 non-exempt Aggrieved Employees, in violation of Labor Code §§ 201-204.
2 Defendants' maximum theoretical exposure in this action, without stacking
3 potentially duplicative and oppressive penalties, totals approximately \$195,100
4 computed by multiplying 1,951 pay periods by \$100 each. Mooradian Decl., ¶¶
5 18 -19.

6 Defendants contend they acted within the requirements of California law
7 at all times as to all Aggrieved Employees. They further contend that not every
8 pay period at issue involved an alleged Labor Code violation subject to civil
9 penalties. Moreover, they maintain that even if the Court did award penalties,
10 the Court could and would *substantially* reduce the penalties awarded based on
11 the discretionary factors contained in Labor Code § 2699(e)(2) ("In action by an
12 aggrieved employee . . . , a court may award a lesser amount than the maximum
13 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
15 that is unjust, arbitrary and oppressive, or confiscatory."). *Id.*

16 Based on these disputes, which had the potential to completely eliminate
17 Plaintiff's recovery, the range of realistic "litigation outcomes" on Plaintiff's
18 PAGA claim was defined by a maximum theoretical exposure amount of
19 approximately \$195,100, based on 1,951 pay periods in the relevant statutory
20 period, without stacking claims, at \$100 per violation, *id.*, and a net-zero
21 recovery based on the defenses asserted by Defendants. *See Id.*, at ¶19.

22 Since the claims were primarily isolated to Plaintiff, not much value could
23 be attributed to any PAGA wide violations. In particular and as applicable,
24 PAGA wide claims could be rest and meal break violations more so during the
25 shipping and receiving intervals, which were the primary duties of Plaintiff as
26 the responsible employee for handling truck loading and unloading inventory
27 and not the Aggrieved Employees. *Id.*, at ¶ 14.

28 Approval of the proposed Settlement Agreement is also appropriate in

1 light of the risk, expense, and complexity of further litigation. As discussed
2 above, the proposed Settlement Agreement takes into consideration the specific
3 factual and legal hurdles faced by Plaintiff in establishing Defendants' penalty-
4 liability in this case, which again, may have resulted in a net-zero recovery.
5 These risks, when balanced with the fact that the settlement achieved a recovery
6 (as demonstrated below), and that further litigation posed a risk of diminishing
7 such recovery by increasing litigation expenses, weigh strongly in favor of
8 settlement approval.

9 Here, after all deductions are made for attorneys' fees and costs, \$3,700
10 will be paid out, of which \$2,775 (i.e., 75%) will go to the LWDA, and \$925 (i.e.,
11 25%) will go to the Aggrieved Employees, as required by Labor Code § 2699(i)
12 ("civil penalties recovered by aggrieved employees shall be distributed as follows:
13 75 percent to the Labor and Workforce Development Agency . . . and 25 percent
14 to the aggrieved employees."). Mooradian Decl., ¶ 17.

15 This positive result is in line with similar settlements of PAGA claims. *See*
16 *Franco v. Ruiz Food Prods.*, 2012 U.S. Dist. LEXIS 169057, 41-42 (E.D. Cal. Nov.
17 27, 2012) ("Defendant has agreed to pay \$10,000 as civil penalties pursuant to
18 the PAGA Of the \$10,000, 75 percent (\$7,500) will be paid to the State of
19 California, and the remainder (\$2,500) will benefit the class The Court finds
20 that the PAGA payment is set at a reasonable amount, and it shall be
21 approved."); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, 21-
22 22 (E.D. Cal. Oct. 29, 2012) ("GTI agrees to allocate \$10,000 to Plaintiff's PAGA
23 claims, and will pay \$7,500 to the LWDA, and \$2,500 to participating Class
24 Members on a pro-rata basis. This comports with settlement approval of PAGA
25 awards in other cases. . . . Therefore, the Court will approve the allocation of the
26 Settlement to Plaintiff's PAGA claim."); *Schiller v. David's Bridal, Inc.*, 2012
27 U.S. Dist. LEXIS 80776, 40 (E.D. Cal. June 11, 2012) ("Pursuant to the
28 Settlement Agreement, the parties have agreed to pay \$7,500 to the California

1 Labor and Workforce Development Agency The Court finds that the PAGA
2 Payment is set at a reasonable amount, and recommends that it be approved.”);
3 *Gong-Chun v. Aetna Inc.*, 2012 U.S. Dist. LEXIS 96828, 45-46 (E.D. Cal. July 11,
4 2012) (“Pursuant to the Settlement Agreement, Defendant has agreed to pay
5 \$15,000 to the California Labor and Workforce Development Agency The
6 Court finds that the PAGA payment is set at a reasonable amount, and it shall
7 be approved.”).⁴ Thus, the Settlement Agreement achieves a recovery that is in
8 line with typical PAGA awards routinely approved by the courts.

9 As discussed above, the California Supreme Court has concluded that in
10 the context of PAGA “the nonparty employees, because they were not given
11 notice of the action or afforded any opportunity to be heard, would not be bound
12 by the judgment as to remedies other than civil penalties.” *See Arias*, 46 Cal. 4th,
13 at 987. The scope of the release provided in exchange for the foregoing
14 consideration is limited to the civil penalties asserted in this matter under Labor
15 Code §§ 2698 *et seq.* *See* Settlement Agreement, at § IV.8-9. Moreover, Plaintiff
16 is entering into a general release against Defendants for claims outside the
17 release claims entered into by Aggrieved Employees. The scope of rights released
18 by Plaintiff are for individual claims. *See* § III.2 of the Settlement Agreement.

19 In Plaintiff’s counsel’s view, the benefit conferred by the proposed
20 Settlement is fair, reasonable, and adequate under the circumstances, as it
21 reflects a reasoned compromise which takes into consideration the risks inherent
22 in this case which had the potential to completely eliminate recovery. *See id.*, at
23 ¶¶ 8 -17. As such, this factor balances in favor of approval of the Settlement.

24
25 ⁴ Significantly, each of the above-cited actions involved substantially more “aggrieved
26 employees” than the approximately 30 Aggrieved Employees in the instant Lawsuit. *See*
27 *Franco*, 2012 U.S. Dist. LEXIS 169057, 14 (“2,055 Class Members were ultimately
28 identified”); *Garcia*, 2012 U.S. Dist. LEXIS 160052, at 12 (class comprised of “approximately
1,869 individuals”); *Schiller*, 2012 U.S. Dist. LEXIS 80776, 16 (“3,327 California Class
members were ultimately identified”); *Gong-Chun*, 2012 U.S. Dist. LEXIS 96828, 18 (“2,051
California Class Members were ultimately identified”).

1 The extent of formal and informal discovery conducted, which included
2 production, review and analysis of pay and time data of the Aggrieved Employees
3 as well as the deposition of Plaintiff, was sufficient to enable Plaintiff's counsel
4 to evaluate the strength and value of the claim for purposes of settlement.

5 In addition to the factors presented above, the proposed Settlement does
6 not possess any obvious deficiencies. The Settlement contemplates entry of an
7 order (submitted concurrently herewith) which approves the Settlement and
8 dismisses this matter with prejudice. Section V.22 of the Settlement Agreement
9 and the proposed order authorize the Court to retain jurisdiction over this matter
10 pursuant to Code of Civil Procedure section 664.6. This procedure effectively
11 disposes of this matter in its entirety, documents the Court's approval of the
12 Settlement as required by PAGA, allows for Court intervention if necessary to
13 enforce the terms of the Settlement Agreement, and avoids any stigmas
14 associated with the entry of a judgment against Defendants. *See Mooradian*
15 *Decl.*, ¶ 22. In sum, under the applicable standards for approval of PAGA
16 settlements in California, the Settlement in this case meets the standards for
17 approval.

18 **IV. PLAINTIFF'S COUNSEL IS ENTITLED TO RECOVER**
19 **REASONABLE FEES AND COSTS**

20 Pursuant to the terms of the Settlement, Plaintiff's counsel seeks
21 attorneys' fees of \$3,300 and reimbursement of litigation costs of up to \$3,000,
22 falling within the bounds authorized by the Settlement Agreement. Settlement
23 Agreement, at § IV. 10. Plaintiff's counsel's entitlement to an award of attorneys'
24 fees and costs is warranted on multiple independent grounds.

25 In *Quinn v. State of California* (1995) 15 Cal.3d 162, 167, the California
26 Supreme Court stated: "[O]ne who expends attorneys' fees in winning a suit
27 which creates a fund from which others derive benefits may require those passive
28 beneficiaries to bear a fair share of the litigation costs." Similarly, in *City and*

1 *County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-111, the California
2 Supreme Court recognized that the common benefit doctrine has been applied
3 “consistently in California when an action brought by one party creates a fund
4 in which other persons are entitled to share.”

