

BROCK & GONZALES, LLP

6701 CENTER DRIVE WEST, STE. 610
LOS ANGELES, CA 90045
Tel: (310) 294-9595
Fax: (310) 961-3673

D. AARON BROCK, STATE BAR NO. 241919
DANIELLE L. GRUPPCHANG, STATE BAR NO. 313881

Attorneys for Plaintiff
MARIA IBANEZ

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

Maria Ibanez, individually, and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act;

Plaintiff,

v.

Morningstar Senior Management, LLC, a Colorado
limited liability company; and DOES 1-50,
inclusive,

Defendants.

Case No. RG21106917
The Honorable Tara Desautels

**DECLARATION OF DANIELLE L.
GRUPPCHANG IN SUPPORT OF
PLAINTIFF'S MOTION FOR APPROVAL
OF PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND AWARD
OF ATTORNEY'S FEES AND LITIGATION
COSTS, PLAINTIFF'S RELEASE
PAYMENT, AND ADMINISTRATION
EXPENSES PAYMENT**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor Code §
2698, *Et Seq.*) Settlement Agreement and Award
of Attorneys' Fees and Litigation Costs, Plaintiff's
Release Payment, and Administration Expenses
Payment; Declaration of Plaintiff; and [Proposed]
Order filed concurrently herewith.]

Reservation No.: 813501811930

Date: April 26, 2023

Time: 2:0 p.m.

Dept: 16

Complaint Filed: July 29, 2022

Trial Date: None Set

DECLARATION OF DANIELLE L. GRUPPCHANG

I, Danielle L. GruppChang, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Brock & Gonzales, LLP, attorneys of record for Plaintiff Maria Ibanez ("Plaintiff"). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EDUCATION

2. In May of 2016, I graduated from *University of California Hastings College of the Law* with a Juris Doctor degree. While at *University of California Hastings College of the Law*, I competed in negotiation and mediation competitions nationally and internationally. In June of 2013, I obtained a Bachelor of Arts degree in Political Science with a Pre-Law concentration and a Communication Studies minor from *California Polytechnic State University, San Luis Obispo*.

EXPERIENCE

3. In January of 2017, I obtained a license to practice law from the California State Bar. From approximately April 2017 to approximately April 2021, I was employed by the law firm of *Lawyers for Justice, PC*.

4. At *Lawyers for Justice PC*, my practice focused on entirely on wage and hour class actions. While employed by *Lawyers for Justice, PC*, I argued approximately 50 motions, took or defended depositions, was involved in the settlement of approximately 100 class and/or PAGA actions, and was personally appointed class counsel in multiple class actions.

D. AARON BROCK'S EDUCATION AND EXPERIENCE

5. In 2005, D. Aaron Brock graduated from *Loyola Law School, Los Angeles* with a Juris Doctor degree. During law school, Brock was an extern in the United States Federal District Court. In 2002, Brock graduated from *Loyola Marymount University* with a Bachelor of Arts degree in History.

6. Brock obtained his license to practice law from the California State Bar in March 2006. In approximately July 2016, Brock was one of the founding partners of *Brock & Gonzales, LLP*. From

1 approximately 2013 to 2016, Brock was a partner at the law firm *JML Law, APLC*. From approximately
2 2009 to 2012, Brock was employed by the law firm *Taylor & Ring*. From approximately 2012 to 2013,
3 Brock was employed by the law firm *The Lanier Law Firm*.

4 7. Throughout his career, Brock has represented hundreds of individuals in employment
5 and personal injury cases. He has acted as trial counsel in multiple cases to verdict, including a trial
6 which resulted in the largest wrongful termination verdict ever granted in Tulare County Superior Court.
7 Brock has taken and defended over 1,000 depositions of plaintiffs, defendants, and expert witnesses,
8 argued a large volume and variety of motions, including over 100 motions for summary judgment, and
9 attended more than 400 mediations, early neutral evaluations, and mandatory settlement conferences.
10 Brock has been acknowledged as a Southern California Super Lawyer Rising Star for 12 years and as a
11 Super Lawyer for 2 years. Brock has recovered millions of dollars in verdicts and settlements for his
12 clients.

13 8. Since its inception, in or around July 2016, Brock & Gonzales, LLP has almost
14 exclusively focused on the prosecution of plaintiff-side employment cases as well as personal injury
15 cases. Currently, we are the attorneys of record in over a dozen employment-related putative class
16 actions in the State of California. Our firm has successfully litigated cases involving the wage and hour
17 law in California. During this relatively short time, we have recovered millions of dollars on behalf of
18 hundreds of employees in California.

19 APPROVAL OF SETTLEMENT

20 9. Marked and attached hereto as “**EXHIBIT 1**” is the PAGA Settlement Agreement and
21 Release of Claims (“Settlement,” “Agreement,” or “Settlement Agreement”), entered into between
22 Plaintiff Maria Ibanez, for herself and on behalf of the State of California and other Aggrieved
23 Employees pursuant to the PAGA, and Defendant Morningstar Senior Management, LLC
24 (“Defendant”). The parties have also drafted and agreed to the form and content of a [Proposed] Cover
25 Letter (“Cover Letter”) for mailing to Aggrieved Employees when settlement payments are distributed
26 to them, in substantially the form attached as “Exhibit 1” to the [Proposed] Order and Judgment of
27 Granting Approval of Private Attorneys General Act Settlement Agreement and Award of Attorney’s
28

1 Fees and Litigation Costs, Plaintiff's Release Payment, and Administration Expenses Payment. PAGA
2 Counsel respectfully requests that the Court approve the proposed Cover Letter.

