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individually and on behalf of similarly situated employees

**SUPERIOR COURT OF CALIFORNIA**  
**FOR THE COUNTY OF SACRAMENTO**

LEOPOLD ESTRADA, JR., individually and  
on behalf of all other similarly situated  
employees,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a  
California Corporation;  
DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual; and  
DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**NOTICE OF MOTION AND MOTION TO  
APPROVE PRIVATE ATTORNEYS  
GENERAL ACT SETTLEMENT AND  
DISMISS CLASS CLAIMS WITHOUT  
PREJUDICE**

Reservation No.: 2654377

Date: August 12, 2022

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on August 12, 2022, at 9:00 a.m., or as soon thereafter as the  
3 matter may be heard in Department 28 of the above-entitled Court, Plaintiff Leopold Estrada, Jr.

4 (“Plaintiff”) will move for entry of an Order for the following:

- 5 1. Finding that Plaintiff exhausted administrative remedies under the Private Attorneys General  
6 Act (“PAGA”) and, as such, was authorized to enter into this settlement on behalf of the  
7 Labor and Workforce Development Agency;
- 8 2. Approving the \$21,500.00 PAGA Settlement, which is incorporated by reference as if stated  
9 here in full;
- 10 3. Approving the application for payment to Plaintiff’s Counsel of reasonable costs in the  
11 amount of \$3,151.90;
- 12 4. Approving the application for payment to Plaintiff’s Counsel of reasonable attorneys’ fees in  
13 the amount of \$8,600;
- 14 5. Approving as to form and content the proposed Notice of PAGA Settlement, which provides  
15 individuals within the scope of the settlement information regarding the settlement;
- 16 6. Approving the proposed procedures to notify, and deliver payment to, the individuals within  
17 the scope of the settlement by first class mail;
- 18 7. Directing that any residue from settlement checks that were not cashed by the check cashing  
19 deadline be donated 50/50 to Capital Pro Bono, Inc. and the Center For Workers’ Rights  
20 under the doctrine of *cy pres*;
- 21 8. Approving and adopting the Proposed Order and its implementation schedule, which is filed  
22 herewith and incorporated by reference; and
- 23 9. Dismissing the class claims without prejudice and dismissing Plaintiff’s individual claims  
24 and the PAGA claims with prejudice.

25 This motion is being made pursuant to California Labor Code section 2699(1)(2) and California  
26 Rules of Court 3.770, on the grounds that the proposed PAGA settlement is fair, reasonable, and  
27 adequate and furthers the purpose behind the asserted California Labor Code statutes in deterring non-  
28 compliance. As a result, the PAGA settlement should be approved by the Court. Furthermore, the facts

1 of this case merit dismissal of the class claims without prejudice as set forth in the California Rules of  
2 Court. This motion will be based on the notice of motion, memorandum of points and authorities, the  
3 Declaration of Brittany Berzin, the Declaration of Leopold Estrada, Jr., exhibits, the record and files of  
4 this case, and any further oral or documentary evidence introduced at the hearing of this motion.

5 **Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this matter**  
6 **by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the**  
7 **department may be downloaded off the court's website. If the party does not have online access,**  
8 **they may call the dedicated phone number for the department as referenced in the local telephone**  
9 **directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and**  
10 **receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the**  
11 **court day before the hearing, no hearing will be held.**

12 Dated: July \_15\_\_\_\_, 2022

Shimoda & Rodriguez Law, PC

13 By:  \_\_\_\_\_

14 Galen T. Shimoda  
15 Justin P. Rodriguez  
16 Brittany V. Berzin  
17 Attorneys for Plaintiff  
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DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**MEMORANDUM OF POINTS &  
AUTHORITIES IN SUPPORT OF  
PLAINTIFF'S MOTION TO APPROVE  
PRIVATE ATTORNEYS GENERAL ACT  
SETTLEMENT AND DISMISS CLASS  
CLAIMS WITHOUT PREJUDICE**

Reservation No.: 2654377

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Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

1           **I. INTRODUCTION AND OPENING SUMMARY OF ARGUMENT**

2           This Motion is brought seeking approval of a Private Attorneys General Act (“PAGA”)  
3 settlement in the gross amount of \$21,500.00. *See generally* Exhibit A (Proposed PAGA Settlement).  
4 Plaintiff Leopold Estrada, Jr. (“Plaintiff”) brought this PAGA lawsuit on behalf of the Labor and  
5 Workforce Development Agency (“LWDA”) and Aggrieved Employees employed by MAD Security  
6 Services, Inc. (“Defendant”). Plaintiff worked for Defendant in California from approximately June  
7 2020 to February 2021 and was subject to all the policies and practices that are alleged to be unlawful  
8 in this litigation. *See generally* Exhibit B (Plaintiff’s Operative Complaint); Declaration of Leopold  
9 Estrada, Jr. (“Decl. Estrada”) ¶ 2. Plaintiff has alleged that Defendant failed to provide legally  
10 compliant meal periods or pay premiums in lieu thereof, failed to provide legally compliant rest periods  
11 or pay premiums in lieu thereof, failed to reimburse for personal cellphone use, failed to provide  
12 accurate wage statements, failed to timely pay all final wages, and failed to maintain accurate records.  
13 *See generally* Exhibit B. These violations primarily stem from Plaintiff’s allegations that Defendant  
14 violated California law by 1) requiring employees to remain on duty during meal and rest periods  
15 without paying meal or rest premiums; 2) requiring employees to download an app on their personal  
16 cellphones to track hours worked and to use personal cellphones during their shifts for work  
17 communications without reimbursement; and 3) failing to keep accurate records of hours worked,  
18 including start and end times for any meal periods. *See id.*