5 Numerous appellate courts have similarly found. *See e.g., Knoff v. City*
6 *and County of San Francisco* (1969) 1 Cal.App.3d 184, 203-204 (court upheld a
7 “contingent percentage” award of attorneys’ fees in a representative action as the
8 proper exercise of the court’s broad equitable powers); and *Rider v. County of*
9 *San Diego* (1992) 11 Cal.App.4th 1410, 1423 (attorneys’ fees and expenses
10 properly awarded from common benefit composed of illegally imposed sales and
11 use tax).

12 In accordance, Plaintiff’s counsel has spent a significant amount of time
13 and effort to secure a \$10,000 settlement fund for the LWDA and Aggrieved
14 Employees, and in doing so, have exclusively borne the risk of loss for such
15 expenditures of time and expenses (as the LWDA elected not to take the case
16 after receiving the PAGA Notice), Plaintiff’s counsel is entitled to claim
17 reasonable fees from that fund under applicable precedent.⁵ Plaintiff’s counsel’s
18 request for attorneys’ fees is \$3,300, or 33% of the \$10,000 Settlement Sum, falls
19 well within the “zone of reasonableness.”

20 As to the costs, Plaintiff’s counsel has expended \$3,865.00 (\$3,000 private
21 mediation fees to attorney James Johnson, \$435 for complaint filing fee, \$150 for
22 posting jury fees and \$280 for court filing and process service fees) and seeks
23 reimbursements for \$3,000. *See Mooradian Decl.* at ¶ 25. *See e.g., In re United*
24 *Energy Corp. Sec. Litig.* (C.D. Cal. 1989) 1989 WL 7321 1, *6 (quoting *Newberg,*

25 _____
26 ⁵ Plaintiff’s counsel is also entitled to recover attorney’s fees and costs as a matter of right under
27 the PAGA statute [*Labor Code* § 2699(g)(1) (“Any employee who prevails in any action shall
28 be entitled to an award of reasonable attorney’s fees and costs.”)], and under *C.C.P.* § 1021.5, as
the instant PAGA action was by definition “for the public benefit” and secured monetary
awards for approximately 188 aggrieved employees. *See e.g. Estrada v. FedEx Ground*
Package System, Inc. (2007) 154 Cal. App. 4th 1, 16-17 (2007)

1 Attorney Fee Awards, § 2.19 (1987)); *see also, In re GNC Shareholder Litigation*
2 (W.D. Pa. 1987) 668 F. Supp. 450, 452.

3 **V. CONCLUSION**

4 For the above reasons, it is hereby respectfully requested for the Court to:

- 5 • Grant approval of the Settlement Agreement, pursuant to
- 6 California Labor Code § 2699, subpart 1.
- 7 • Approve the award of attorneys' fees of \$3,300 and costs to
- 8 Plaintiff's counsel expenses of \$3,000.
- 9 • Direct disbursement of the remaining Settlement Sum to the
- 10 LWDA and all Aggrieved Employees as provided for in the
- 11 Settlement Agreement.
- 12 • Dismiss this matter with prejudice, retaining jurisdiction of the
- 13 case for completion of the distribution and related administrative
- 14 matters as set forth in the Settlement Agreement.

15
16 DATED: July 26, 2022

MOORADIAN LAW, APC

17
18 By: 
19 Zorik Mooradian, Esq.,
20 Andrina G. Hanson, Esq.,
21 Nanor C. Kamberian, Esq.,
22 Attorneys for Plaintiff
23 RUDY B. ORELLANA
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1 Gamez-Flores v. Haynes Building Services/BC493709; Rodriguez v. KBS/
2 BC537386; Tovar v. Baron HR, LLC/ BC517984; Perez v. Valleycrest/ BC 538257;
3 Uscanga v. Automotive Creations/BC509401; Gonzales v. Nefab Packing/2;13-cv-
4 04499 JAK-ss; Mendoza v. Accentcare/30-2013-00661891-CU-OE-CXC; Nuno v.
5 Universal Building Maintenance/BC541570; Cabrera v. Complete Facilities
6 Maintenance/BC538248; Valencia v. Rubbercraft/BC 535816; Fuentes v.
7 Kamran Staffing/BC604535; Perez v. El Pollo Loco/BC624001; Perez v. Quest
8 Nutrition/BC630914; Escalante v. Friendly Hills Country Club/BC640583;
9 Serrano v. Noise Group/30-2017-00949440-CU-OE-CXC; Bitton v. Sterling
10 Jewelry, Inc./CIVDS1612665; Blandin v. Malibu Mgt. Svcs., Inc./BC618629;
11 Barrera v. Coast Composites, Inc./30-2017-00909572 CU-OE-CJC; Aguilar v.
12 Sweet Earth Café/19STCV13373; Balaguer v. Eminent, Inc./19STCV16803;
13 Avina v. Marriott/30-2017-00945551; Azpeitia v. Eden Social Restaurants,
14 Inc./30-2019-01077185; Balaguer v. Eminent, Inc./19STCV16803; Barragan v.
15 Golden Hotels Limited Partnership/30-2018-01007420; Boch v. Merchants
16 Building Maintenance/BC681320; Bueno v. Proto Homes/19STCV20011;
17 Cardenas v. Intercon Security/19STCV11259; Castillo v. Robert's Waste/30-
18 2018-01027486; Castro v. Bee Gee Laboratories/BC712857; Contreras Teo v.
19 Golden State Foods/BC708535; Contreras Teo v. Golden State Foods/BC722540;
20 Corona v. Del Amo Hospital/19STCV24741; Cruz Ventura v. WSON-
21 55/19STCV22958; Cruel v. Andreas Elsenhans/19STCV35496; Espinoza v. Don
22 Chava Mgt./19STCV27068; Galvan v. Property Mgt. Associates/BC722781;
23 Godoy v. UCLA/19STCV04634; Gonzalez v. Toyon Catering, Inc./19STCV11369;
24 Alvarez v. Greenfield Care Center of Fullerton, LLC/30-2017-00958478;
25 Gutierrez v. Anaheim Denn/30-2019-01092546; Guzman v. Millennium
26 Shoes/19STCV33166; Hernandez v. Township Retail Services/18STCV06709;
27 Hernandez v. Resource Employment Solutions/30-2019-01084740; Herrera v.
28 Color Spot Nurseries/30-2017-00933249; Leon v. Island Hospitality Mgt./30-

2019-01060719; Martinez v. Snakerz/19STCV02674; Mendoza v. Savage Service Corp./18STCV04798; Martinez v. Riviera Beverages/ 30-2019-01056796; Gonzalez v. FMS Management/30-2019-01065563; Morales Cano v. Coordinated Staffing/19STCV29817; Moreno v. DCX-CHOL Enterprises/19STCV19105; Moreno v. DCX-CHOL Enterprises/19STCV26247; Contoran Najera v. TOPH I, LLC/30-2018-00999474; Nunez v. Wonderland Montessori, LLC/18STCV06042; Olmos v. Mall Food Mgt. Associates/30-2019-01096292; Pallares - Mercado v. MB Santa Ana Restaurants/30-2019-01047135; Perez v. First Rate Staffing/18STCV02057; Popoca v. Denim Technologies/ 19STCV11434; Reidy v. City of Inglewood/18STCV09373; Rosales v. DBR Premium/19STCV32726; Salceda v. GBG USA, Inc./ 18STCV10004; Salceda v. GBG USA, Inc./ 18STCV04778; Torres v. Metro Security/19STCV21114; Torres v. Metro Security/19STCV15680; Trujillo v. Securitas Security Services/19STCV01207; Villacana v. Crothall Laundry Services, Inc./19STCV16330; and Villareal v. Golden Touch Cleaning/30-2019-01108777.

4. I am familiar with California wage and hour law and the laws governing the alleged violations in this matter, including but not limited to California Labor Code Sections 201– 203, 226, 226.7, 510, 512, 1194, 1194.2, 2698 and 2802, California Business and Profession Codes 17200 *et. seq.*, the Orders of the Industrial Welfare Commission, and the Private Attorneys General Act.

5. Defendant Orange Bang, Inc. manufactures and sells various whipped beverages, teas, soft drinks, and Hispanic drinks. Defendant David Fox is the owner and president of Orange Bang. Defendant Richard Stein is the former operations manager of Orange Bang. Defendants employed Plaintiff from December 11, 2003, through March 20, 2020, as a full time, non-exempt employee in Sylmar, California. Plaintiff's employment was terminated at the cusp of the Covid pandemic. The Aggrieved Employees are all non-exempt employees of Defendants who worked in California at any time from March 12, 2020, to the

1 approval of this PAGA settlement.

2 6. On March 12, 2021, pursuant to Labor Code § 2699.3, Plaintiff gave
3 written notice by online filing with the Labor and Workforce Development
4 Agency (“LWDA”) and by certified mail, return receipt requested, to Defendants
5 of the specific provisions of the Labor Code alleged to have been violated,
6 including the facts and theories to support the alleged violations. The LWDA did
7 not provide notice within 65 days of its intention to investigate the alleged
8 violations.