3 10. The aggrieved employees covered by the Settlement consist of the following individuals:
4 Plaintiff and all persons employed by Defendant as hourly-paid or non-exempt employees in California
5 at any time during the PAGA Period ("Aggrieved Employees"). The PAGA Period is the time period
6 from July 29, 2020 to January 28, 2023.

7 11. It should also be noted that Plaintiff has satisfied the prerequisites under California Labor
8 Code section 2699.3(a), including, and not limited to, providing the California Labor and Workforce
9 Development Agency ("LWDA") and the employer with written notice of the specific provisions of the
10 California Labor Code that are alleged to have been violated, including the facts and theories to support
11 the alleged violations, by way of written correspondence on May 12, 2021 and an amended notice on
12 April 14, 2023 sent by U.S. Certified Mail. The LWDA did not respond to the notice that was sent on
13 behalf of Plaintiff.

14 12. The effectiveness of PAGA Counsel, Brock & Gonzales, LLP, in prosecuting this case
15 has translated into the recovery of a substantial sum of monetary benefits for Plaintiff, Aggrieved
16 Employees, and the State of California in the following respects: (1) their recoveries over a reasonably
17 short period of time as opposed to waiting additional years for the same, or possibly, a worse, result; (2)
18 a guaranteed result that compares favorably with other similar representative action settlements of this
19 type; and (3) significant savings in fees and costs which would have only increased significantly had the
20 case progressed through trial and/or appeals.

21 13. After engaging in informal discovery, the parties participated in settlement negotiations
22 to try to resolve the lawsuit. These efforts included participating in a full-day mediation on September
23 21, 2022 conducted by Jeffrey Krivis, Esq., a well-regarded mediator experienced in mediating complex
24 labor and employment matters. During mediation, the parties discussed all aspects of the case, including
25 the risks and delays of further litigation, the risks to the parties of proceeding with trial, the law relating
26 to representative PAGA actions, wage-and-hour enforcement, the evidence produced and analyzed, and
27 the possibility of bifurcation of discovery and/or trial and appeals, among other things. During all
28 settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.

14. Prior to reaching the Settlement, the parties used the pre-mediation time period to investigate the veracity, strength, and scope of the PAGA claims. PAGA Counsel conducted significant informal discovery and exchanged of thousands of pages of data and documents with Defendant's counsel. The documents and data that were reviewed and analyzed by PAGA Counsel including and not limited to, employment records of Plaintiff and other Aggrieved Employees, a sampling of time and pay data (including, but not limited to, earning statements, wage statements, and time records), memoranda, notes, emails, forms (including, but not limited to, Team Member Change of Status Form, Performance Review Forms, and tax related forms), hiring documentation (including, but not limited to, New Hire Data and Checklist, New Employee Orientation Checklist, New Hire Payroll Setup Sheet, and Offer Letter), checklists (including, but not limited to, Casa Sandoval Personal Care Skills Proficiency Checklist and Housekeeping Training Check List), training documents (including, but not limited to, training forms, memos, and exams and quizzes), agreements (specifically an arbitration agreement entitled The Dispute Resolution Agreement), acknowledgements (including, but not limited to, handbook acknowledgments and policy acknowledgments), job titles and descriptions (such as a Usual & Customary Job Description and list of job duties), meal and rest period policies (such as Meal and Break Periods for Non-Exempt Employees and Meal Guidelines), expense reimbursement and equipment policies (including, but not limited to, Dress Code policy (*sic.*), Agreement Regarding Use of Cellular Telephone, Use of Personal Cellular Phones, Employee's Authorization for Deductions for Personal Expenses (*sic.*), Pager Policy, and Earpiece Policy), and Defendant's operations and employment policies, practices, and procedures (such as pay schedule, Attendance Expectations, and employee handbooks).

15. Counsel for the parties undertook significant investigation, and also invested time reviewing and analyzing relevant documents and data to evaluate Plaintiffs' claims, including, and not limited to, calculating the potential monetary recovery under PAGA. Other work performed by PAGA Counsel included but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, discovery, mediation, and settlement, among other issues; participating in case strategy and analysis; drafting, reviewing, and revising the pleadings and mediation brief; and preparing for and attending mediation and settlement negotiations.

1 16. Counsel for the parties have further invested time to research the applicable law, which
2 is constantly evolving as it relates to representative PAGA actions, wage-and-hour enforcement,
3 Plaintiff's claims, and Defendant's defenses, as well as facts discovered.

4 17. The "Gross Settlement Amount" means the amount of \$150,000.00 that Defendant will
5 pay under the Settlement. The Settlement Agreement provides that the Net Settlement Amount will be
6 the Gross Settlement Amount, less the following amounts: (1) PAGA Counsel Fees Payment in the
7 amount of up to \$50,000.00 and PAGA Counsel Litigation Expenses Payment of up to \$20,000 to PAGA
8 Counsel; (2) Administration Expenses Payment of up to \$7,000 to the Settlement Administrator; and (3)
9 Plaintiff's Release Payment of up to \$8,000.00 to Plaintiff. Assuming that PAGA Counsel Fees
10 Payment, PAGA Counsel Litigation Expenses Payment, Administration Expenses Payment, and
11 Plaintiff's Release Payment are approved by the Court in these amounts, the Net Settlement Amount is
12 estimated to be approximately \$65,000. However, PAGA Counsel's current costs are only \$9,894.82
13 (not inclusive of the costs of the filing of the present motion) and the Administration Expenses Payment
14 are currently capped at \$5,000, so the Net Settlement Amount is currently estimated to be \$70,105.18.
15 The Net Settlement Amount will be distributed to the LWDA and the Aggrieved Employees, pursuant
16 to California Labor Code section 2699(i). Seventy-five percent (75%) of the Net Settlement Amount will
17 be distributed to the LWDA (i.e., LWDA PAGA Payment), which is estimated to be \$52,578.89 and
18 twenty-five percent (25%) of the Net Settlement Amount, which is estimated to be \$17,526.30, will be
19 distributed to the Aggrieved Employees on a *pro rata* basis, based on each Aggrieved Employee's
20 number of PAGA Pay Periods.

