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Attorneys for Defendant
SF MARKETS, LLC

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

WILLIAM GARCIA RAYA, JR. on
behalf of the general public as private
attorney general,

Plaintiff,

v.

SFM, LLC, a California Limited Liability
Company; SF Markets, LLC, dba
SPROUTS FARMERS MARKET, a
Delaware Limited Liability Company; and
DOES 1-50, inclusive,

Defendants.

LAURIELLE CUTHBERTSON. on
behalf of the general public as private
attorney general,

Plaintiff,

v.

Lead Case No. 21STCV18228
Consolidated With Related to Case Nos.
21STCV43022 and 21STCV4015

Judge: David Sotelo
Dept: 40

**STIPULATION AND [PROPOSED]
ORDER APPROVING SETTLEMENT
OF PRIVATE ATTORNEYS
GENERAL ACT CLAIMS,
DISMISSING ACTION WITH
PREJUDICE; DECLARATION OF
JAMES HAWKINS IN SUPPORT
THEREOF**

1 SFM, LLC, a California Limited Liability
2 Company; SF Markets, LLC, dba
3 SPROUTS FARMERS MARKET, a
Delaware Limited Liability Company; and
DOES 1-50, inclusive,

4 Defendants.

5
6 JEFFREY THOMAS STRAHL. on behalf
of the general public as private attorney
general,

7 Plaintiff,

8 v.

9 SFM, LLC, a California Limited Liability
10 Company; SF Markets, LLC, dba
11 SPROUTS FARMERS MARKET, a
Delaware Limited Liability Company; and
DOES 1-50, inclusive,

12 Defendants.

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2. On March 8, 2021, Plaintiff Garcia Raya Jr., sent his LWDA Letter asserting claims for civil penalties pursuant to PAGA stemming from Defendant's alleged practices. (See Declaration of James Hawkins, hereinafter "Hawkins" Decl. at ¶ 3, Ex. 2).

4. On August 26, 2021, Plaintiff Raya and Plaintiff Cuthbertson sent amended notice to the LWDA Letter asserting claims for civil penalties pursuant to PAGA stemming from Defendant's alleged practices. (Hawkins Decl. at ¶ 5, Ex. 3).

6. On September 15, 2021 Plaintiff Jeffrey Thomas Strahl sent his LWDA Letter asserting claims for civil penalties pursuant to PAGA stemming from Defendant's alleged practices. (Hawkins Decl. at ¶ 7, Exh. 4).

8. On April 13, 2022, Plaintiff Garcia Raya Jr., filed and served Notice of Related Cases identifying all three actions above. The Court has subsequently related all three matters to the first filed *Garcia Raya Jr.*, action. On August 25, 2022, the Court consolidated all three actions. (Hawkins Decl. at ¶ 9).

1 9. On June 8, 2022, the Parties participated in a day-long mediation with a well-
2 respected class action and PAGA wage and hour mediator, Jeffrey Krivis. In preparation for the
3 mediation, Plaintiffs' counsel requested and Defendant's counsel provided sampled time and payroll
4 data for the purported Aggrieved Employees, personnel and employment documents and other
5 relevant data. With Jeffrey Krivis' assistance, the Parties agreed to fully and finally resolve the
6 Actions and the PAGA Released Claims as to Plaintiffs Strahl and Cuthbertson, the State of
7 California, the LWDA and the allegedly Aggrieved Employees.¹ (Hawkins Decl. at ¶ 10).

8 10. Defendant disputes and denies the allegations and claims asserted in the (1) *Raya Jr.*,
9 (2) *Cuthbertson*, and (3) *Strahl* operative complaints, and their respective LWDA notices.
10 Additionally, the named Plaintiff and all allegedly aggrieved employees are parties to Mutual
11 Binding Arbitration Agreements which, pursuant to *Viking River Cruises v. Moriana*, would require
12 the Court to sever and compel Plaintiffs' individual PAGA claims to arbitration. It was also
13 Defendant's position that, in addition to the foregoing, Plaintiffs could not maintain representative
14 PAGA claims because there is no evidence of a common unlawful policy or practice that makes a
15 trial manageable. (Hawkins Decl. at ¶ 11.)