19           Defendant has denied all of Plaintiff’s allegations and any liability or wrongdoing of any kind.  
20 *See* Declaration of Brittany Berzin (“Decl. Berzin”), ¶ 5. However, subject to approval by the Court,  
21 the parties have been able to compromise and settle all asserted PAGA claims for monetary  
22 compensation as a result of extensive investigations, informal document and information exchanges,  
23 and extended negotiations relating to all aspects of the asserted claims. *See* Decl. Berzin, ¶ 6; Exhibit  
24 A. Plaintiff’s counsel believes the proposed settlement is fair, reasonable, and adequate based on the  
25 investigations, informal discovery, negotiations, and a detailed knowledge of the issues in this case.  
26 *See* Decl. Berzin, ¶ 6. The difficulties of complex litigation, Defendant’s possible good faith defense to  
27 waiting time penalty claims, the lengthy and uncertain process of establishing specific violations as to  
28 each individual within the scope of the PAGA claims for each pay period, the Court’s discretion to cut

1 PAGA penalties, and various possible delays and appeals were carefully considered by Plaintiff and  
2 Plaintiff's counsel in agreeing to the proposed PAGA settlement. *See id.*

3 It is well within the discretion of this Court to approve of the proposed Agreement.<sup>1</sup>  
4 Accordingly, Plaintiff requests that the Court: (1) make a finding that Plaintiff has exhausted all  
5 administrative remedies and is authorized to enter into the proposed PAGA settlement on behalf of the  
6 LWDA; (2) approve the proposed Agreement; (3) set dates for and direct distribution of payment and  
7 the Notice of Settlement (Exhibit E) to Aggrieved Employees affected by the settlement as set forth in  
8 the Agreement; (4) adopt the implementation schedule contained in the proposed order; (5) dismiss the  
9 class action claims without prejudice; and (6) dismiss all remaining claims with prejudice.

## 10 **II. PROCEDURAL AND LITIGATION HISTORY**

11 Plaintiff filed this lawsuit on May 12, 2021. On May 12, 2021, Plaintiff gave written notice to  
12 the LWDA and Defendant providing facts and the legal basis for all claims asserted in the Complaint  
13 and the claims that are being resolved under the Agreement. *See* Exhibit C (Plaintiff's Ltr. to the Labor  
14 and Workforce Development Agency). Plaintiff also submitted the \$75.00 filing fee. *See* Decl. Berzin ¶  
15 3. The May 12, 2021, notice was also sent via certified mail to Defendant on the same day. *See* Exhibit  
16 C. The LWDA did not provide any response to Plaintiff's notice correspondence within the statutorily  
17 required time frame and, as a result, Plaintiff became authorized to act as a Private Attorney General for  
18 the asserted claims. *See* Decl. Berzin ¶ 3. Plaintiff filed a First Amended Complaint to include the  
19 PAGA claims identified in the notice letter to the LWDA on July 22, 2021. Plaintiff uploaded a copy of  
20 the filed Complaint to the LWDA on August 20, 2021. *See* Decl. Berzin ¶ 3. No trial date has been set  
21 in this matter and no class has not been certified. *See id.*

## 22 **III. INVESTIGATION AND DISCOVERY CONDUCTED**

23 Plaintiff thoroughly investigated the merits of the claims and potential damages for such claims.  
24 *See id.* at ¶¶ 7-9. Plaintiff worked during the time all of Defendant's policies and practices at issue in  
25 the Complaint were in effect and provided information regarding these policies and practices, enabling  
26 pre-filing investigations to take place. *See* Decl. Estrada ¶¶ 2-3; Decl. Berzin ¶ 3. The parties engaged  
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28 <sup>1</sup> Pursuant to California Rules of Court 3.770, Plaintiff is also requesting that the putative class claims be dismissed without prejudice for the reasons identified in the Declaration of Brittany Berzin. *See* Decl. Berzin ¶ 4.