21 18. The parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Settlement
22 Administrator") to handle the administration of the Settlement, and the parties respectfully request that
23 this Court appoint Simpluris to serve as the Settlement Administrator. An amount not to exceed \$7,000
24 has been allocated to the Administration Expenses Payment and will be paid out of the Gross Settlement
25 Amount, subject to approval by the Court.

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NATURE AND VALUE OF THE PAGA CLAIM

19. Based on investigation and information discovered, PAGA Counsel believes that there is sufficient evidence to support the allegations that Defendant violated the California Labor Code. While PAGA Counsel believes that the PAGA claims have merit and that Plaintiff would ultimately succeed in this litigation and prevail at trial, Plaintiff and PAGA Counsel also recognize Defendant's defenses, the costs of further litigation, and multiple risks to recovery. For example, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff, including, and not limited to, the issues of non-compliant meal periods, non-compliant rest periods, and unreimbursed business expenses, raise individualized issues and/or are unmanageable and thus not suitable for adjudication as to a group of employees. Thus, Plaintiff faced the risk that the Court may determine that the PAGA claims require individualized inquiries that would render adjudication of the PAGA claims unmanageable or at odds with Defendant's right to due process.

20. Plaintiff and her counsel have also considered the uncertainty and risk of the outcome of further litigation, including the difficulties and delays inherent in such litigation. In order to prevail on the PAGA claims, Plaintiff would have to prove the underlying violations of the California Labor Code and demonstrate that Aggrieved Employees suffered. Plaintiff's core allegation is that Defendant has violated the California Labor Code by failing to pay overtime wages, failing to provide compliant meal and rest periods and associated premiums, failing to timely pay wages during employment and upon termination of employment, failing to provide complete and accurate itemized wage statements, failing to keep and maintain complete and accurate payroll records, and failing to reimburse business expenses and costs.

21. From the inception of this litigation, Defendant indicated that it would aggressively litigate this case and contended that it would ultimately succeed in the action. Defendant maintained several defenses to Plaintiff's allegations, which, if successfully argued and proven, had the potential to eliminate or substantially reduce recovery. Throughout this litigation, Defendant maintained, and continues to maintain, that it did not engage in a uniform policy and systematic scheme of wage abuse against its employees, and that it had, and continues to have, legally-compliant employment policies and

practices throughout the time period at issue. Defendant denies that it ever violated any provision of the California Labor Code. Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative treatment for any purpose other than the Settlement.

22. Even if Defendant failed on its defenses, Plaintiffs would inevitably face other challenges in court. For example, Defendant challenged Plaintiffs' standing as aggrieved employees and denies that any of Defendant's other employees whom Plaintiffs seek to represent are aggrieved. Aside from challenges relating to standing, Defendant would have likely sought bifurcation of discovery and/or trial of the PAGA claims — multiple courts have taken such an approach, for example, limiting discovery or trial of the issues to Plaintiffs and/or the specific locations where Plaintiffs worked. Defendant also contended that an important feature of the PAGA statute is that a court has discretion to reduce the penalties to be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). Defendant denied and continues to deny that it ever violated any provision of the California Labor Code. Assuming, *arguendo*, that any violations occurred, Defendant argued the violations would not be viewed as subsequent violations giving rise to heightened penalties. Defendant also argued that the Court was unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory—especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem.

23. The parties had the opportunity to review documents and data regarding Plaintiff's and Aggrieved Employees' employment with Defendant as well as information regarding Defendant's operations and employment policies, practices, and procedures, in an effort to determine the potential value and strength of the PAGA claims. Counsel for the parties invested time reviewing and analyzing the relevant documents and data, and this information made it possible to calculate the potential value of the PAGA claims. Accordingly, the parties have conducted sufficient investigation and review of information to be sufficiently apprised of the nature and extent of the claims asserted in this case, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and reasonableness. The parties have also considered the settlement negotiations and the recommendations of the mediator, Jeffrey Krivis, Esq., a well-regarded mediator experienced in mediating complex labor and employment

1 matters. The parties have agreed that this case is well-suited for settlement given the legal issues relating
2 to the PAGA claims, as well as the costs and risks to both sides that would attend further litigation. The
3 Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty
4 of how the case might have concluded as litigation continued, at trial and/or appeals.