16 11. During the course of the litigation, Plaintiffs and Defendant (hereinafter, Plaintiffs
17 and Defendant are collectively referred to as the "Parties") engaged in discovery and fully shared
18 the information necessary for all sides to conduct a reasonable investigation into the allegations of
19 the action and potential defenses thereto. The Parties have reached this settlement only after
20 discovery and investigation was performed. (Hawkins Decl. at ¶ 12.)

21 12. Being fully apprised of the value and strength of Plaintiffs' claims, counsel for
22 Plaintiffs and Defendant successfully negotiated a settlement of Plaintiffs' claims asserted in the
23 action through arm's-length negotiations assisted by mediator Jeffrey Krivis, and the terms and
24 conditions of the settlement are set forth in the Settlement Agreement, which resolves all claims
25

26 ¹¹ Plaintiff William Garcia Raya, Jr. although a participant in the settlement, has months
27 been missing and unresponsive to numerous attempts to locate him and participate in the
28 settlement. As a result, Mr. Raya is not a signatory to the settlement and does not release his
individual claims, other than PAGA claims which will be released as any other aggrieved
employee would release under this settlement

1 asserted in the Action and contemplates that the Court will enter an Order effectuating the terms and
2 conditions of the Settlement Agreement. (Hawkins Decl. at ¶¶ 13.)

3 13. Counsel for Plaintiffs and Defendant also considered the fact that the existence of
4 numerous disputes of fact in this case make the outcome uncertain. In the estimation of counsel for
5 the Parties, the delay, inconvenience, distraction, and uncertainty imposed by the litigation demands
6 would far outweigh the potential benefits of additional litigation. (Hawkins Decl., at ¶ 14)

7 14. Based on the information and documents obtained through discovery, that is
8 successful at trial for one violation per pay period, Plaintiffs assessed the maximum potential value
9 of the limited PAGA claims to be released by the settlement to be approximately \$42,248,650 (at
10 the rate of a \$50.00 penalty for approximately 844,379 pay periods at issue for approximately 24,995
11 Aggrieved Employees). This of course liberally assumes a labor code violation for each pay period
12 for each individual, and also assume a victory at the trial stage and appellate stage, and the Court
13 awarding at least \$50 per pay period for each individual pay period. (Hawkins Decl. at ¶¶ 15-30.)

14 15. It is highly likely these amounts would be drastically reduced by as much as 85% to
15 95% based upon alleged violation rates and policies in place at the time which could arguably reduce
16 the penal nature of the alleged violations which would bring the overall more reasonable value to
17 about \$6,337,297. Indeed, it is common for courts to reduce the penalties. *See e.g., Ghrdilyan v.*
18 *RJ Financial, et al.*, Los Angeles Superior Court, Case No. BC430633 (94% reduction); *Parr v.*
19 *Golden State Overnight Delivery Service, Inc.*, Alameda County Superior Court, Case No. RG12-
20 618103 (94% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug.
21 12, 2011) (82% reduction); *Gola v. University of San Francisco*, Case No. CGC-18-565018 (Sup.
22 Ct. Decision dates July 21, 2020) (85% reduction of PAGA penalties). (Hawkins Decl. at ¶¶ 16-21.)

23 16. Plaintiffs' Counsel also took into account that even if Plaintiffs prevailed on the
24 merits of the PAGA claim, Defendant could persuasively argue that the Court should exercise
25 its discretion, under Labor Code § 2699(e), to reduce the amount of civil penalties assessed. A court
26 in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner
27 would have, as well as complete discretion to "award a lesser amount than the maximum civil
28 penalty amount specified by PAGA if, based on the facts and circumstances of the particular case,

1 to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.”
2 (Hawkins Decl. at ¶¶ 15-30.)

