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

Attorneys for Plaintiff
MARIA IBANEZ

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

05/04/2023 at 10:30:55 AM

By: Curtiyah Ganter,
Deputy Clerk

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

**SUPPLEMENTAL 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**

[[Revised Proposed] Order filed concurrently
herewith.]

Reservation No.: 813501811930
Date: May 24, 2023
Time: 2:30 p.m.
Dept: 16

Complaint Filed: July 29, 2022
Trial Date: None Set

SUPPLEMENTAL 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.

2. On April 21, 2023, Plaintiff filed a Motion for Approval of Private Attorneys General Act Settlement Agreement and Award of Attorneys' Fees and Litigation Costs, Plaintiff's Release Payment, and Administration Expenses Payment ("Motion for Approval") and supporting documents, seeking approval of the Settlement reached by Plaintiff and Defendant Morningstar Senior Management, LLC ("Defendant") (together, the "Parties").

3. On April 26, 2023, the Court issued the ORDER re: Hearing on Motion for Order Motion for Approval of PAGA Settlement (the "Order re: Hearing") continuing the hearing of Plaintiff's Motion for Approval to May 24, 2023 and ordering the Parties to address a point of inquiry raised regarding the release contained in the PAGA Settlement Agreement and Release of Claims ("Original Settlement Agreement") entered into by the Parties.

4. Pursuant to the Order re: hearing, the Parties met and conferred, negotiated and executed Amendment No. 1 to the PAGA Settlement Agreement and Release of Claims ("Amendment No. 1," together with the Original Settlement Agreement is referred to herein as the "Settlement Agreement" or "Settlement"). A true and correct copy of Amendment No. 1 is attached hereto as "**EXHIBIT 1.**" A redline version of Amendment No. 1 showing how the original terms of the Class Action and PAGA Settlement have been revised, is attached hereto as "**EXHIBIT 2.**" The Parties have also prepared a revised Cover Letter, which is attached to [Revised Proposed] Order Granting 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 ("Proposed Order") filed concurrently herewith as "Exhibit B." A redline version of the revised Cover Letter showing how it has been revised, is attached hereto as "**EXHIBIT 3.**"

///

EXHIBIT 1

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Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

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

Plaintiff,

vs.

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

Defendant.

) CASE NO. RG21106917
) Hon. Tara Desautels
) Dept. 521
)

) **AMENDMENT NO. 1 TO PAGA**
) **SETTLEMENT AGREEMENT AND**
) **RELEASE OF CLAIMS**
)

Complaint Filed: 07/29/2021

AMENDMENT NO. 1 TO PAGA SETTLEMENT AGREEMENT

AND RELEASE OF CLAIMS

Plaintiff, Maria Ibanez (“Plaintiff”) and Defendant, Morningstar Senior Management, LLC (“Defendant”) pursuant to paragraph 9.7 of the PAGA Settlement Agreement and Release of Claims entered into on or around [] (the “Agreement”), hereby agree to **amend and supplant** the following terms only as stated herein. The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.” The amendments contained herein modify and are incorporated into the Agreement by the reference as follows:

A. Paragraph 1.26 is hereby amended and shall now state only the following:

1.26 “Released PAGA Claims” means the claims being released by the Plaintiff and State of California as described in Paragraph 5 below.

B. Paragraph 5 is hereby amended and shall now state only the following:

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

C. Paragraph 5.2 is hereby amended and shall now state only the following:

5.2 **Released PAGA Claims:** The State of California, including the California Labor Workforce Development Agency (“LWDA”), is deemed to release, the Released Parties from PAGA civil penalties alleged in the operative complaint, Plaintiff’s PAGA Notices, or civil penalties that could have been alleged based on the claims alleged pertaining to Plaintiff and the Aggrieved Employees alleged in the operative complaint or PAGA Notices. This includes, but is not limited to claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201-204, 206.5, 210, 212, 213, 218, 221, 223, 224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, 2800, 2802, 2810.5 and

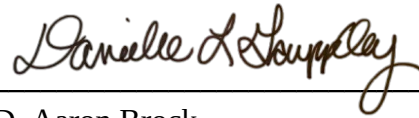
the California Industrial Welfare Commission Wage Orders.