5 24. Based on data provided by Defendant, as of September 21, 2022, it was estimated that
6 two hundred sixty one (261) Aggrieved Employees worked approximately five thousand four hundred
7 thirty one (5,431) pay periods within the relevant time period. Based thereon, if Plaintiff could
8 successfully each of her allegations, the total maximum penalties would be as follows:

PAGA Penalties	Maximum Value	Statutory Basis for Penalty
1. Failure to Pay Overtime	\$532,900	Cal. Lab. Code § 558 (a)
2. Failure to Pay Minimum Wages	\$1,327,150	Cal. Lab. Code § 1197.1
3. Failure to Provide Complaint Meal Periods and Associated Premiums	\$532,900	Cal. Lab. Code § 558 (a)
4. Failure to Provide Complaint Rest Periods and Associated Premiums	\$1,065,800	Cal. Lab. Code § 2699(f)
5. Failure to Timely Pay Wages Upon Termination	\$1,065,800	Cal. Lab. Code § 210 (a)(1)
6. Failure to Provide Complaint Wage Statements	\$5,278,000	Cal. Lab. Code § 226.3
7. Failure to Maintain Requisite Payroll Records	\$102,000	Cal. Lab. Code § 1174.5
8. Failure to Reimburse Necessary Business Expenses	\$1,065,800	Cal. Lab. Code § 2699(f)

22 25. Plaintiff recognizes that neither liability nor the ability to adjudicate and/or recover civil
23 penalties on a representative-basis is clear-cut, which is why Plaintiff and Defendant elected to reach a
24 settlement. Taking into consideration the risks of the Court finding the case manageable, the risks of
25 prevailing on the merits, and the risk that the Court may exercise its discretion to reduce and/or assess
26 lower penalties as well as the possibility that that heightened penalties would not apply or that stacking
27 and/or cumulative penalties would not be allowed, Class Counsel applied significant discounts to arrive
28 at a realistic value of all claims. PAGA Counsel applied appropriate discounts in light of the defenses

1 asserted, information and evidence obtained, and circumstances in the case, which posed risks to
2 representative adjudication and monetary recovery. Considering the facts of this case and the uncertainty
3 of further litigation, PAGA Counsel believes the Settlement represents a fair, adequate, and reasonable
4 resolution of the action and is in the best interests of the Aggrieved Employees and the State of
5 California.

6 ATTORNEYS' FEES AND COSTS

7 26. As set forth more fully in the accompanying Motion, PAGA Counsel seeks attorneys'
8 fees in the amount of \$50,000.00, which represents one-third (1/3) of the Gross Settlement Amount, as
9 provided by the Settlement Agreement. This percentage award is commensurate with: (1) the risk that
10 PAGA Counsel took in commencing the case; (2) the time, effort, and expense that PAGA Counsel
11 dedicated to the case; (3) the skill and determination that PAGA Counsel has shown; (4) the results that
12 PAGA Counsel has achieved throughout the litigation; (5) the value of the settlement that PAGA
13 Counsel has achieved for the Plaintiffs, the State of California, and Aggrieved Employees; and (6) the
14 other cases that PAGA Counsel has turned down in order to devote its time and efforts to this matter.

15 27. PAGA Counsel has spent over **140 hours** to obtain a recovery on behalf of Plaintiff, the
16 State of California, and Aggrieved Employees. These hours include work done by myself and several
17 of the firm's other members. The table set forth below outlines the approximate number of hours spent
18 on each stage of litigation and includes an exemplar list of tasks included at each stage.

19 Stage of Litigation	20 Work Hours
21 <u>Pre-Litigation</u> 22 - Pre-lawsuit investigation of relevant facts surrounding Plaintiff's 23 allegations 24 - Initial valuation of Plaintiff's and aggrieved employees' wage and 25 hour claims 26 - Investigations of Defendant and Defendant's business, location, 27 and industry 28 - Research and investigation into Defendant's policies, practices, and procedures relating to Plaintiff's allegations - Research into the current law and recent developments into the relevant California law - Review and analysis into Plaintiff's employment records produced in response to Plaintiff's record request - Prepare discovery and litigation plan - Draft and mail notice to the California Labor Workforce	7.5 hours

1	Development Agency regarding Plaintiff's allegations	
2	<u>Court Hearings and Appearances</u>	4 hours
3	- Prepare for court appearances	
4	- Review Court's tentative rulings	
5	- Meet and confer with defense counsel regarding future appearances	
6	<u>Pleadings and Court Filings</u>	7 hours
7	- Research and draft pleadings and statements, etc.	
8	- Review and analyze Defendant's filings	
9	- Meet and confer with defense counsel prior to filing	
10	<u>Motion Practice</u>	40 hours
11	- Research applicable law and recent developments of applicable law	
12	- Draft Plaintiff's motion for approval of PAGA settlement	
13	- Draft accompanying declaration of Danielle L. GruppChang, Maria Ibanez, and proposed order	
14	<u>Discovery</u>	15 hours
15	- Draft and mail request for Plaintiff's records to Defendant	
16	- Meet and confer with defense counsel regarding the parties' resources and the advantages of engaging in informal discovery and a stay of formal discovery	
17	- Meet and confer with defense counsel regarding production of documents prior to mediation	
18	- Review and analyze data and documents provided by defense counsel	
19	<u>Mediation</u>	30 hours
20	- Prepare outlines and indexes of documents provided by Defendant	
21	- Engage and work with data analysis firm to perform analysis on data produced by Defendant	
22	- Review and analyze data findings	
23	- Draft mediation brief, compile accompanying exhibits, and submit to the mediator	
24	- Attend mediation session	
25	<u>Settlement Agreement, Settlement Administration / Compliance</u>	16 hours
26	- Research and draft settlement agreement and exhibits thereto	
27	- Meet and confer with defense counsel to finalize settlement agreement and exhibits	
28	- Seek administration quotes from settlement administrators	
	- Communicate with Simpluris regarding and oversee the administration of the Settlement (<i>anticipated</i>)	
	- Draft and file compliance declarations as necessary (<i>anticipated</i>)	

<u>Communicating with Plaintiff</u> - Communicate with Class Representative throughout this matter - Answer questions and respond to Plaintiff's inquiries - Strategize and discuss matter with Plaintiff	21 hours

28. The work performed in this particular case, the background of our firm, as well as the individual backgrounds, training, and experience of the attorneys who worked on this matter, in litigating complex employment actions, support a reasonable hourly rate of compensation at the rate of at least \$500 for work performed by PAGA Counsel.