1 in informal discovery including information about Aggrieved Employees, such as the number of pay  
2 periods worked in the claim period for the entirety of the statute of limitations. Plaintiff's counsel also  
3 reviewed relevant policies applicable to the PAGA claims. Plaintiff's counsel reviewed and considered  
4 information and documents covering all aspects of the asserted claims, including merits issues, damages,  
5 the scope and configuration of Aggrieved Employees, issues relating to manageability concerns at trial,  
6 among other relevant areas. *See* Decl. Berzin ¶ 7. The information allowed Plaintiff to determine the  
7 extent and frequency of any violations in accordance with Plaintiff's contentions and create an accurate  
8 damages model to assess the reasonableness of any settlement. *See id.*

#### 9 **IV. NEGOTIATION AND PROPOSED SETTLEMENT**

##### 10 **a. Plaintiff and Defendant Engaged in Extensive Arm's Length Negotiations**

11 The final settlement occurred only after extended, and sometimes contentious, arm's length  
12 negotiations. Over the course of approximately one year, Plaintiff has been investigating the claims and  
13 discussing with Defendant's counsel the merits of the claims and issues present in this case. *See id.* at ¶¶  
14 5-8. Then, only after about one year of litigation and negotiations, the parties were able to reach a  
15 mutually agreeable settlement. *See id.* at ¶ 8. In light of the claims and defenses at issue, the parties  
16 agreed to a Gross Settlement Amount of \$21,500. *See* Exhibit A.

##### 17 **b. The Terms of the Settlement**

18 Under the settlement agreement, Defendant has agreed to the following:

- 19 1. The scope of individuals falling within the PAGA settlement would include all  
20 individuals who have worked, or continue to work, for Defendant in California as a Security Guard or  
21 other title performing Security Guard job duties at any time from May 12, 2020 up to June 30, 2022.  
22 *See* Exhibit A, ¶ 3.
- 23 2. Pay the Gross Settlement Amount of \$21,500.00 to resolve and release the PAGA claims  
24 alleged in the Complaint. *See id.* at ¶ 4.
- 25 3. The parties agree that up to \$8,600 will be paid for Plaintiff's attorneys' fees incurred in  
26 the litigation of this case. Defendant will not oppose any application for attorneys' fees so long as it is  
27 within this threshold. *See id.* at ¶ 2a. Additionally, the parties agree that Plaintiff will also be entitled to  
28 the actual litigation costs as approved by the Court in an amount not to exceed \$3,500.00. *See id.* At the

1 time this Motion was filed, the estimated total costs incurred and that will be incurred in the future as a  
2 result of the litigation and implementing the terms of the PAGA Settlement is \$3,151.90. *See* Decl.  
3 Berzin ¶ 16; Exhibit F (Plaintiff's Itemized Costs). The difference between the actual costs and the  
4 \$3,500 will be added to the Net Settlement Amount. *See* Exhibit A, ¶ 2b.

5 4. Defendant's counsel will process and distribute the Gross Settlement Amount in  
6 accordance with the Agreement. *See id.* at ¶ 6. In addition to their settlement share, Aggrieved  
7 Employees will receive a notice that provides them with information concerning all material terms of the  
8 settlement. *See id.*; Exhibit E.

9 5. For any portion of the Net Settlement Sum allocated to Aggrieved Employees that is not  
10 claimed by them by cashing their respective settlement checks within 120 days, the remaining amount  
11 shall be paid 50/50 to Capital Pro Bono, Inc. and the Center For Workers' Rights under the doctrine of  
12 *cy pres*. *See* Exhibit A, at ¶ 6f. No portion of the settlement will revert to Defendant for any reason.  
13 *See id.*

#### 14 **c. Allocation of Settlement Funds**

15 Under the terms of the PAGA settlement, a Net Settlement Amount will be determined. *See*  
16 Exhibit A, ¶ 6a. The Net Settlement Amount will equal the total Gross Settlement Amount (\$21,500)  
17 less Plaintiff's attorneys' fees and costs. *See id.* After Court approved attorneys' fees and costs are  
18 determined and a Net Settlement Amount has been established, that Net Settlement Amount shall be  
19 divided between the PAGA Payment to the LWDA and payment to Aggrieved Employees. The PAGA  
20 Payment to the LWDA will be 75% of the Net Settlement Amount pursuant to Labor Code section  
21 2699(i). 25% of the Net Settlement Amount will be paid to Aggrieved Employees pursuant to Labor  
22 Code section 2699(i). Each individual Aggrieved Employees' Claim Amount shall be determined by  
23 taking the Qualifying Pay Periods for the individual Aggrieved Employee and dividing that by the  
24 Qualifying Pay Periods for all Aggrieved Employees and multiplying that fraction by the 25% share of  
25 the Net Settlement Amount. Payment to Aggrieved Employees of their Claim Amount will not require  
26 the submission of any claim form. *See* Exhibit A, ¶ 6a.