9 7. On March 15, 2021, Plaintiff filed an individual civil complaint against
10 Defendants entitled *Rudy Orellana v. Orange Bang, Inc., et al.*, Los Angeles
11 County Superior Court Case No. 21STCV10092. On March 15, 2021, Plaintiff
12 also secured a “Right to Sue Letter” from the Department of Fair Employment
13 and Housing for Unlawful Discrimination and Harassment at the Workplace
14 under the California Government Code §§ 12940 (a), (j) & (k). On May 17, 2021,
15 Plaintiff filed First Amended Complaint for twelve causes of action, all of which
16 are for individual claims of Plaintiff except for the eleventh cause of which is for
17 violations under Private Attorney General Act (“PAGA”).

18 8. The bulk of the claims of Plaintiff pertains to the discrimination and
19 harassment causes of action, aside from the individual wage and hour claims. As
20 to the PAGA cause of action, Plaintiff asserts claims that Defendants failed to
21 pay Plaintiff and non-exempt Aggrieved Employees all wages due including all
22 minimum wages and overtime wages in violation of Labor Code §§ 510, 1194,
23 and 1197; failed to provide legally compliant rest breaks and pay the
24 corresponding premium penalties to Plaintiff and Aggrieved Employees in
25 violation of Labor Code § 226.7; failed to provide legally compliant meal breaks
26 and pay the corresponding premium penalties to Plaintiff and Aggrieved
27 Employees in violation of Labor Code §§ 226.7 and 512; failed to reimburse
28 Plaintiff and Aggrieved Employees for business related expenses; failed to issue

1 accurately itemized wage statements to Plaintiff and Aggrieved Employees in
2 violation of Labor Code §§ 226(a) and 226.3; and failed to timely pay wages to
3 non-exempt Aggrieved Employees, in violation of Labor Code §§ 201-204.
4 Plaintiff asserts these claims under PAGA, seeking civil penalties for the alleged
5 Labor Code violations.

6 9. Counsel for Plaintiff engaged in formal and informal discovery of
7 Defendants' alleged Labor Code violations, which specifically targeted
8 evaluating the strength and value of the PAGA claims in preparation for a
9 resolution of this matter.

10 10. We obtained and reviewed multiple documents, including (i) Plaintiff's
11 employee files, time records, and wage statements, (ii) policy documents relating
12 to the employment of Plaintiff and other Aggrieved Employees, and (iii) the
13 Aggrieved Employee's pay and time records for the relevant statutory period.
14 This information was used by us to evaluate the number of alleged violations and
15 the value of the recoverable penalties.

16 11. Based on the information received, we were able to (i) determine the total
17 number of distinct individuals falling within the definition of "Aggrieved
18 Employee" for the relevant statutory period, and (ii) construct a damage model
19 that calculated the maximum realistic amount of PAGA penalties that could be
20 levied against Defendants within the PAGA Period. Defendants, however,
21 disputed Plaintiff's claims and disputed both the existence of and extent of
22 liability as alleged by Plaintiff.

23 12. Defendants took a full day's deposition of Plaintiff on Nov. 18, 2021,
24 primarily on discrimination and wage and hour causes of action. Plaintiff took
25 the position, inter alia, that his termination was as result of discrimination and
26 not Covid workforce reduction, which was argued to the contrary by the
27 Defendants in the case.

28 13. In search of solution, Plaintiff and Defense counsel decided to mediate this

1 matter with professional neutral, James Johnston, Esq. on February 22, 2022.
2 Mr. Johnston is experienced in mediating complex labor and representative
3 employment matters. Prior to mediation, the Parties engaged in formal
4 discovery. Accordingly, we were able to obtain sufficient information prior to
5 mediation to evaluate the potential strengths and weaknesses of the claims and
6 defenses in the action. This information coupled with my experience in litigating
7 similar “representative” wage and hour claims, allowed me to determine the
8 potential value of the PAGA claim for settlement purposes.

9 14. Since the claims were primarily isolated to Plaintiff, not much value could
10 be attributed to any PAGA wide violations. In particular and as applicable,
11 PAGA wide claims could be rest and meal break violations more so during the
12 shipping and receiving intervals, which were the primary duties of Plaintiff as
13 the responsible employee for handling truck loading and unloading inventory
14 and not the Aggrieved Employees.

15 15. During the mediation, the Parties, through the mediator, continued to
16 discuss and evaluate all aspects of the case including the risks and delays of
17 further litigation, the risks to the Parties of proceeding with trial, the law
18 relating to representative PAGA actions, Plaintiff’s theories of liability, wage-
19 and-hour enforcement, the evidence produced and analyzed, and the risks of trial
20 and appeals, among other things. Defendants indicated during mediation they
21 would aggressively defend against Plaintiff’s allegations and had several viable
22 methods to do so. At all times, the parties conducted their negotiations at arm’s
23 length in an adversarial position.

24 16. After strenuous discussions and research with the aid of Mr. Johnston, the
25 Parties came to a fair and reasonable settlement of the matter. A copy of the
26 executed settlement agreement is attached as **Exhibit A** - \$45,000 was allocated
27 to all the individual claims and \$10,000 to the PAGA cause of action. While the
28 Settlement and Release Agreement has confidentiality clause, for the purpose of

1 the Court's approval of the settlement, it is being filed and thus made public
2 pursuant to the stipulation of the parties.

3 17. Based on our firm's significant experience with class wide and PAGA
4 claims, which data is readily available at the LWDA website as well as the Court
5 filings mostly in Los Angeles and Orange County Complex courthouses, this is a
6 fair and reasonable settlement for a small PAGA class of 30 nonexempt
7 employees. The Labor and Workforce Development Agency ("LWDA") and the
8 approximately 30 Aggrieved Employees encompassed by the Settlement will
9 receive no less than \$3,700.00 under the terms of the Settlement, which,
10 pursuant to the operative statute, shall be allocated "75 percent to the Labor and
11 Workforce Development Agency . . . and 25 percent to the aggrieved employees."
12 *See Cal. Lab. Code* § 2699(i). This means that \$2,775 (i.e., 75%) will go to the
13 LWDA, and \$925 (i.e., 25%) will go to the Aggrieved Employees. This is a
14 reasonable recovery, because further litigation may have resulted in a net-zero
15 recovery based on the defenses available to Defendants.

16 18. This case addresses violations of important employee protections
17 embodied in the California Labor Code—namely, that Defendants failed to pay
18 Plaintiff and California non-exempt Aggrieved Employees all wages due
19 including all minimum wages and overtime wages in violation of Labor Code §§
20 510, 1194, and 1197; failed to provide legally compliant rest breaks and pay the
21 corresponding premium penalties to Plaintiff and Aggrieved Employees in
22 violation of Labor Code § 226.7; failed to provide legally compliant meal breaks
23 and pay the corresponding premium penalties to Plaintiff and Aggrieved
24 Employees in violation of Labor Code §§ 226.7 and 512; failed to reimburse
25 Plaintiff and Aggrieved Employees for business related expenses; failed to issue
26 accurately itemized wage statements to Plaintiff and Aggrieved Employees in
27 violation of Labor Code §§ 226(a) and 226.3; and failed to timely pay wages to
28 non-exempt Aggrieved Employees, in violation of Labor Code §§ 201-204.

1 19. Defendants' maximum theoretical exposure in this action, without
2 stacking potentially duplicative and oppressive penalties, totals approximately
3 \$195,100 computed by multiplying 1,951 pay periods by \$100 each. Defendants
4 contend they acted within the requirements of California law at all times as to
5 all Aggrieved Employees. They further contend that not every pay period at issue
6 involved an alleged Labor Code violation subject to civil penalties. Moreover,
7 they maintain that even if the Court did award penalties, the Court could and
8 would *substantially* reduce the penalties awarded based on the discretionary
9 factors contained in Labor Code § 2699(e)(2) ("In action by an aggrieved employee
10 . . . , a court may award a lesser amount than the maximum civil penalty amount
11 specified by this part if, based on the facts and circumstances of the particular
12 case, to do otherwise would result in an award that is unjust, arbitrary and
13 oppressive, or confiscatory.").

14 20. Under PAGA the court has discretion to reduce penalties if they are found
15 to be unjust, arbitrary, and oppressive or confiscatory. There is an absence of
16 legal authority guiding courts in this determination. In my experience, courts
17 rarely award 100% of the PAGA penalties proven at trial and frequently reduce
18 the collective penalties considerably. Defendants have made clear if any
19 penalties were awarded in this case, they would argue any penalties would be
20 unjust, arbitrary, and oppressive or confiscatory requesting the court award zero.

21 21. There is also lack of clear legal authority on how the penalties are
22 calculated, including whether multiple penalties can be awarded in the same pay
23 period and when a "subsequent" penalty can be assessed. In possession of this
24 information, Plaintiff had to consider the extended delay caused by resolving
25 these novel legal issues and risking a zero recovery even after a successful trial.

26 While Plaintiff maintains that his PAGA claims have merit, in reaching the
27 Settlement, Plaintiff through counsel considered the strengths and weaknesses
28 of each side's position and the uncertainty of how the case might have concluded

1 as litigation continued, at trial, and/or appeals.