29. The Settlement Agreement provides for reimbursement of litigation costs and expenses in an amount up to \$20,000. PAGA Counsel seeks only reimbursement for actual expenses and costs incurred which is currently in the amount of \$9,894.82 as reflected in the Case Cost Detail attached hereto as "**EXHIBIT 2.**" PAGA Counsel has borne all of the risks and costs of litigation to date and will not receive any compensation until a recovery is obtained. PAGA Counsel litigated this case with the very real possibility of an unsuccessful outcome and no fee recovery of any kind.

30. PAGA Counsel respectfully requests that the Court approve Plaintiff's Release Payment to Plaintiff in the amount of \$8,000.00 to be paid from the Gross Settlement Amount. The proposed Plaintiff's Release Payment is fair and appropriate. Plaintiff has spent a substantial amount of time and effort gathering and producing relevant documents and information, providing the facts and evidence necessary to attempt to prove the allegations, and speaking with other Aggrieved Employees about the case, discussing their employment with her counsel. Plaintiff was available whenever her counsel needed them and actively tried to obtain information that would benefit the prosecution of the case. Plaintiff also has agreed to give a broad general release under California Civil Code Section 1542. Accordingly, it is appropriate and just for Plaintiff to receive Plaintiff's Release Payment, in addition to her Individual PAGA Payment.

31. PAGA Counsel submits that the Settlement fulfills the purpose of the PAGA statute, is within the accepted range of recoveries for this type of litigation, is fair, reasonable, and adequate, and in the best interests of the State of California and other PAGA Employees given the substantial monetary benefits provided for by the Settlement, the strengths and weaknesses of this action, and the inherent

1 delay, costs, risks, and uncertainty associated with continued litigation.

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

4 Executed this 20th day of April 2023, at Los Angeles, California.

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7 Danielle L. GruppChang
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EXHIBIT 1

1 D. AARON BROCK (SBN: 241919)
2 ab@brockgonzales.com
3 DANIELLE L. GRUPPCHANG (SBN: 313881)
4 dg@brockgonzales.com
5 BROCK & GONZALES, LLP
6 6701 Center Drive, Suite 610
7 Los Angeles, California 90045
8 Telephone: (310) 294-9595
9 Facsimiles: (310) 961-3673

7

8 DINA S. GLUCKSMAN (SBN: 245646)
dglucksman@grsm.com
9 PETER CHOI (SBN: 249482)
pchoi@grsm.com
10 ALEXA L. FOLEY (SBN: 315470)
afoley@grsm.com
11 GORDON REES SCULLY MANSUKHANI, LLP
633 West Fifth Street, 52nd floor
12 Los Angeles, CA 90071
Telephone: (213) 576-5071
13 Facsimile: (213) 680-4470

14 Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

18 MARIA IBANEZ, individually, and on behalf
of other aggrieved employees pursuant to the
California Private Attorneys General Act

Plaintiff,

VS.

22 MORNINGSTAR SENIOR
MANAGEMENT, LLC a Colorado limited
liability company; and DOES 1-50, inclusive

Defendant.

CASE NO. RG21106917
Hon. Tara Desautels
Dept. 521

PAGA SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

Complaint Filed: 07/29/2021

PAGA SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This PAGA Settlement Agreement and Release of Claims (the “Agreement”) is made by and between Plaintiff, Maria Ibanez (“Plaintiff”) and Defendant, Morningstar Senior Management, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Maria Ibanez, individually and behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. Morningstar Senior Management, LLC* initiated on July 29, 2021 and pending in Superior Court of the State of California, County of Alameda, Case No. RG21106917.
- 1.2. “Administrator” means Simpluris, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means all persons employed by Defendant as hourly-paid or non-exempt employees in California at any time during the “PAGA Period” (defined below).
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s full name, last-known mailing address, Social Security number, and number of PAGA Pay Periods attributed to them.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with

Aggrieved Employees.

1.7. “Court” means the Superior Court of California, County of Alameda.

1.8. “Defendant” means named Defendant Morningstar Senior Management, LLC.

1.9. “Defense Counsel” means Gordon Rees Scully Mansukhani, LLP.

1.10. “Effective Date” means the date by when both of the following have occurred: (a) the settlement is approved by the Court without any material modification of the settlement terms agreed to by the Parties, and (2) no petition for review or interlocutory review of the order approving the settlement is filed prior to the time period to appeal or review the order.

1.11. “Gross Settlement Amount” means \$150,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Plaintiff’s Release Payment, and the Administrator’s Expenses Payment.

1.12. “Individual PAGA Payment” means each Aggrieved Employee’s pro rata share of 25% of the Net Settlement Amount calculated according to the number of PAGA Pay Periods attributed to them.