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1     **V.     ARGUMENT**

2             **a.   PAGA Settlements Are Subject To Court Review and Approval Under The California**  
3             **Labor Code**

4             A PAGA settlement is not effective unless the statutory requirements for becoming an authorized  
5     representative of the LWDA have been complied with and the Court has reviewed and approved the  
6     terms of the settlement. *See* Cal. Lab. Code §§ 2699(l)(2), 2699.3(a), (c). The Court necessarily has  
7     broad discretion in making the decision to approve or reject a settlement for civil penalties as the  
8     statutory scheme authorizes the Court to determine whether, in certain circumstances, penalties should  
9     be assessed and, if so assessed, the appropriate amount of penalties based on the facts and circumstances  
10    of the particular case. *See id.* at § 2699(e)(1)-(2). Although the PAGA does not set forth the particular  
11    standards against which a PAGA settlement should be evaluated, the LWDA has provided guidance for  
12    approval that mirrors the standards for evaluating class action settlements. *See, e.g., Salazar v. Sysco*  
13    *Cent. Cal., Inc.*, 2017 U.S. Dist. LEXIS 14971, \*6, n.4-5 (E.D. Cal. 2017) (stating, based on the  
14    LWDA’s guidance, that approval of PAGA settlements may be had where the statutory requirements of  
15    the PAGA are met and the terms of the settlement are fundamentally fair, reasonable, and adequate).  
16    The established standards for evaluating whether class action settlements are fair, reasonable, and  
17    adequate provide a familiar, useful framework for the Court to evaluate PAGA settlements and have  
18    been adopted by several courts. *See id.; Juarez v. Villafan*, 2017 U.S. Dist. LEXIS 137205, \*5 n.4 (E.D.  
19    Cal. 2017) (*citing Officers for Justice v. Civil Serv. Comm’n of City & Cty. of San Francisco*, 688 F.2d  
20    615, 625 (9th Cir. 1982)); *Ramirez v. Benito Valley Farms, LLC*, 2017 U.S. Dist. LEXIS 137272, \*8-9  
21    (N.D. Cal. 2017) (*citing Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)); *Gutilla v.*  
22    *Aerotek, Inc.*, 2017 U.S. Dist. LEXIS 41655, \*7, n.4 (E.D. Cal. 2017); *Smith v. H.F.D. No. 55, Inc.*,  
23    2018 U.S. Dist. LEXIS 67192, \*6 (E.D. Cal. 2018); *Rincon v. W. Coast Tomato Growers, LLC*, 2018  
24    U.S. Dist. LEXIS 22886, \*6 (S.D. Cal. 2018).

25            In making the determination whether a settlement taken as a whole is fair, reasonable, and  
26    adequate, the Court should be careful to still give “proper deference to the private consensual decision of  
27    the parties,” since “the court’s intrusion upon what is otherwise a private consensual agreement  
28    negotiated between the parties to a lawsuit must be limited to the extent necessary to reach a reasoned

1 judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the  
2 negotiating parties . . . .” *Hanlon*, 150 F.3d at 1027. The law favors settlement of lawsuits, particularly  
3 complex litigation cases where substantial resources can be conserved by avoiding the time, expense,  
4 and rigors of formal litigation. *See Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-81 (1992); *In*  
5 *re Synacor ERISA Litigation*, 516 F.3d 1095, 1101 (9th Cir. 2008); *In re Exec. Life Ins. Co.*, 32  
6 Cal.App.4th 344, 382 (1995).

7 **b. Plaintiff has Met All Statutory Requirements For Proceeding With PAGA Claims**

8 Prior to commencing a lawsuit under PAGA, an aggrieved employee must give written notice of  
9 the facts, theories, and statutes supporting the violations to the LWDA by online filing and by certified  
10 mail to the employers as well as pay a filing fee of \$75.00. *See* Cal. Lab. Code §§ 2699.3(a)(1)(A)-(B),  
11 (c)(1)(A)-(B). An “aggrieved employee” means any person who was employed by the alleged violator  
12 and against whom one or more of the alleged violations was committed.” *id.* at § 2699(c). If the  
13 LWDA does not provide notice of its intent to investigate the violation of statutes identified in Labor  
14 Code section 2699.5 within 65 calendar days of the notice, the aggrieved employee may commence a  
15 civil action. *See id.* at § 2699.3(a)(2)(A). For alleged violations of Labor Code statutes not enumerated  
16 in Labor Code section 2699.5, an aggrieved employee may commence a civil action if the employer has  
17 not cured the alleged violations within 33 calendar days of the notice. *See id.* at § 2699.3(c)(2)(A). An  
18 aggrieved employee must also submit a copy of any proposed PAGA settlement to the LWDA at the  
19 same time the agreement is submitted to Court. *See id.* at § 2699(l)(2).