2 22. In addition to the factors presented above, the proposed Settlement does
3 not possess any obvious deficiencies. The Settlement contemplates entry of an
4 order (submitted concurrently herewith) which approves the Settlement and
5 dismisses the Action with prejudice. §§ IV. 11 - 16 of the Settlement set forth the
6 procedural steps to be taken by the defense counsel's law firm in delivering the
7 PAGA payments to the aggrieved employees, tracking such payments and
8 providing an accounting to the Court in relation thereto.

9 23. Concurrently with the filing of this Motion, Plaintiff submitted the
10 Settlement Agreement, together with this Motion and all supporting documents,
11 to the LWDA via online upload. A true and correct copy of the email confirmation
12 from the LWDA will be filed separately with this Court prior to the hearing for
13 the approval of the settlement by this Court.

14 24. § IV. 10 of the Settlement sets forth Plaintiff's attorneys' fees and costs
15 with respect to the PAGA recovery. As to the requested fees, Mooradian Law,
16 APC has a contingency fee agreement with Mr. Orellana for 45% contingency
17 fees from proceeds of any gross recovery. For the purpose of the PAGA cause of
18 action, the fees are reduced to 33% of the gross recovery or \$3,300. Based on my
19 hourly rate of \$650.00, which has been approved by most of the courts in the
20 Complex division of the Los Angeles County as well as the Stanly Mosk
21 Courthouse (on post-verdict attorneys' fee motion supported by expert
22 declarations), and considering the amount of time and effort expended on the
23 case, this amount is very fair and reasonable and less than the actual lodestar
24 of the three attorneys who have worked on this case from Mooradian Law, APC,
25 even with the added fees recovered from the individual claims' settlement.

26 25. Mooradian Law, APC has actual incurred costs of \$3,865.00 (\$3,000
27 private mediation fees to attorney James Johnson, \$435 for complaint filing fee,
28 \$150 for posting jury fees and \$280 for court filing and process service fees) and

1 seeks reimbursements for \$3,000.

2 26. I respectfully submit the PAGA settlement is fair, adequate, reasonable
3 as are PAGA Counsel's fees and costs, and request the Court enter Order in
4 accordance.

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

7 Executed on July 26, 2022, at Calabasas, California.

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9  Zorik Mooradian

10 Zorik Mooradian
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EXHIBIT A

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is made and entered into by and between Rudy Orellana (“Plaintiff”), on the one hand, and Orange Bang, Inc., David Fox, and Richard Stein (collectively, “Defendants”), on the other hand. Plaintiff and Defendants are referred to collectively herein as the “Parties” and individually as a “Party.”

I. DEFINITIONS

The following terms, when used in this Agreement, shall have the following meanings:

A. “Action” means the First Amended Complaint filed against Defendants on May 17, 2021, styled *Rudy Orellana v. Orange Bang, Inc., et al.*, Los Angeles County Superior Court (the “Court”) Case No. 21STCV10092, and asserting the following causes of action for: (1) unlawful discrimination unlawful discrimination in the workplace (Gov. Code §12940 (a) & (k)); (2) unlawful harassment in the workplace–hostile work environment (Gov. Code § 12940 (j) & (k)); (3) failure to pay overtime wage; (4) failure to pay minimum wages; (5) meal period violations; (6) rest break violations; (7) failure to pay wages for all time worked; (8); failure to indemnify for expenditures; (9) failure to provide accurate wage statements; (10) failure to provide employment records; (11) violation of labor laws giving rise to an action under the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.* (“PAGA”); (12) unfair business practices (Business & Professions Code Section 1700 *et seq.*)

B. “PAGA Claim” means the representative claim seeking civil penalties under PAGA in the Action, and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated March 12, 2021.

C. “Aggrieved Employees” consist of all current and former non-exempt employees of Defendants from March 12, 2020, until the date the Court approves this Agreement. The number of Aggrieved Employees, including Plaintiff, is estimated to be 30 and number of pay periods is estimated to be 1,951.

D. “Court” means the Superior Court of California for the County of Los Angeles.

E. “Effective Date” means the date upon entry of an Order by the Court approving the Agreement.

F. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

G. “LWDA” means the California Labor and Workforce Development Agency.

H. “Maximum PAGA Settlement Amount” is the non-reversionary sum of \$10,000,000, which represents the total amount payable under this Agreement by Defendants, including, without limitation, payments all Aggrieved Employees, payment to the LWDA, and payment of Plaintiff’s attorneys’ fees and costs.

I. “Net PAGA Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are

subtracted from the Maximum PAGA Settlement Amount: (a) Plaintiff's attorneys' fees up to 33.33% of the Maximum PAGA Settlement Amount, currently estimated at \$3,300; and (b) Plaintiff's costs up to \$3,000.

J. "PAGA Period" means the time period from March 12, 2020 until the date the Court approves this Agreement.

K. "PAGA Released Claims" mean any and all claims under PAGA that are pled in the PAGA Action, or which could have been pled under the PAGA based on the allegations in the PAGA Action and LWDA Letter that arose during the PAGA Period, including but not limited to Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802.

L. "Plaintiff's Counsel" means Zorik Mooradian and Andrina G. Hanson of Mooradian Law APC.

II. RECITALS

WHEREAS, on March 12, 2021, Plaintiff submitted the LWDA Letter providing written notice to the LWDA and Orange Bang, Inc., of his claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code;

WHEREAS, on March 15, 2021, Plaintiff filed an individual civil complaint against Defendants styled *Rudy Orellana v. Orange Bang, Inc., et al.*, Los Angeles County Superior Court Case No. 21STCV10092;

WHEREAS, on May 17, 2021, Plaintiff filed a First Amended Complaint adding a representative action seeking civil penalties under the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.* Plaintiff alleges causes of action for: (1) unlawful discrimination unlawful discrimination in the workplace (Gov. Code § 12940 (a) & (k)); (2) unlawful harassment in the workplace-hostile work environment (Gov. Code § 12940 (j) & (k)); (3) failure to pay overtime wage; (4) failure to pay minimum wages; (5) meal period violations; (6) rest break violations; (7) failure to pay wages for all time worked; (8); failure to indemnify for expenditures; (9) failure to provide accurate wage statements; (10) failure to provide employment records; (11) violation of labor laws giving rise to an action under the PAGA; (12) unfair business practices (Business & Professions Code Section 1700 *et seq.*) (the "Action");

WHEREAS, the Parties have conducted a thorough investigation into the facts of Plaintiff's Action and PAGA claim. This included exchanging extensive data and information as well as documents relating to the underlying alleged violations; and

WHEREAS, on February 22, 2022, the Parties participated in mediation with James Johnston, Esq. With the assistance of Mr. Johnston, the Parties agreed to fully and finally resolve the Action.

NOW, THEREFORE, in consideration of the mutual covenants and promises each Party has made to the other as set forth in this Agreement, Plaintiff and Defendants agree as follows:

///

III. PROVISIONS

1. **Specific Waivers and Releases.** In exchange for the consideration described in Paragraph 7, Plaintiff irrevocably and unconditionally waives, releases, and forever discharges Orange Bang, Inc., David Fox, and Richard Stein, and each of their owners, predecessors, successors, all former, current, and future related organizations, companies, divisions, subsidiaries, affiliates, and parents, and collectively, their respective former, current and future members, directors, officers, insurers, employees, vendors, independent contractors, agents, representatives, attorneys, fiduciaries, assigns, heirs, executors, administrators, beneficiaries, and trustees (collectively, "Defendants' Releasees") from any and all claims, charges, complaints, actions, causes of action, grievances, controversies, disputes, demands, agreements, contracts, covenants, promises, liabilities, judgments, obligations, debts, damages (including, but not limited to, actual, compensatory, punitive, and liquidated damages), attorneys' fees, costs, and/or any other liabilities of any kind, nature, description, or character whatsoever, asserted in or that could have been asserted against any of Defendants' Releasees in the Action.