Defendant may assert this Settlement Agreement as a defense to any future claims for penalties brought by the LWDA or any claims brought under PAGA on behalf of the LWDA for the Released PAGA Claims. Aggrieved Employees are bound by the judgment and/or barred from bringing claims seeking civil penalties arising from the Released PAGA Claims against any Released Parties.

Date: May 3, 2023

BROCK & GONZALES, LLP

By: _____



D. Aaron Brock
Danielle L. GruppChang
Attorneys for Plaintiff

Date: April 28, 2023

GORDON REES SCULLY MANSUKHANI, LLP

By: _____



Dina S. Glucksman
Peter Choi
Alexa L. Foley
Attorneys for Defendant

EXHIBIT 2

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Attorneys for Defendant

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

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

Plaintiff,

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MORNINGSTAR SENIOR
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CASE NO. RG21106917
Hon. Tara Desautels
Dept. 521

**AMENDMENT NO. 1 TO PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint Filed: 07/29/2021

AMENDMENT NO. 1 TO PAGA SETTLEMENT AGREEMENT

AND RELEASE OF CLAIMS

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A. Paragraph 1.26 is hereby amended and shall now state only the following:

1.26 “Released PAGA Claims” means the claims being released by the Plaintiff and ~~State of California~~ as described in Paragraph 5 below.

Deleted: PAGA Counsel and

B. Paragraph 5 is hereby amended and shall now state only the following:

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

Deleted: Aggrieved Employees

C. Paragraph 5.2 is hereby amended and shall now state only the following:

~~5.2 Released PAGA Claims: The State of California, including the California Labor Workforce Development Agency (“LWDA”), is deemed to release,~~ the Released Parties from PAGA civil penalties alleged in the operative complaint, Plaintiff’s PAGA Notices, or ~~civil penalties that~~ could have been alleged based on the claims alleged pertaining to Plaintiff and the Aggrieved Employees alleged in the operative complaint or PAGA Notices. This includes, but is not limited to claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201-204, 206.5, 210, 212, 213, 218, 221, 223, 224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, 2800, 2802, 2810.5 and

Deleted: 5.2 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns

1 the California Industrial Welfare Commission Wage Orders.

2 Defendant may assert this Settlement Agreement as a defense to any future claims
3 for penalties brought by the LWDA or any claims brought under PAGA on behalf
4 of the LWDA for the Released PAGA Claims. Aggrieved Employees are bound
5 by the judgment and/or barred from bringing claims seeking civil penalties arising
6 from the Released PAGA Claims against any Released Parties.

7
8 Date: **BROCK & GONZALES, LLP**

9
10
11 By: _____
12 D. Aaron Brock
13 Danielle L. GruppChang
14 **Attorneys for Plaintiff**

15 Date: **GORDON REES SCULLY MANSUKHANI, LLP**

16
17 By: _____
18 Dina S. Glucksman
19 Peter Choi
20 Alexa L. Foley
21 **Attorneys for Defendant**

EXHIBIT 3

[PROPOSED COVER LETTER]

Date: / /2023

To:

Re: **Individual PAGA Payment from Ibanez v. Morningstar Senior Management, LLC**
Superior Court of California for the County of Alameda, Case No. RG21106917

Dear .

Please find enclosed a check in the amount of ("Individual PAGA Payment"). This check comprises your payment from the settlement of a lawsuit entitled *Ibanez v. Morningstar Senior Management, LLC*, Case No. RG21106917 ("Lawsuit"), pending in the Superior Court of California for the County of Alameda ("Court").

Maria Ibanez ("Plaintiff") filed a Complaint under the Private Attorneys General Act, California Labor Code § 2698, *et seq.* ("PAGA") on July 29, 2021, thereby commencing the Lawsuit. In the Lawsuit, Plaintiff alleged that Defendant Morningstar Senior Management, LLC ("Morningstar") violated wage and hour requirements with respect to its hourly-paid, non-exempt employees employed in California from July 29, 2020 to January 28, 2023 ("PAGA Period"). Morningstar denies these claims. By entering into the settlement, Morningstar is not admitting any violation or liability of any kind, and the Court has not made any rulings on the merits of the Lawsuit.