20 As set forth above, Plaintiff complied with all statutory requirements to commence a civil action.  
21 *See* Decl. Berzin ¶ 3; Exhibit C. The notice letter to the LWDA sets forth all claims and theories of  
22 liability stated in the Complaint as well as supporting facts. *See* Exhibit C. Plaintiff also paid the  
23 \$75.00 filing fee. *See* Decl. Berzin ¶ 3. Plaintiff became authorized to commence a civil action on all  
24 claims asserted in the May 12, 2021 notice as of July 16, 2021 (65 days after May 12, 2021). Plaintiff’s  
25 operative Complaint was appropriately filed after this date on July 22, 2021. *See* Exhibit B.  
26 Furthermore, Plaintiff has provided a copy of the PAGA Settlement *and* the entire Motion for approval  
27 of the PAGA settlement to the LWDA for its consideration at the same time this Motion was filed. *See*  
28 Decl. Berzin ¶ 17; Exhibit D (Proof of Submission of Proposed Settlement Agreement to LWDA). As a

1 result, Plaintiff has met all procedural statutory requirements for commencing and settling a PAGA  
2 action.

3 **c. The Terms of The Settlement Are Fair, Reasonable, and Adequate**

4 To make its determination that the PAGA settlement is fair, reasonable, and adequate, the Court  
5 may consider several factors, including:

6 the strength of the Plaintiff's case, the risk, expense, complexity and likely  
7 duration of further litigation, the risk of maintaining class action status  
8 through trial, the amount offered in settlement, the extent of discovery  
completed and the stage of the proceedings, and the experience and views  
of counsel

9 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996); *Juarez*, 2017 U.S. Dist. LEXIS 137205,  
10 \*5 n.4; *Ramirez*, 2017 U.S. Dist. LEXIS 137272, \*8-9; *Gutilla*, 2017 U.S. Dist. LEXIS 41655, \*7, n.4;  
11 *Smith*, 2018 U.S. Dist. LEXIS 67192, \*6; *Rincon*, 2018 U.S. Dist. LEXIS 22886, \*6. However, this  
12 Court should begin its analysis with a presumption that the proposed settlement is fair. "A presumption  
13 of fairness exists where: (1) the settlement is reached through arm's length bargaining; (2) investigation  
14 and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced  
15 in similar litigation . . . ." *Dunk*, 48 Cal. App. 4th at 1802.

16 **i. The Settlement is a Result of Extensive, Non-Collusive Arm's Length Negotiations**  
17 **Between the Parties**

18 Settlement in this case was reached only after litigation and extensive arm's length negotiations  
19 lasting about one year. *See* Decl. Berzin, ¶¶ 5-8. At all times, the negotiations were adversarial and  
20 contentious, although still professional in nature. *See id.* Further, while Plaintiff contends he would  
21 ultimately prevail on the claims and the issue of manageability, this is not a certainty and there is  
22 substantial risk in proceeding to further litigation. *See id.* at ¶¶ 5-8.

23 **ii. The Extent of Investigation and Informal Discovery Completed Provided Ample**  
24 **Information to Enter into an Informed and Reasonable Settlement**

25 The parties were in possession of all necessary information during the negotiations. The parties  
26 engaged in informal discovery and an exchange of information, including information about Aggrieved  
27 Employees, such as the number of pay periods they worked during the claim period. Plaintiff also  
28 reviewed paystubs and relevant policies, among other documents which covered all aspects of the

1 PAGA claims and helped thoroughly vet the extent of Plaintiff's claims against Defendant and create an  
2 accurate damages model. *See id.* at ¶ 6-9. Plaintiff was in possession of this information prior to  
3 calculating the potential damages in this case. *See id.* As a result, Plaintiff was able to make a  
4 reasonable estimation of Defendant's potential liability. *See id.* For these reasons, the settlement now  
5 before the Court was reached at a stage where "the parties certainly have a clear view of the strengths  
6 and weaknesses of their cases" sufficient to support the settlement. *Boyd v. Bechtel Corp.*, 485 F.Supp.  
7 610, 617 (N.D. Cal. 1979).

8 **iii. Plaintiff's Counsel is Experienced in Similar Litigation**

9 Plaintiff's counsel has considerable experience in class actions and wage and hour litigation.  
10 Plaintiff's counsel has brought and is currently bringing several wage and hour class and/or PAGA  
11 actions. Thus, Plaintiff's counsel is qualified to evaluate the PAGA claims, the value of settlement  
12 versus moving forward with litigation, and viability of possible affirmative defenses. *See Decl. Berzin*,  
13 ¶¶ 11-15. Plaintiff's counsel believes that the settlement is fair, reasonable, and adequate in light of the  
14 risks associated with the merits of Plaintiff's claims, the uncertainties of complex litigation, the Court's  
15 discretion to lower the amount of penalties ultimately awarded, and the secured benefit to the Aggrieved  
16 Employees and LWDA promoting compliance with the Labor Code. *See id.* at ¶¶ 6-10.