2. **General Waiver and Release.** In exchange for the consideration described in Paragraph 7, Plaintiff also fully and completely waives, releases, and forever discharges Defendants' Releasees from any and all claims, charges, complaints, actions, causes of action, lawsuits, grievances, controversies, disputes, demands, agreements, contracts, covenants, promises, liabilities, judgments, obligations, debts, damages (including, but not limited to, actual, compensatory, punitive, and liquidated damages), attorneys' fees, costs, and/or any other liabilities of any kind, nature, description, or character whatsoever that Plaintiff may have against any or all of Defendants' Releasees arising out of his employment and the cessation of his employment with Defendants, or any other fact, condition, circumstance, or occurrence whatsoever up to and including the date this Agreement is fully executed by the Parties, whether known or unknown, suspected or concealed, and whether presently asserted or otherwise, including, but not limited to, all claims that any or all of Defendants' Releasees:

- violated public policy or common law (including, but not limited to, claims for assault, battery, negligent hiring, retention or supervision, negligent, reckless, or intentional infliction of emotional distress, breach of contract, intentional or tortious interference with contract or business relations, fraud, misrepresentation, conversion, promissory estoppel, detrimental reliance, wrongful termination, wrongful demotion, discrimination, retaliatory discharge, personal injury, defamation, libel, slander, negligence, invasion of privacy, conspiracy, and/or mental anguish, or loss of consortium); or
- violated Defendants' policies, procedures, or handbooks, any covenant of good faith and fair dealing, or any purported contract of employment, express or implied, between Plaintiff and Defendants;
- harassed, retaliated against, discriminated against, or failed to accommodate Plaintiff on the basis of sex (including sexual harassment), race, color, national origin, ancestry, religion, disability, perceived disability, association, pregnancy, handicap, age, veteran status, sexual orientation, marital status, parental status, source of income, or any other basis in

violation of any city, local, state, or federal laws, statutes, ordinances, executive orders, regulations, or constitutions or otherwise violated any city, local, state, or federal laws, statutes, ordinances, executive orders, regulations, or constitutions, including Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et seq.*, the Civil Rights Act of 1866, 42 U.S.C. § 1981, the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, *et seq.*, the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.*, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, *et seq.*, the Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d), the Family and Medical Leave Act of 1993, as amended, 29 U.S.C. § 2601, *et seq.*, the California Fair Employment and Housing Act, as amended; the California Family Rights Act, as amended; the IWC Wage Orders; and the California Labor Code, as amended; or

- violated any city, local, state, or federal wage and hour laws, statutes, ordinances, executive orders, or regulations, including, but not limited to, those related to hours worked, overtime, rest periods, meal periods, and business expenses.

The releases contained in the prior two paragraphs, in all respects, have been voluntarily and knowingly executed with the express intention of effecting the legal consequences provided in California Civil Code § 1542, that is, the extinguishment of obligations herein designated.

3. **Covenants Not to Sue / Affirmations.** Plaintiff agrees not to sue any or all of Defendants' Releasees in any forum for any claim covered by the waivers and releases in this Agreement. Plaintiff affirms that he has not filed or caused to be filed, and is not a party to, any formal action or charge against Defendants' Releasees. Plaintiff further affirms that other than the consideration provided for herein, he is not entitled to and will not receive any additional from Defendants and that no representations have been made to him regarding any such additional compensation or benefits beyond that contained in this Agreement. Plaintiff agrees that the consideration contained in this Agreement encompasses all of the consideration for his release of claims he may have had against Defendants' Releasees. The Parties acknowledge that this Agreement does not limit Plaintiff's right, where applicable, to participate in an investigative proceeding of any federal, state, or local government agency. However, Plaintiff shall not be entitled to recover any monetary or other individual remedy to the extent permitted by law. Plaintiff also affirms that he will maintain the confidentiality of any proprietary or confidential information of Defendants consistent with the law, unless otherwise compelled by legal process.

4. **Rights and Claims Excluded From Waivers And Releases.** This Agreement does not waive any rights that cannot be waived as a matter of law, including without limitation (a) Plaintiff's rights that are not subject to waiver by private agreement (e.g., workers' compensation) and (b) Plaintiff's right, if any, to unemployment benefits.

5. **Civil Code Section 1542 Waiver.** Plaintiff hereby states that it is his intention in executing this Agreement that the same shall be effective as a bar to each and every claim, demand, cause of action, obligation, damage, liability, charge, attorneys' fees and costs herein above released except for the PAGA Claim, which is separately released as part of this Settlement in

Paragraphs 8 and 9 herein. Plaintiff hereby expressly waives and relinquishes all of his rights and benefits, if any, arising under the provisions of California Civil Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

6. **Non-Admission of Liability.** This Agreement and compliance with it shall not be construed as an admission by the Defendants of any liability whatsoever or as an admission by the Defendants of any wrongdoing including any violation of Plaintiff's and/or Aggrieved Employees' rights under any common law, statute, or contract. Defendants specifically disclaim any wrongdoing and disclaim any liability to Plaintiff and/or Aggrieved Employees for any violation of rights, including a violation of common law, statute, or contract.

7. **Consideration and Funding of Maximum PAGA Settlement Amount.** In exchange for the promises made by and in consideration for all the terms agreed to by the Parties to this Agreement, Defendants shall pay the total sum of Fifty-Five Thousand Dollars and Zero Cents (\$55,000.00) ("Total Settlement Amount"). Payment shall be made as follows:

(a) One check made payable to Rudy Baltazar Orellana in the amount of Twenty Thousand Dollars (\$20,000) representing payment for any and all damages in relation to the FEHA causes of action allegedly suffered by Plaintiff. This amount will be paid in full to Plaintiff with no deductions, for which Orange Bang, Inc., will provide Plaintiff with an IRS Form 1099 at the legally required time and manner;

(b) One check made payable to Mooradian Law APC Client Trust Account in the amount of Twenty Five Thousand Dollars (\$25,000), representing payment for attorneys' fees and costs associated with the FEHA causes of action, allegedly suffered by Plaintiff for which Orange Bang, Inc. will provide Mooradian Law APC with an IRS Form 1099 at the legally required time and manner.

(c) Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Total Settlement Amount shall be the Maximum PAGA Settlement Amount. This non-reversionary sum is and represents the total amount payable under this Agreement by Defendants, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, and payment of Plaintiff's attorneys' fees and costs.

The checks identified in Paragraphs 7(a) and 7(b) shall be sent to Plaintiff's counsel at 24007 Ventura Blvd., Suite 210, Calabasas, California 91302 within thirty (30) calendar days after 1) the Effective Date; and 2) Plaintiff and Plaintiff's counsel providing W-9 forms to Defendants' counsel.

IV. PAGA PROVISIONS

8. **Representative PAGA Release.** In exchange for the consideration described in Paragraph 7(c) and upon the date the Court enters an order granting approval of this Agreement and Defendants fund the Agreement, Plaintiff, the State of California, and all Aggrieved Employees will fully release and discharge Defendants and their respective heirs, executors, administrators, successors, assignees, parents, subsidiaries and related entities, owners, officers, directors, shareholders, employees, agents, servants, representatives, independent contractors, members, attorneys, insurers, re-insurers, assigns, and affiliates, and any and all other entities with whom they have been, are now, or may hereafter be affiliated, and any of their affiliated companies, predecessors, successors and assigns, as well as their past or present officers, directors, agents, representatives, attorneys, insurers, re-insurers, assigns, or employees (collectively “Defendants’ Releasees”) from any and all claims for civil penalties under PAGA, including but not limited to any and all claims under PAGA that are pled in the PAGA Claim, or which could have been pled under the PAGA based on the allegations in the PAGA Claim and LWDA Letter that arose during the PAGA Period, including but not limited to the PAGA Released Claims.

9. **PAGA Released Claims.** Plaintiff agrees that in exchange for the consideration described in Paragraph 7(c) and upon entry of an Order approving the Agreement, all Aggrieved Employees will release any and all PAGA Released Claims against the Releasees that arose during the PAGA Period. Upon entry of the Order approving the Agreement and judgment entered thereon, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against Defendants’ Releasees.

10. **Plaintiff’s Attorneys’ Fees and Costs.** Defendants will not oppose Plaintiff’s request for attorneys’ fees in the amount up to 33.33% of the Maximum PAGA Settlement Amount and costs incurred in prosecuting this PAGA Action, up to \$3,000. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net PAGA Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys’ fees and costs). Defendants will report these payments on IRS Form 1099 issued to Plaintiff’s Counsel.

11. **Allocation of Net PAGA Settlement Amount.** The Net PAGA Settlement Amount shall be designated as “2699 Civil Penalties” and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees pro rata based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period.

12. **Explanatory Letter and Individual PAGA Payments.** Defense Counsel will include copies of the explanatory letter, which will be mutually approved by the Parties along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail. The amount to be received by each Aggrieved Employee, will be based on the formula agreed by the Parties. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099.

13. **Undeliverable Notices.** Defendants shall exercise their best judgment to determine the current mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to

the forwarding address affixed thereto. If no forwarding address is provided, Defense Counsel will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing. Defendants fully discharge their obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the California Department of Industrial Relations – Unclaimed Wage Fund in the names of the Aggrieved Employees to whom the checks were issued.

14. **Payment of Remainder.** Within thirty (30) business days of receipt of the Net PAGA Settlement Amount, Defense Counsel will distribute the following additional payments: (1) the 75% share of 2699 Civil Penalties to the LWDA and (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel.

15. **Accounting.** Within five (5) business days after mailing the Individual PAGA Payments and the additional payments to the LWDA, Defense Counsel will provide an accounting under oath to Plaintiff's Counsel of the amounts paid from the Maximum PAGA Settlement Amount.

16. **Tax Consequences.** Individual PAGA Payments made under this Agreement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendants, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Agreement.

17. **Acknowledgement that the PAGA Settlement is Fair and Reasonable.** The Parties believe this Agreement is a fair, adequate and reasonable settlement of the PAGA Claim, and have arrived at this Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement.