1.13. “Judgment” means the judgment entered by the Court based upon approval.

1.14. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699(i).

1.15. “LWDA PAGA Payment” means the 75% of the Net Settlement Amount paid to the LWDA under Labor Code section 2699(i).

1.16. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Plaintiff’s Release Payment, and the Administration Expenses Payment. The Net Settlement Amount will be paid 75% to the LWDA (i.e., LWDA PAGA Payment) and 25% to the Aggrieved Employees (i.e., Individual PAGA Payments).

- 1.17. “PAGA Counsel” means Brock & Gonzales, LLP, the attorneys representing the Plaintiff and Aggrieved Employees in the Action.
- 1.18. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.20. “PAGA Period” means the period from July 29, 2020 to January 28, 2023.
- 1.21. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. “PAGA Notice” means Plaintiff’s written notice dated May 12, 2021 to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3(a) and amended written notice to the LWDA providing notice pursuant to Labor Code section 2699.3(a), the latter of which is submitted for settlement purposes only.
- 1.23. “Plaintiff” means Maria Ibanez, the named plaintiff in the Action.
- 1.24. “Plaintiff’s Release Payment” means the payment to Plaintiff Ibanez in exchange for her general release.
- 1.25. “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26. “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. “Released Parties” means: Defendant and their past, present, and future subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, and fiduciaries.
- 1.28. “Settlement” means the disposition of the Action effected by this Agreement and the

Judgment.

2. RECITALS.

2.1. On July 29, 2021, Plaintiff commenced this Action by filing a Complaint alleging a cause of action against Defendant for civil penalties arising under PAGA. The Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. On September 21, 2022, the Parties participated in an all-day mediation presided over by mediator Jeffrey Krivis, which led to this Agreement to settle the Action.

2.3. Prior to mediation, Plaintiff obtained, through informal discovery, wage and hour data related to the Aggrieved Employees.

2.4. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$150,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one third (1/3) of the Gross Settlement Amount which is currently estimated to be

1 \$50,000.00, PAGA Counsel Litigation Expenses Payment of not more than
2 \$20,000. Defendant will not oppose requests for Court approval of these
3 payments provided that they do not exceed these amounts. Plaintiff and/or PAGA
4 Counsel will file an application or motion for PAGA Counsel Fees Payment and
5 PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel
6 Fees Payment, a PAGA Counsel Litigation Expenses Payment or service
7 payment to Plaintiff that are less than the amounts requested, the Administrator
8 will allocate the remainder to the Net Settlement Amount. Released Parties shall
9 have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from
10 any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel
11 Litigation Expenses Payment. The Administrator will pay the PAGA Counsel
12 Fees Payment and PAGA Counsel Expenses Payment using one or more IRS
13 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes
14 owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation
15 Expenses Payment and holds Defendant and Releasees harmless, and indemnifies
16 them, from any dispute or controversy regarding any division or sharing of any
17 of these Payments.

18 3.2.2. To the Plaintiff: A Plaintiff's Release Payment of not more than \$8,000.00 to
19 Plaintiff. Defendant will not oppose a request for Court approval of the Plaintiff's
20 Release Payment provided that it does not exceed this amount.

21 3.2.3. To the Administrator: An Administration Expenses Payment not to exceed
22 \$7,000 except for a showing of good cause and as approved by the Court. To the
23 extent the Administrator's actual expenses are less than the allotted amount or
24 the Court approves payment less than \$7,000, the Administrator will retain the
25 remainder in the Net Settlement Amount.

26 3.2.4. To the LWDA and Aggrieved Employees: Net Settlement Amount (estimated to
27 be \$65,000 with 75% (\$48,750) allocated to the LWDA PAGA Payment and 25%
28 (\$16,250) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of Net Settlement Amount (\$16,250) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's individual PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records as of the date of mediation, Defendant estimated there were 261 Aggrieved Employees who worked a total 5,431 of PAGA Pay Periods. If it is determined that the number of PAGA Pay Periods actually exceeds 5,431 by more than ten percent (10%), the Gross Settlement Amount will increase by 1% for every 1% increase in PAGA Pay Periods over the 10%, or Defendant shall have the option to cap the release period through the date that class members PAGA Pay Periods met the threshold (i.e., at or under 5,975 PAGA Pay Periods)

4.2. Aggrieved Employee Data. Within 30 calendar days of entry of the Approval Order, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated

Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 30 calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Litigation Expenses Payment, the PAGA Counsel Fees Payment, and the Plaintiff's Release Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment and PAGA Counsel Fees Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved

Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, if requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and Aggrieved Employees will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, will give a general release of claims, including a waiver of rights under California Civil Code Section 1542, or other similar statutes, that they may have against the Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the claims alleged in the Operative Complaint and the PAGA Notices ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now

1 knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be
2 and remain effective in all respects, notwithstanding such different or additional facts
3 or Plaintiff's discovery of them.

4 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
5 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the
6 provisions, rights, and benefits, if any, of section 1542 of the California Civil
7 Code, which reads: **A GENERAL RELEASE DOES NOT EXTEND TO**
8 **CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT**
9 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE**
10 **TIME OF EXECUTING THE RELEASE, AND THAT IF KNOWN BY**
11 **HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER**
12 **SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

13 5.2. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release,
14 on behalf of themselves and their respective former and present representatives, agents,
15 attorneys, heirs, administrators, successors, and assigns, the Released Parties from
16 PAGA civil penalties alleged in the operative complaint, Plaintiff's PAGA Notices, or
17 could have been alleged based on the claims alleged pertaining to Plaintiff and the
18 Aggrieved Employees alleged in the operative complaint or PAGA Notices. This
19 includes, but is not limited to claims for PAGA civil penalties based on alleged violations
20 of California Labor Code sections 201-204, 206.5, 210, 212, 213, 218, 221, 223, 224,
21 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1194.5, 1197, 1197.1,
22 1198, 2800, 2802, 2810.5 and the California Industrial Welfare Commission Wage
23 Orders.