The other alleged aggrieved employees on whose behalf the case was brought are any hourly-paid or non-exempt employees who worked for Morningstar in California at any time during the PAGA Period ("Aggrieved Employee(s)"). You have been identified as an Aggrieved Employee.

On , the settlement was approved by the Court with a portion being paid to the State of California and a portion being paid to the Aggrieved Employees. You are receiving a portion of the settlement based on the number of pay periods you worked for Morningstar during the PAGA Period in California as an hourly-paid or non-exempt employee. You are responsible for payment of any and all taxes that are due as a result of any payment issued to you under the settlement, and should consult a tax advisor regarding the tax consequences of such payment.

This settlement resolves the claims in the Complaint, including all claims for PAGA penalties for alleged a) unpaid overtime, b) failure to provide meal and rest periods, c) unpaid meal period premiums, d) unpaid rest period premiums, e) unpaid minimum wages, f) final wages not timely paid, g) wages not timely paid during employment, h) non-compliant wage statements, i) failure to keep requisite payroll records, and j) unreimbursed business expenses, and any and all claims for penalties which were or could have been asserted in the Complaint in the Lawsuit.

Plaintiff, on behalf of herself and her respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and The State of California, including the California Labor Workforce Development Agency is deemed to release, the Released Parties from the Released PAGA Claims. You are bound by this judgment and/or barred from bringing claims seeking civil penalties arising from the Released PAGA Claims against any of the Released Parties

"Released PAGA Claims" means: PAGA civil penalties alleged in the operative complaint, Plaintiff's PAGA Notices, or could have been alleged based on the claims alleged pertaining to Plaintiff and the Aggrieved Employees alleged in the operative complaint or PAGA Notices. This includes, but is not limited to claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201-204, 206.5, 210, 212, 213, 218, 221, 223, 224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1194.5, 1197, 1197.1, 1198, 2800, 2802, 2810.5 and the California Industrial Welfare Commission Wage Orders.

"Released Parties" means: Morningstar 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.

Please note, no claims for unpaid or underpaid wages have been settled or are included in the Released PAGA Claims and this settlement is without prejudice to the pursuit of any claims for unpaid or underpaid wages. Your Individual PAGA Payment check will expire on . All checks not cashed by that date will be cancelled. You will still be effected by the release of Released PAGA Claims even if you do not timely cash your check.

Do not call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions, you may call the Third Party Administrator: .

Deleted: All Aggrieved Employees are deemed to release

Deleted: themselves

Deleted: their

Deleted: the Released Parties from the Released PAGA Claims.

Deleted: Complaint

Deleted: deemed to

Deleted: the

Deleted: → Page 1 of 1
Questions? Call toll-free

... [1]

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF ALAMEDA

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 6701 Center Drive West, Ste. 610, Los Angeles, CA 90045.

On May 4, 2023, I served the foregoing documents described as: **SUPPLEMENTAL DECLARATION OF DANIELLE L. GRUPPCHNAG 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** on the interested parties in this action, addressed as follows:

Dina S. Glucksman, Esq.

Peter Choi, Esq.

Alexa Halloran, Esq.

GORDON REES SCULLY MANSUKHANI, LLP

633 West Fifth Street, 52nd floor

Los Angeles, CA 90071

dglucksman@grsm.compchoi@grsm.comahalloran@grsm.com*Attorney for Defendant MORNINGSTAR SENIOR MANAGEMENT, LLC*

☐ **By U.S. Mail**, I deposited such envelope(s) in the mail at Los Angeles, California, with postage thereon fully prepaid.

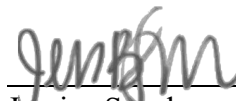
I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☐ **By Facsimile**, I transmitted such documents from Los Angeles, California, to the offices of the addressee(s).

☒ **By E-Mail**, I transmitted the document to the e-mail address of the addressee(s).

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 4, 2023, at Los Angeles, California.



Jessica Sanchez