V. MISCELLANEOUS PROVISIONS

18. **Non-Disparagement.** Plaintiff agrees for himself, either directly or indirectly, and to the maximum extent such prohibition is permitted under the law, that he will not, whether orally or in writing, take, support, encourage, induce, or voluntarily participate in any action or attempted action that disparages Defendants' Releasees, or to act in any way that would damage Defendants' reputation, business relationships, or present or future business, and to refrain from directing others to act in a manner that would violate this Paragraph on his behalf. This Paragraph shall not be interpreted to prevent Plaintiff from disclosing factual information related to the claim filed or as otherwise restricted by law.

19. **Neutral Reference.** In response to any request for a job reference, Defendants will disclose only Plaintiff's dates of employment and positions held, and nothing further, and will state that it is Defendants' general policy not to provide additional information.

20. **Confidentiality Agreement.** To the extent permitted by law, Plaintiff agrees that he shall keep confidential the settlement amount and all other terms and provisions of this Agreement, and all of the discussions, conversations, and negotiations leading to the execution of this Agreement, and he shall not, directly or indirectly, provide, transmit, divulge, disclose, reveal, quote, describe, paraphrase, summarize, publicize, publish, or in any other manner communicate to or with any other person or entity, any of the foregoing, except to his spouse, lawyers, tax advisor(s), or as required by court order or otherwise by law. To the extent Plaintiff discloses to his spouse the settlement amount or other terms and provisions of this Agreement, or any discussions, conversations, or negotiations leading to the execution of this Agreement, his spouse is bound by the confidentiality requirements as set forth in this paragraph. In response to any inquiries from anyone other than those listed herein regarding the facts giving rise to the lawsuit, and the terms and provisions of and circumstances leading up to the execution of this Agreement, Plaintiff will simply state that the matter has been resolved and will make no other comment. If Plaintiff is required to disclose this Agreement, its terms, or underlying facts pursuant to court order and/or subpoena, Plaintiff shall notify Defendants' counsel (Nicole Kamm, Fisher & Phillips LLP, 21600 W. Oxnard St., Suite 650, Woodland Hills, California 91367), in writing via overnight mail, within three (3) business days of his receipt of such court order or subpoena, and simultaneously provide Defendants' counsel with a copy of such court order or subpoena. Plaintiff agrees to waive any objection to Defendants' request that the document production or testimony be done in camera and under seal.

21. **Liquidated Damages.** Plaintiff acknowledges that a breach by him of any of the covenants set forth in Paragraphs 18 and 20 of this Agreement will cause substantial harm to Defendants, including, but not limited to, the cost of prosecuting any claims and lawsuits against the breaching party. Plaintiff and Defendants also acknowledge that it is impossible for such harm to be calculated with any degree of certainty. Therefore, the Parties agree that any proven breach by Plaintiff of the obligations under Paragraphs 18 and 20 of this Agreement shall entitle Defendants to liquidated damages in the sum of Two Thousand Dollars and Zero Cents (\$2,000.00), plus recovery of their court costs and reasonable attorneys' fees for each proven breach. The Parties agree that this provision is fair and reasonable in light of the fact that the actual damages that would be suffered as the result of any such breach of Paragraphs 18 and 20 of this Agreement would be difficult to ascertain.

22. **Entire Agreement.** This Agreement supersedes any other written or oral statements, representations, communications, understandings, and agreements. No amendment or modification of the terms of this Agreement shall be binding on the Parties unless reduced to writing and signed by Plaintiff and Defendants. This Agreement is enforceable pursuant to California Code of Civil Procedure section 664.6. By virtue of the foregoing language and pursuant to Evidence Code sections 1122(a)(1) and 1123(b) and Code of Civil Procedure section 664.6, it is the intent of the Parties that all terms of this Agreement may be disclosed to a court of law (only to the extent the agreement is sought to be enforced) and shall be enforceable and binding upon them in a court of law.

23. **Severability.** Plaintiff and Defendants agree that if any phrase, clause, or provision of this Agreement is declared to be illegal, invalid, or unenforceable by a court of competent jurisdiction, such phrase, clause, or provision shall be deemed severed from this Agreement but will not affect any other provisions of this Agreement, which shall otherwise remain in full force and effect. If any phrase, clause, or provision in this Agreement is deemed to be unreasonable,

onerous, or unduly restrictive by a court of competent jurisdiction, it shall not be stricken in its entirety and held totally void and unenforceable but shall remain effective to the maximum extent permissible within reasonable bounds. If any waiver, release, or covenant not to sue set forth in this Agreement are deemed to be illegal, invalid, or unenforceable in whole or in part, the Parties' obligations under this Agreement shall be nullified.

24. **Nullification of Agreement.** In the event that: (i) the Court does not approve the Agreement as provided herein; or (ii) the Agreement does not become final for any other reason, then this Agreement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

25. **Judgment and Continued Jurisdiction.** After approval of this Agreement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Agreement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement.

26. **Tax Indemnification.** Plaintiff understands and agrees that he is responsible for payment of any taxes which are required to be paid to the State of California, the United States Government, or any other entity as a result of this settlement. Plaintiff acknowledges that no representations regarding the tax consequences of the Individual Settlement Payment have been made by Defendants or their counsel. Plaintiff agrees that in the event that some federal, state, or local agency takes the position that taxes should have been withheld from amounts paid pursuant to this Agreement, Plaintiff will be solely responsible for payment of any such alleged tax obligations and will indemnify and hold Defendants' Releasees harmless from any resulting tax liability, interest, or penalty associated therewith, including reasonable attorneys' fees for defending any such matter.

27. **Fees and Costs.** The Parties agree that they will each bear their own attorneys' fees and costs incurred in connection with this matter. Plaintiff specifically understands and agrees that in the event this Agreement is not effective, he remains responsible for his attorneys' fees and costs incurred in connection with this matter and the negotiation of this Agreement.

28. **Governing Law.** This Agreement shall be construed according to the laws of the State of California.

29. **No Assignment.** Plaintiff represents and warrants that Plaintiff has not assigned, transferred, or forfeited to any person, trustee, estate, or entity, including as a result of and/or in any bankruptcy action or proceeding in any venue, any of Plaintiff's rights or claims, including as to any settlement payment, which are or could be covered by this Agreement, including, but not limited to, any covenant not to sue and the waivers and releases contained in this Agreement. Plaintiff represents and warrants that there are no liens of any kind against the settlement which have not previously been fully satisfied by Plaintiff, and Plaintiff agrees to fully indemnify Defendants for any liability in relation to any claim or lien on or against any settlement payment.

30. **Release of Unknown Claims.** Plaintiff hereby acknowledges that he may hereafter discover facts different from or in addition to those that he now knows or believed to be true when he expressly agreed to assume the risk of the possible discovery of additional facts, and Plaintiff agrees that this Agreement will be and remain effective regardless of such additional or different

facts. Plaintiff expressly agrees that this Agreement shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown or unsuspected claims, demands, causes of action, governmental, regulatory or enforcement actions, charges, obligations, damages, liabilities, and attorneys' fees and costs, if any, as well as those relating to any other claims, demands, causes of action, obligations, damages, liabilities, charges, and attorneys' fees and costs specified herein. The PAGA Claim is separately released as part of this Settlement in Paragraphs 8 and 9 herein.

31. **OWBPA Disclaimer.** Plaintiff has full and complete legal capacity to enter into this Agreement. Plaintiff has had at least twenty-one (21) days in which to consider the terms of this Agreement. In the event that Plaintiff executes this Agreement in less time, it is with the full understanding that Plaintiff had the full twenty-one (21) days if Plaintiff so desired and that Plaintiff was not pressured by the Company or any of its representatives or agents to take less time to consider the Agreement. In such event, Plaintiff expressly intends such execution to be a waiver of any right Plaintiff had to review the Agreement for a full twenty-one (21) days. In the event Plaintiff has not executed this Agreement by the expiration of the 21-day consideration period referenced in this Paragraph, the offer of the Settlement Payment in this Agreement will expire, and Plaintiff will have no right or claim to the Settlement Payment, or any portion of the Settlement Payment. Plaintiff has been informed and understands that (i) to the extent that this Agreement waives or releases any claims Plaintiff might have under the Age Discrimination in Employment Act and the Older Workers' Benefits Protection Act (OWBPA), Plaintiff may rescind Plaintiff's waiver and release within seven (7) calendar days of Plaintiff's execution of this Agreement and (ii) any such rescission must be in writing and e-mailed and hand delivered to the Company's human resources representative by the close of business on the 7th calendar day following Plaintiff's execution of this Agreement. Plaintiff and the Company agree that this waiver and release does not apply to any rights or claims that may arise under the Age Discrimination in Employment Act after the Effective Date of this Agreement, including without limitation, any rights or claims that may exist to secure enforcement of the terms and conditions of this Agreement. Plaintiff further acknowledges that Plaintiff has been advised by this writing that Plaintiff should consult with an attorney prior to executing this Agreement

32. **Medical Bills, Liens, and Other Potential Rights for Reimbursement.**

(a) **Responsibility for Satisfaction of All Liens.** Plaintiff represents and warrants that all bills, costs or liens resulting from or arising out of Plaintiff's alleged injuries, claims and/or the Action are Plaintiff's responsibility to pay. Plaintiff agrees to assume responsibility for satisfaction of any and all demands for payment, claims or liens of any kind, that arise from or are related to payments made or services provided to Plaintiff or on Plaintiff's behalf. Plaintiff agrees to assume responsibility for all expenses, costs or fees incurred by Plaintiff related to Plaintiff's alleged injuries, claims and/or the Action including without limitation, all Medicare conditional payments, subrogation claims, liens or other rights to payment, relating to medical treatment or lost wages that have been or may be asserted by any health care provider, insurer, governmental entity, employer or other person or entity. Further, Plaintiff will indemnify, defend and hold Releasees harmless from any and all damages, claims and rights to payment, including any attorneys' fees, brought by any person, entity or governmental agency to recover any of these amounts.