24 **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.**

25 6.1. Plaintiff's Responsibilities, Re: First Amended PAGA Complaint: Plaintiff will
26 prepare and deliver to Defense Counsel an amended letter to the LWDA providing
27 notice pursuant to Labor Code section 2699.3(a) for settlement purposes only to include
28 allegations raised by Plaintiff, such as a claim for meal period premiums that were paid

1 at the incorrect rate of pay to Plaintiff and Aggrieved Employees and a claim for
2 inaccurate wage statements for failure to properly identify the legal employer on
3 Plaintiff's and Aggrieved Employees' wage statements. Plaintiff shall also prepare a
4 First Amended PAGA Complaint to specifically allege these theories for settlement
5 purposes only and shall provide the same to Defense counsel for approval. Upon
6 Defense counsel's approval of the amended PAGA complaint, Plaintiff shall file the
7 First Amended PAGA complaint before or concurrently with the filing of Plaintiff's
8 motion for approval of the Settlement. In the event that the Effective Date is not
9 triggered or if the LWDA takes any action such as an investigation or administrative
10 civil action , this Settlement shall be deemed null and void, and the First Amended
11 PAGA complaint shall be deemed withdrawn, and the Parties shall return to the status
12 quo *ante*. Defendant also does not waive any defense to the First Amended PAGA
13 Complaint by agreeing to its filing for purposes of settlement only, including any
14 defense based on Plaintiff's alleged failure to properly exhaust her administrative
15 remedies with the LWDA or the applicable statute of limitations.

- 16
17 6.2. Plaintiff's Responsibilities, Re: Motion For Approval: Plaintiff shall prepare all
18 documents necessary for obtaining approval of this Settlement under Labor Code
19 Section 2699(f)(2) including (i) a draft proposed Order Granting Approval of PAGA
20 Settlement; (ii) a signed declaration from the Administrator attaching its "not to
21 exceed" bid for administering the Settlement and attesting to its willingness to serve;
22 competency; operative procedures for protecting the security of Aggrieved Employee
23 Data; and the nature and extent of any financial relationship with Plaintiff, PAGA
24 Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm
25 attesting to its timely transmission to the LWDA of all necessary PAGA documents
26 (i.e., PAGA Notices , Operative Complaint (Labor Code section 2699(l)(1)), this
27 Agreement (Labor Code section 2699(l)(2)); and (v) all facts relevant to any actual or
28 potential conflict of interest with Aggrieved Employees and/or the Administrator.

PAGA Counsel shall expeditiously provide a draft of the application or motion for approval of this Settlement to Defense Counsel no later than 30 calendar days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion.

- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected Simpluris, Inc. to serve as the Administrator and verified that, as a condition of appointment, Simpluris agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

- 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or as otherwise ordered by the Court.

- 8. CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely

for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

8.1. Waiver of Right to Appeal. Provided the Judgment granting final approval of this Settlement is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal or seek review from the Judgment, including all rights to appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

9. ADDITIONAL PROVISIONS.

9.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

9.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement

1 together with its attached exhibits shall constitute the entire agreement between the
2 Parties relating to the Settlement, superseding any and all oral representations,
3 warranties, covenants, or inducements made to or by any Party.

4 9.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
5 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
6 appropriate action required or permitted to be taken by such Parties pursuant to this
7 Agreement to effectuate its terms, and to execute any other documents reasonably
8 required to effectuate the terms of this Agreement including any amendments to this
9 Agreement.

10 9.4. Cooperation. The Parties and their counsel will cooperate with each other and use their
11 best efforts, in good faith, to implement the Settlement by, among other things,
12 modifying the Settlement Agreement, submitting supplemental evidence and
13 supplementing points and authorities as requested by the Court. In the event the Parties
14 are unable to agree upon the form or content of any document necessary to implement
15 the Settlement, or on any modification of the Agreement that may become necessary
16 to implement the Settlement, the Parties will seek the assistance of a mediator and/or
17 the Court for resolution.

18 9.5. No Prior Assignments. The Parties separately represent and warrant that they have not
19 directly or indirectly assigned, transferred, encumbered, or purported to assign,
20 transfer, or encumber to any person or entity and portion of any liability, claim,
21 demand, action, cause of action, or right released and discharged by the Party in this
22 Settlement.

23 9.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are
24 providing any advice regarding taxes or taxability, nor shall anything in this Settlement
25 be relied upon as such within the meaning of United States Treasury Department
26 Circular 230 (31 CFR Part 10, as amended) or otherwise.

27 9.7. Modification of Agreement. This Agreement, and all parts of it, may be amended,
28 modified, changed, or waived only by an express written instrument signed by all

Parties or their representatives, and approved by the Court.

9.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

9.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

9.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

9.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

9.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data, except for any data retained through routine, systematic backups of PAGA Counsel's computer network systems.