3 13. Plaintiffs’ Counsel also took into account that Plaintiff and all PAGA group members
4 are subject to Arbitration Agreements that would require them to arbitrate individual PAGA claims
5 pursuant to *Viking River Cruises v. Moriana*, 142 S. Ct. 1906, reh’g denied, 213 L. Ed. 2d 1145, 143
6 S. Ct. 60 (2022) , leaving uncertainty as to whether Plaintiffs would be able to maintain the
7 representative PAGA claim.

8 14. As set forth in the Settlement Agreement, the amount of the Settlement Sum is one-
9 million five-hundred thousand dollars (\$1,500,000.00) and includes an apportionment of attorneys’
10 fees and costs, payment to the settlement administrator, and a general release payment/enhancement
11 award to Plaintiff. (Hawkins Decl. at ¶¶ 34.)

12 15. Based on their extensive experience litigating over 200 representative actions,
13 counsel for Plaintiffs believe the settlement here is fair and reasonable and warrants approval by the
14 Court. (Hawkins Decl. at ¶¶ 35-42.).

15 16. The parties agree that upon entry of the Order approving this settlement, Plaintiffs
16 and all Aggrieved Employees, as defined in the Settlement Agreement, will be forever barred from
17 pursuing against Defendant, and any of the Released Parties, any of the PAGA Released Claims as
18 defined in the Settlement Agreement. “Released Claims” means all claims for PAGA civil
19 penalties, which occurred during the Release Period, pursuant to Labor Code Section 2698 *et seq.*
20 alleged or that could have been alleged based on the allegations asserted in the Complaints and
21 PAGA Letters on behalf of the Aggrieved Employees, the LWDA and the State of California,
22 including but not limited to claims for the failure to pay overtime wages at the rate of one and one-
23 half times the regular rate of pay for all hours worked in excess of (8) hours in a day or forty (40)
24 hours in a work week and at twice the regular rate of pay for hours worked in excess of (12) hours
25 in a day or in excess of eight (8) hours in a day on the seventh day of work; failure to accurately
26 pay overtime wages by failing to calculate bonuses into the regular rates of pay; failure to
27 accurately pay paid sick leave; issuing payment for wages in an instrument that failed to comply
28 with the Labor Code; failure to provide legally complaint meal periods or pay meal period

1 premiums at the regular rate of pay; failure to authorize and permit legally compliant rest breaks or
2 pay rest break premiums at the regular rate of pay; failure to timely pay all wages due during
3 employment or upon separation of employment; failure to provide accurate, itemized wage
4 statements, failure to maintain accurate records relating to work periods, meal periods, total daily
5 hours worked and applicable pay rates, failure to pay wages at the prevailing wage, failure to
6 reimburse business expenses, , including but not limited to claims arising under California Labor
7 Code sections 201-204, 212, 213, 226, 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1174.5,
8 1175, 1194, 1197, 1197.1, 1198, 2698 et seq., 2802 and the applicable Industrial Welfare
9 Commission Wage Orders; Cal. Code Regs. Title 8 § 11070. (**Exhibit 1** Settlement Agreement
10 paras. 1.01 (i)).

11 17. The Parties agree that this stipulation should be sufficient for purposes of approving
12 the PAGA Settlement of the Complaint pursuant to the requirements set out in Labor Code section
13 2699(1)(2).

14 18. The Parties request that the Court enter the accompanying order, approving the
15 Settlement (attached to the Hawkins Declaration as **Exhibit “1”**) as permitted by Labor Code §
16 2699(1), in accordance with the terms and conditions of the Settlement Agreement.

17 **IT IS SO STIPULATED**

18
19 DATED: December 14, 2022

JAMES HAWKINS APLC

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21 By: 
22 JAMES R. HAWKINS, ESQ.
GREGORY HAWKINS, ESQ.
MICHAEL CALVO, ESQ.

23 Attorneys for Plaintiffs WILLIAM GARCIA RAYA
24 JR., LAURIELLE CUTHBERTSON, and JEFFREY
25 THOMAS STRAHL, and the general public as
26 private attorney general
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December 14, 2022

CDF LABOR LAW LLP

By: _____

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Attorneys for Defendant SF MARKETS LLC