(b) Good Faith Resolution. This Agreement is based upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Section 1395y(b). The Parties resolved this matter in compliance with both state and federal law. The Parties made every effort to adequately protect Medicare's interest and incorporate such in the settlement terms.

(c) Representation that Plaintiff is Not a Medicare Beneficiary Receiving Conditional Payments. Plaintiff warrants that as of the date of this Agreement, no conditional payments have been made by Medicare to Plaintiff.

(d) Representation that No Medicare Conditional Payments Exist; Best Efforts to Obtain Confirmation. Plaintiff further represents and warrants that he is aware of no Medicare conditional payments that have been made on Plaintiff's behalf. Plaintiff and Plaintiff's counsel agree to exercise best efforts to obtain a letter from Medicare to this effect. In the alternative, and only after exercising best efforts to obtain a zero-dollar conditional payment letter from Medicare, Plaintiff and Plaintiff's counsel agree to provide Defendants' counsel with a letter certifying that Plaintiff's counsel has exercised due diligence and, to the best of Plaintiff's knowledge, no liens of any governmental entities including Medicare conditional payments exist.

(e) Agreement to Indemnify, Defend, and Hold Harmless. Plaintiff will indemnify, defend and hold Releasees harmless from any and all claims, liens, Medicare conditional payments and rights to payment, known or unknown. If any governmental entity, or anyone acting on behalf of any governmental entity, seeks damages including multiple damages from Releasees relating to payment by such governmental entity, or anyone acting on behalf of such governmental entity, relating to Plaintiff's alleged injuries, claims and/or Plaintiff's Complaint, Plaintiff will defend and indemnify Releasees and hold Releasees harmless from any and all such damages, claims, liens, Medicare conditional payments and rights to payment, including any attorneys' fees sought by such entities.

33. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic, Portable Document Format (PDF), or facsimile copies of any such signed counterparts may be used in lieu of the originals for any purpose.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Agreement, accept and agree to the provisions contained in this Agreement, and hereby execute it voluntarily and with full understanding of its consequences.

Dated: 03/12/22, 2022

RUDY ORELLANA

By: 
Rudy Orellana

ORANGE BANG, INC.

Dated: _____, 2022

By: David Fox
Its: President and Owner

DAVID FOX

Dated: _____, 2022

David Fox, Individually

RICHARD STEIN

Dated: _____, 2022

Richard Stein, Individually

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Agreement, accept and agree to the provisions contained in this Agreement, and hereby execute it voluntarily and with full understanding of its consequences.

Dated: _____, 2022

RUDY ORELLANA

By: _____
Rudy Orellana

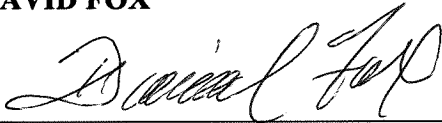
ORANGE BANG, INC.

Dated: 3.11, 2022


By: David Fox
Its: President and Owner

DAVID FOX

Dated: 3.11, 2022


David Fox, Individually

RICHARD STEIN

Dated: 3/11, 2022


Richard Stein, Individually



Make a Reservation

RUDY B. ORELLANA vs ORANGE BANG, INC., et al.

Case Number: 21STCV10092 Case Type: Civil Unlimited Category: Other Employment Complaint Case

Date Filed: 2021-03-15 Location: Stanley Mosk Courthouse - Department 53

Reservation

Case Name: RUDY B. ORELLANA vs ORANGE BANG, INC., et al.	Case Number: 21STCV10092
Type: Motion re: (Motion for Approval of PAGA Settlement)	Status: RESERVED
Filing Party: Orange Bang, Inc. (Defendant)	Location: Stanley Mosk Courthouse - Department 53
Date/Time: 08/16/2022 10:00 AM	Number of Motions: 1
Reservation ID: 728953828933	Confirmation Code: CR-DWYDIYEJRZ5O7SAKA

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount: \$61.65	Type: MasterCard
Account Number: XXXX6230	Authorization: 023902

Print Receipt

[+ Reserve Another Hearing](#)

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Calabasas, California 91302
Telephone: (818) 487-1998
Facsimile: (888) 783-1030

Attorneys for Plaintiff Rudy B. Orellana, individually and
on behalf of aggrieved current and former employees

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

RUDY B. ORELLANA, individually
and on behalf of other aggrieved
current and former employees,

Plaintiff(s),

v.

ORANGE BANG, INC., DAVID
FOX, RICHARD STAIN and DOES 1
to 50,

Defendants.

CASE NO.: 21STCV10092
[Unlimited Jurisdiction]

**[PROPOSED] ORDER APPROVING
SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004**

*Assigned for all purposes to the
Hon. Robert B. Broadbelt, Dept. 53*
Complaint Filed: March 15, 2021

Date: August 16, 2022
Time: 10:00 a.m.
Dept.: 53

OSC: 10/11/22 @ 11 a.m.

On August 16, 2022, a hearing was held on the motion of Plaintiff Rudy
B. Orellana for approval of a settlement pursuant to California's Private
Attorney General Act ("PAGA") (the "Settlement"). Appearances were noted on
the record. The Court having considered all papers filed and proceedings herein
and otherwise being fully informed, which constitutes a final adjudication of
this matter on the merits, and good cause appearing,

**[PROPOSED] ORDER APPROVING SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL
ACT OF 2004 - 1**

It ss hereby Ordered and Adjudged as follows:

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1. All terms used for purposes of this Order and Judgment, not otherwise defined, shall have the same meaning as given in the PAGA Settlement Agreement (“Settlement”) – Attached as **Exhibit A** to Mooradian Decl., filed in support of the Motion.

2. Pursuant to the Labor Code Private Attorneys General Act (“PAGA”), Cal. Lab. Code §§ 2699(l)(2), (l)(4), the Labor Workforce and Development Agency (“LWDA”) has been given notice of the Settlement. Pursuant to PAGA, on the date the parties filed the motion seeking approval of the Settlement with the Court, Plaintiff submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement. The Court finds and determines that Plaintiff’s notice of the Settlement complied with the statutory requirements of PAGA.

3. This Court has jurisdiction over the subject matter of this litigation, over all PAGA Settlement Group Members, and over those persons and entities undertaking affirmative obligations under the Settlement.

4. The Court finds that the Settlement is, in all respects, fair, reasonable, and adequate. Accordingly, the Court hereby finally and unconditionally approves the Settlement. The Court finds that the Settlement Sum of \$10,000.00 represents a fair compromise of the claims alleged in the Action, considering the maximum potential value of the claims asserted and the risks inherent in further litigation.

5. The Court has considered the authorities and evidence presented by Plaintiffs and approves the following awards and deductions from the Settlement Sum:

6. To Plaintiffs’ counsel, Mooradian Law, APC, and an award of \$3,300.00 in attorneys’ fees and \$3,000.00 in costs. The Court finds that these amounts are fair and reasonable and commensurate with applicable California law.

1 7. The amount remaining of the Settlement Sum following these deductions
2 is the Net Settlement Amount of \$3,700.00. The Net Settlement Amount shall be
3 distributed 75% to the Labor and Workforce Development Agency and 25% to the
4 Aggrieved Employees. Disbursement to the Aggrieved Employees shall be made
5 using the Notice attached as **Exhibit 1**.

6 8. Upon entry of this Order, the Parties shall effectuate all terms of the
7 Settlement based on the provisions and timelines set forth in the Settlement
8 Agreement.

9 9. After entry of this Order, pursuant to California Code of Civil Procedure
10 section 664.6, the Court shall retain jurisdiction of the Action to construe,
11 interpret, implement, and enforce the Settlement Agreement and this order.