17 **iv. The Settlement is Fair and Reasonable Based on the Strength of Plaintiff's Case**  
18 **and the Risks and Costs of Further Litigation**

19 A review of the Agreement's terms does not give rise to any doubts about its fairness. Based on  
20 the records and facts of this case, Plaintiff has secured a net recovery of approximately 23.5% to 91.5%  
21 of the claims' maximum likely value. *See id.* at ¶¶ 9-10. This settlement is a reasonable compromise of  
22 the PAGA claims and exceeds approved settlement ranges in other cases comparing either absolute  
23 numbers or as a percentage of total available damages in a class action context. *See Davis v. Cox*  
24 *Commc'ns California, LLC*, 2017 U.S. Dist. LEXIS 63514, \*1 (S.D. Cal. 2017) (preliminarily approving  
25 \$4,000 PAGA allocation in \$275,000 settlement); *Moore v. Fitness Int'l, LLC*, 2014 U.S. Dist. LEXIS  
26 8358, \*5 (S.D. Cal. 2014) (approving \$2,500 PAGA allocation when attorneys' fees award alone  
27 amounted to \$200,000); *Jack v. Hartford Fire Ins. Co.*, 2011 U.S. Dist. LEXIS 118764, \*6 (S.D. Cal.  
28 2011) (approving \$3,000 PAGA allocation in \$1,200,000 settlement); *Singer v. Becton Dickinson & Co.*,

2010 U.S. Dist. LEXIS 53416, \*2 (S.D. Cal. 2010) (approving \$3,000 PAGA allocation in \$1,000,000 settlement); *Hopson v. Hanesbrands Inc.*, 2009 U.S. Dist. LEXIS 33900, \*9 (N.D. Cal. 2009) (approving \$1,500 PAGA allocation in \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, \*34-35 (E.D. Cal. 2017) (approving \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was calculated at \$53,600,000); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at \*7 (E.D. Cal. 2012) (approving \$10,000 PAGA allocation in a \$3,700,000 settlement); *Wershba*, 91 Cal. App. 4th at 246, 250; *Rebney v. Wells Fargo Bank*, 220 Cal.App.3d 1117, 1139 (1990); *Officers for Justice*, 688 F.2d at 628 (9th Cir. 1982); *see also In re Omnivision Technologies, Inc.*, 559 F.Supp.2d 1036, 1042 (2007) (noting that the median percentage for recoveries in shareholder class action settlements averaged 2.2%-3% from 2000 through 2002).

**v. The Proposed Settlement is a Reasonable Compromise of Claims**

The case of *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008) required additional information be presented to the Court in representative action settlements “to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation . . . .” *Id.* at 129. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399 (2010), clarified that *Kullar* does not require the parties to submit an illusory prediction of the outer reaches of exposure without taking into account the actual risks associated with the litigation such as dispositive motions and trial. *Kullar* also does not require an explicit statement of the maximum amount to be recovered if Plaintiff prevailed on all the claims, provided there is a record that allows “an understanding of the amount that is in controversy and the realistic range of outcomes of the litigation.” *Id.* at 409. The *Munoz* court found the record before the trial court was sufficient, having included the number of class members, payroll data, declarations describing hours and overtime worked, as well as variances in duties and rest and meal period experience, and a companion action alleging less than \$5,000,000 in damages. This information constituted “an adequate basis from which to garner a reasonably adequate understanding of the amount that is in controversy within the meaning of *Kullar*.” *Id.*

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1 Plaintiff similarly relied upon payroll data and Aggrieved Employee information to determine  
2 the realistic potential civil penalties at issue. *See* Decl. Berzin ¶ 7. This analysis allowed Plaintiff to  
3 determine the extent and frequency of potential violations on all claims as to all Aggrieved Employees.  
4 *See* Decl. Berzin ¶¶ 7, 9-10. Ultimately, Plaintiff secured a percentage of the total demand for the  
5 PAGA that is well within, and in fact exceeds, the range of what has been found to be sufficient in  
6 several other cases. *See, supra*, Section V.c.iv; *see also, e.g., In re Omnivision Technologies, Inc.*, 559  
7 F.Supp.2d at 1042; *Reed v. 1-800 Contacts, Inc.*, 2014 U.S. Dist. LEXIS 255 (S.D. Cal. 2014)  
8 (approving a settlement of \$11.7 million where the maximum range of damages was \$5,000 for each of  
9 the alleged 300,000 instances of unlawful recording violations (\$1.5 billion), equaling approximately  
10 .78% of the total demand and approximately \$800 per class member). This settlement represents a  
11 reasonable compromise given the facts of the case, potential defenses, and potential likely recoverable  
12 damages.