9.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

9.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall

1 be to calendar days. In the event any date or deadline set forth in this Agreement falls
2 on a weekend or federal legal holiday, such date or deadline shall be on the first
3 business day thereafter.

4 9.15. Notice. All notices, demands or other communications between the Parties in
5 connection with this Agreement will be in writing and deemed to have been duly given
6 as of the third business day after mailing by United States mail, or the day sent by email
7 or messenger, addressed as follows:

8 To Plaintiff:

9 BROCK & GONZALES, LLP
10 6701 Center Drive, Suite 610
11 Los Angeles, California 90045
12 Telephone: (310) 294-9595
13 Facsimiles: (310) 961-3673
14 D. Aaron Brock: ab@brockgonzales.com
15 Danielle L. Gruppchang: dg@brockgonzales.com

16 To Defendant:

17 GORDON REES SCULLY MANSUKHANI, LLP
18 633 West Fifth Street, 52nd floor
19 Los Angeles, CA 90071
20 Telephone: (213) 576-5071
21 Facsimile: (213) 680-4470
22 Dina S. Glucksman: dglucksman@grsm.com
23 Peter Choi: pchoi@grsm.com
24 Alexa L. Foley: afoley@grsm.com

25 9.16. Execution in Counterparts. This Agreement may be executed in one or more
26 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes
27 of this Agreement shall be accepted as an original. All executed counterparts and each
28 of them will be deemed to be one and the same instrument if counsel for the Parties
will exchange between themselves signed counterparts. Any executed counterpart will
be admissible in evidence to prove the existence and contents of this Agreement.

9.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
further agree that upon the signing of this Agreement that pursuant to CCP section

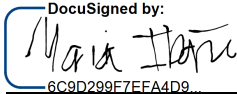
Gordon Rees Scully Mansukhani, LLP
633 West Fifth Street, 52nd floor
Los Angeles, CA 90071

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583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 3/28/2023

PLAINTIFF

By: 
6C9D299F7EFA4D9...
Maria Ibanez

Dated:

BROCK & GONZALES, LLP

By: _____
D. Aaron Brock
Danielle L. GruppChang

Dated:

MORNINGSTAR SENIOR MANAGEMENT, LLC

By: _____
Ken Jaeger

Dated:

GORDON REES SCULLY MANSUKHANI, LLP

By: _____
Dina S. Glucksman
Peter Choi
Alexa L. Foley

583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: PLAINTIFF

By: _____
Maria Ibanez

Dated: March 29, 2023 BROCK & GONZALES, LLP

By: 
D. Aaron Brock
Danielle L. GruppChang

Dated: MORNINGSTAR SENIOR MANAGEMENT, LLC

By: _____
Ken Jaeger

Dated: GORDON REES SCULLY MANSUKHANI, LLP

By: _____
Dina S. Glucksman
Peter Choi
Alexa L. Foley

1 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the
2 entire period of this settlement process.
3

4
5 Dated: PLAINTIFF

6
7 By: Maria Ibanez
8

9
10 Dated: BROCK & GONZALES, LLP

11
12 By: D. Aaron Brock
13 Danielle L. GruppChang
14

15 Dated: MORNINGSTAR SENIOR MANAGEMENT,
16 LLC

17 3/28/2023

18 By: Ken Jaeger
19

20
21 Dated: March 29, 2023

GORDON REES SCULLY MANSUKHANI, LLP

22
23 By: Dina S. Glucksman
24 Peter Choi
25 Alexa L. Foley
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EXHIBIT 2

Prepaid Expenses:Ibanez, MariaEnding Balance: \$9,894.82

Date	Ref No.	Payee	Memo	Decrease	Increase	Reconciliation Status	Balance	Type
01/27/2023		Public Portal			1.00		9,894.82	Expense
			CK CARD MERCHANT PURCHASE TERMINAL 490641 OneLegal CCSALE047 00531 800 93888 CA TRAN DATE 01-26-23					
01/27/2023		One Legal, LLC	XXXXXXXXXX XX8430/		20.49		9,893.82	Expense
			CK CARD MERCHANT PURCHASE TERMINAL 490641 OneLegal CCSALE045 03216 800 93888 CA TRAN DATE 11-04-22					
11/07/2022		One Legal, LLC	XXXXXXXXXX XX8430/		20.02		9,873.33	Expense
			PREAUTHOR IZED DEBIT FIRST MEDIATION ECHECK 00000002663 686 BROCK & GONZALES L CCD/					
05/02/2022		First Mediation Corp			9,000.00		9,853.31	Expense

12/06/2021		One Legal, LLC	CK CARD MERCHANT PURCHASE TERMINAL 490641 OneLegal CCSALE037 02822 800 93888 CA TRAN DATE 12-03-21 XXXXXXXXXXXX XX9403/	20.54	853.31	Expense
09/14/2021	2737	Nationwide Legal LLC	CHECK 2737	146.45	832.77	Check
08/02/2021		One Legal, LLC	CK CARD MERCHANT PURCHASE TERMINAL 490641 OneLegal CCSALE034 42361 800 93888 CA TRAN DATE 07-30-21 XXXXXXXXXXXX XX9403/	517.32	686.32	Expense
05/13/2021		State of California - Department of Industrial Relations	CK CARD MERCHANT PURCHASE TERMINAL 423168 DLSE PAGA 415 703 4 CA TRAN DATE 05-12-21 XXXXXXXXXXXX XX9403/	75.00	169.00	Expense

CK CARD
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04-19-21
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04/20/2021

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Expense