12 **IT IS SO ORDERED AND ADJUDGED.**

13
14 DATED: _____

Hon. Robert B. Broadbelt
Judge of the Superior Court
County of Los Angeles, Dept. 53

EXHIBIT 1

NOTICE OF SETTLEMENT

To: *All current and former non-exempt employees of ORANGE BANG, INC., DAVID FOX, and RICHARD STEIN (collectively “Orange Bang”) in California during the period from March 12, 2020, to the date that the Court approves this Settlement.*

PLEASE READ THIS NOTICE CAREFULLY

ACCORDING TO ORANGE BANG’S RECORDS, YOU QUALIFY TO RECEIVE MONEY IN CONNECTION WITH A LEGAL SETTLEMENT. TO ENSURE THAT YOUR PAYMENT IS ACCURATELY CALCULATED, READ THE ENCLOSED SETTLEMENT INFORMATION SHEET AND CONFIRM THAT THE INFORMATION ABOUT YOURSELF AND YOUR EMPLOYMENT WITH ORANGE BANG IS CORRECT. IF IT IS CORRECT, YOU DO NOT NEED TO DO ANYTHING; YOU WILL RECEIVE YOUR SHARE OF THE SETTLEMENT. IF THE SETTLEMENT INFORMATION SHEET IS INCORRECT, RETURN IT IN ACCORDANCE WITH THE INSTRUCTIONS IN THIS NOTICE.

WHAT IS THIS NOTICE ABOUT?

A settlement (the “Settlement”) has been reached between Plaintiff Rudy B. Orellana (“Plaintiff”) and Defendants Orange Bang, Inc., David Fox, and Richard Stein (collectively “Orange Bang”) in the action pending in the Court brought on behalf of the following individuals (the “Settlement Group”):

All current and former non-exempt employees of Orange Bang in California during the period from March 12, 2020, to the date that the Court approves this Settlement.

The Court has approved the Settlement. You have received this notice because Orange Bang’s records indicate that you are a member of the Settlement Group. This notice is designed to inform you of how you can provide corrected information to the Settlement Administrator, if necessary, to ensure your receipt of your Settlement Share.

WHAT IS THIS LAWSUIT ABOUT?

On March 15, 2021, Plaintiff brought an action entitled “*Rudy Orellana v. Orange Bang, Inc., et al.*,” designated as No. 21STCV10092. The action is pending in the Superior Court of California for the County of Los Angeles (the “Court”).

In the Action, Plaintiff alleged that Defendants failed to properly pay all wages due to aggrieved employees in California during the period of March 12, 2020, through *[date of court approval]* in violation Labor Code section 2699, *et seq.* claiming violations of specific sections of the Labor Code including sections 201-204, 226, 226.3, 226.7, 510, 512, 558, 1194, 1197, 2698, 2699.3, and 2699.5. Plaintiff sued for civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”), Cal. Lab. Code § 2698 *et seq.* Under PAGA, any recovery of civil penalties is shared between the Labor and Workforce Development Agency (“LWDA”), which gets 75% of the penalties recovered, and the allegedly aggrieved employees, who get 25% of the penalties recovered.

Defendants denied and continue to deny all of Plaintiff’s material allegations. Specifically, Defendants contend that they complied with the requirements of the Labor Code and that civil penalties are not recoverable.

After good faith negotiations in which both sides recognized the substantial risk of an uncertain outcome, Plaintiff and Defendants agreed to settle the Action pursuant to the terms and conditions of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that Plaintiff’s claim in the Action has merit or that it has any liability to Plaintiff or the group of individuals he seeks to represent on that claim. On the contrary, Defendants deny any and all such liability.

WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement if you fall within the following definition:

All current and former non-exempt employees of ORANGE BANG, INC., DAVID FOX, and RICHARD STEIN (collectively "Orange Bang") in California during the period from March 12, 2020, to the date that the Court approves this Settlement.

You are receiving this notice because Defendants' records indicate that you are part of the Settlement Group.

WHAT WILL I RECEIVE FROM THE SETTLEMENT?

1. **Settlement Shares.** Pursuant to PAGA, 75% of the Net Settlement Amount will go to the LWDA. The remaining 25% of the Net Settlement Amount will be distributed to Settlement Group Members in proportion to the number of weeks that they were an employee of Orange Bang.
2. **Payment of Settlement Shares.** The Settlement Shares and other amounts awarded by the Court will be paid after entry of the final judgment and the exhaustion of all rights to appeal or review, or after any appeal or review has been resolved in favor of the Settlement. Checks for Settlement Shares must be cashed within 180 days after they are issued, or else the funds they represent will go to the State of California.
3. **Dispute of Settlement Group Member Information.** If you dispute the validity of any of the information shown on your enclosed Settlement Information Sheet, including the number of workweeks used to calculate your Settlement Share, you must report your dispute to the Settlement Administrator to resolve the matter. In order to do so, you must return the enclosed Settlement Information Sheet to the Settlement Administrator by the deadline of [REDACTED], informing the Settlement Administrator of the fact of the dispute and the basis for your contention that a different information is correct for you (including any documentary evidence that you have to support your contention). In the event of such a dispute, Defendants will review payroll and personnel records to verify the correct information. Defendants' records will have a rebuttable presumption of correctness. After consultation with you, Defendants', and Plaintiff's Counsel, the Settlement Administrator will make a final determination.
4. **Settlement Group Member Release.** The Settlement approved by the Court includes a release by Settlement Group of any and all claims under PAGA of whatever kind or nature, whether known or unknown, arising during the Covered Period based on the facts alleged by Plaintiff in the Action and Plaintiff's notice letter to LWDA, including but not limited to PAGA claims for alleged violations of Labor Code sections 201-204, , 226, 226.3, 226.7, 510, 512, 558, 1174, 1194, 1197, 2698, 2699.3, and 2699.5, the Industrial Welfare Commission Wage Orders, and any resulting claim for attorneys' fees and costs (the "Released Claims").

The Released Claims include all such claims, whether known or unknown under PAGA. Therefore, as a Settlement Group Member, and only as to the Released Claims, you expressly waive and relinquish the provisions, rights, and benefits of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

WHAT ARE MY RIGHTS AS A SETTLEMENT GROUP MEMBER?

1. **Participating in Settlement.** You are a part of the Settlement Group, and therefore, you will be bound by the terms of the Settlement and any final judgment that may be entered by the Court and you will be deemed to have released the PAGA claims against Defendants and the other released parties described above. As a member of the Settlement Group, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and expenses.

2. **Settlement Information Sheet.** The enclosed Settlement Information Sheet provides the information on which your Settlement Share will be calculated and an estimate of your Settlement Share. If the information in the Settlement Information Sheet (including your mailing address) is correct, you need not return the form. If the information contained in the Settlement Information Sheet is not correct, correct the information on the sheet and return it to the Settlement Administrator. If you believe information (other than your name, mailing address, and the last four digits of your Social Security Number) is incorrect, state on the Settlement Information Sheet what you contend is the correct information and also include any documentation you have to support that contention. The Settlement Information Sheet must be completed and returned to the Settlement Administrator postmarked by not later than [REDACTED], 2022. It is your obligation to keep the Settlement Administrator informed of any changes in your mailing address until your Settlement Share is received. Failing to provide the Settlement Administrator with any change of your mailing address may prevent you from receiving your Settlement Share.
3. **The Settlement Administrator's Address.** If applicable, send your corrected Settlement Information Sheet to the Settlement Administrator at the following address.

Rudy Orellana v. Orange Bang, Inc., et al.
FISHER & PHILLIPS LLP
21600 Oxnard Street, Suite 650
Woodland Hills, CA 91367
(818) 230-4250

GETTING MORE INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which will be on file with the Clerk of the Court. The pleadings and other records in this litigation including the Settlement Agreement, may be examined at the Office of the Clerk of the Court, Superior Court of California for Los Angeles at 111. N. Hill St. Los Angeles, 90012 during the Clerk's normal business hours; or you may contact Plaintiff's Counsel as follows: Zorik Mooradian, Mooradian Law, APC, 24007 Ventura Blvd., Suite 210, Calabasas, California 91302, (818) 487-1998.

**PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION REGARDING
THIS SETTLEMENT OR THE CLAIM PROCESS. YOU MAY, HOWEVER, CALL
PLAINTIFF'S COUNSEL LISTED ABOVE.**

Dated: [REDACTED], 2022.
By Order of the Court

PROOF OF SERVICE
CASE NO.: 21STCV10092

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 24007 Ventura Blvd., Suite 210, Calabasas, CA 91302. On July 26, 2022 I served the following documents in the manner set forth in this Proof of Service:

1. NOTICE OF UNOPPOSED MOTION AND MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF ZORIK MOORADIAN IN SUPPORT; PROPOSED ORDER; & EXHIBITS THERETO
2. PROPOSED] ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004

☒ **ELECTRONIC SERVICE:** I am “readily familiar” with the firm’s practice of collection and processing of correspondence for electronic service. Pursuant to that practice, the enclosed document was served via email transmission on that same day and addressed as follows:

Fisher & Phillips LLP
Rodrigo Dryjanski, Esq.
rdryjanski@fisherphillips.com
Nicole Kamm, Esq.
nkamm@fisherphillips.com

A copy of all documents was also downloaded on the LWDA website on July 26, 2022.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 26, 2022, in Calabasas, CA.



Nanor Kamberian