13 **vi. The Requested Attorneys' Fees as a Percentage of the Common Fund are**  
14 **Reasonable and Customarily Approved by Courts**

15 California state and federal courts have recognized that when a litigant's efforts create or  
16 preserve a fund from which others derive benefits, the Court may spread litigation costs proportionally  
17 among all the beneficiaries to compensate those who created the fund. *See Boeing Co. v. Van Gemert*,  
18 444 U.S. 472, 478 (1980) ("A lawyer who recovers a common fund for the benefit of persons other than  
19 . . . his client is entitled to a reasonable attorney's fee from the fund as a whole."); *Vincent v. Hughes Air*  
20 *West, Inc.*, 557 F.2d 759, 769 (9th Cir. 1977); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375 (1970); *see*  
21 *also Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480,  
22 506 (2016). The purpose of this equitable doctrine is to avoid unjust enrichment of counsel and to  
23 "spread litigation costs proportionally among all the beneficiaries so that the active beneficiary does not  
24 bear the entire burden alone." *Vincent*, 557 F.2d at 769; *Williams v. MGM-Pathe Communications Co.*,  
25 129 F.3d 1026, 1027 (9th Cir. 1977). Courts have approved use of a percentage of the fund to calculate  
26 reasonable attorney fee awards where the amount of the settlement is certain or is an easily calculable  
27 sum of money. *See Dunk*, 48 Cal. App. 4th at 1808.

28 The Ninth Circuit has also held that the common fund doctrine applies when: (1) the class of

1 beneficiaries is sufficiently identifiable; (2) the benefits can be accurately traced; and (3) the fee can be  
2 shifted with some exactitude to those benefitting. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886  
3 F.2d 268, 271 (9th Cir. 1989). These criteria are “easily met” when “each member of a represented  
4 group has an undisputed and mathematically ascertainable claim to part of a lump-sum settlement  
5 recovered on his behalf.” *Id.* at 271 (citations omitted). Although this litigation is under the PAGA and  
6 not a class action, the basis for a common fund applies with equal force in this PAGA litigation. The  
7 three (3) factors set forth in *Paul, Johnson, Alston & Hunt*, exist in this case because there is a  
8 sufficiently identifiable class of beneficiaries (*e.g.* Plaintiff, Aggrieved Employees recovering under the  
9 settlement, and the LWDA), the benefits can be accurately traced to the settlement Plaintiff and her  
10 counsel were able to negotiate on behalf of the beneficiaries, and the fee can be shifted with exactitude  
11 to those benefiting as the fee request is a specific, lump-sum percentage of the common fund. As set  
12 forth in the fee award examples provided below for the Court’s reference, it is an accepted practice in  
13 wage and hour litigation, which include PAGA settlements, to award attorneys’ fees based on a  
14 percentage of the common fund. *See, e.g., Staton v. Boeing Co.*, 327 F.3d 938, 967-972 (9th Cir. 2003);  
15 *Sanders v. City of Los Angeles*, 3 Cal.3d 252, 261, 263 (1970); *Wershba*, 91 Cal. App. 4th at 254; *Bell v.*  
16 *Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 726, 765 (2004); *Rincon v. W. Coast Tomato Growers,*  
17 *LLC*, 2018 U.S. Dist. LEXIS 22886, \*6 (S.D. Cal. 2018).

18 Historically, attorneys’ fee awards in common fund cases in general range from 20% to 50% of  
19 the fund, depending on the circumstances of the case. *See Newberg on Class Actions*, (3rd Ed.), 1992,  
20 §14.03 (finding 50% to be the upper limit). Awards ranging between 30% and 40% of the fund are  
21 generally approved as reasonable in wage and hour settlements below \$10 million:

22 More particularly, courts may award attorneys fees in the 30-40% range in wage and hour  
23 class actions that result in recovery of a common fund under \$10 million. *See Vasquez v.*  
24 *Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 491-492 (E.D. Ca. 2010) (citing to five  
25 recent wage and hour class actions where federal district courts approved attorney fee  
26 awards ranging from 30 to 33%); *Singer v. Becton Dickenson and Co.*, 2010 U.S. Dist.  
27 LEXIS 53416, 2010 WL 2196104, \*8 (S.D. Ca. June 1, 2010) (approving attorney fee  
award of 33.33% of the common fund and holding that award was similar to awards in  
three other wage and hour class action cases where fees ranged from 33% to 40%);  
*Romero v. Producers Dairy Foods, Inc.*, 2007 U.S. Dist. LEXIS 86270, 2007 WL  
3492841 (E.D. Ca. Nov. 14, 2007).

28 *See Martin v. Ameripride Servs.*, 2011 U.S. Dist. LEXIS 61796 at \*22-23 (S.D. Cal. 2011); *see also In*

1 *re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 457, 463 (9th Cir. 2000) (affirming 33% of fund as fee in  
2 securities case); *In re Pac. Enter. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (same). Both California  
3 Courts and Federal District Courts regularly award fees within these ranges. See *Watson v. Raytheon*  
4 *Company*, USDC Southern District, Case No. 3:10-cv-00634 (33-1/3% fee award); *Dirienzo v. Dunbar*  
5 *Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-02745 (33-1/3% fee award); *Green, et al. v.*  
6 *Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-00069 (33% fee award);  
7 *Benitez et al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122 (33.3% fee award); *Chavez et*  
8 *al. v. Petrissans et al.*, USDC Eastern District, Case No. 1:08-cv-00122 (33.3% fee award); *Willis et al.*  
9 *v. Cal-Western Transport*, USDC Eastern District, Case No. 1:00-cv-05695 (33% fee award); *Birch v.*  
10 *Office Depot, Inc.*, USDC Southern District, Case No. 06cv1690 DMS (WMC) (awarding 40% fee on a  
11 \$16 million wage and hour class action settlement); *Rippee v. Boston Mkt. Corp.*, USDC Southern  
12 District, Case No. 05cv1359 BTM (JMA) (awarding a 40% fee on a \$3.75 million wage and hour class  
13 action settlement). To determine whether a percentage is reasonable, a Court may consider: (1) the  
14 percentage that would likely be negotiated between parties in a similar case; (2) the percentage applied  
15 in other representative actions; (3) the quality of counsel; and (4) the size of the award. See *In re Ikon*  
16 *Office Solutions, Inc. Secur. Litig.*, 194 F.R.D. 166, 193 (E.D. Pa. 2000).

17         These factors support Plaintiff's request for reasonable attorneys' fees. The typical percentage  
18 negotiated between parties ranges from thirty-five to forty percent (35% to 40%) in individual litigation  
19 depending on the complexity of the case. In class action and PAGA litigation, the typical percentage  
20 negotiated between parties ranges from thirty to forty percent (30% to 40%) based on the same factors.  
21 Plaintiff's request of \$8,600 falls within these typical fee arrangements. See Decl. Berzin, ¶ 16. The size  
22 of the PAGA settlement also supports the fee request when compared to other PAGA settlements that  
23 have been deemed to protect the public's interest. See *Davis*, 2017 U.S. Dist. LEXIS 63514, \*1 (\$4,000  
24 PAGA allocation); *Moore*, 2014 U.S. Dist. LEXIS 8358, \*5 (\$2,500 PAGA allocation); *Jack*, 2011 U.S.  
25 Dist. LEXIS 118764, \*6 (\$3,000 PAGA allocation); *Singer*, 2010 U.S. Dist. LEXIS 53416, \*2 (\$3,000  
26 PAGA allocation); *Hopson*, 2009 U.S. Dist. LEXIS 33900, \*9 (approving \$1,500 PAGA allocation in  
27 \$1,026,000 settlement); *Syed v. M-I, L.L.C.*, 2017 U.S. Dist. LEXIS 24880, \*34-35 (E.D. Cal. 2017)  
28 (approving \$100,000 PAGA allocation in a \$3,950,000 settlement even though PAGA exposure was

1 calculated at \$53,600,000); *Garcia v. Gordon Trucking, Inc.*, 2012 U.S. Dist. LEXIS 160052, at \*7  
2 (E.D. Cal. 2012) (\$10,000 PAGA allocation). As a percentage of the total likely recovery at trial, the net  
3 settlement ranges up to an 91.5% recovery depending on the amount of discretion the Court may have  
4 otherwise used to reduce awarded penalties at trial. *See* Decl. Berzin ¶ 10. The size of the recovery also  
5 speaks to the high quality of representation Plaintiff's counsel was able to effect in this case.  
6 Furthermore, Plaintiff's counsel took this case on a contingency basis and has not received any  
7 compensation for the work done in this case at all while shouldering the financial risk attendant to  
8 complex civil litigation. *See id.* at ¶¶ 9-10, 16. For these reasons, Plaintiff's request for fees in the  
9 amount of \$8,600 should be granted.

10 Plaintiff's counsel seek reimbursement of \$3,151.90 for the expenses they have incurred and will  
11 continue to incur though carrying out the terms of this settlement. *See* Exhibit F. This is less than the  
12 \$3,500 provided for in the settlement. These expenses include postage charges, photocopying and  
13 printing expenses, complex fees, and research and filing expenses, among other expenses necessarily  
14 incurred to properly litigate this case. *See id.* For these reasons, Plaintiff's request for reimbursement of  
15 litigation expenses should be granted.

## 16 **VI. CONCLUSION**

17 For all of the foregoing reasons, Plaintiff respectfully requests that this Court find that Plaintiff  
18 has met all statutory requirements to commence a PAGA civil action; approve the PAGA settlement,  
19 including counsel's application for reasonable attorneys' fees and costs; approve the notice and payment  
20 distribution procedures; adopt the implementation schedule identified in the proposed order, which is  
21 being filed concurrently herewith, and dismiss the class claims without prejudice.

22  
23  
24 Dated: July \_15\_\_\_\_, 2022

**Shimoda & Rodriguez Law, PC**



25  
26 By: \_\_\_\_\_

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Attorneys for Plaintiff LEOPOLD ESTRADA, JR.

**SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

LEOPOLD ESTRADA, JR., individually and  
on behalf of all other similarly situated  
employees,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a  
California Corporation;  
DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual; and  
DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**DECLARATION OF BRITTANY BERZIN IN  
SUPPORT OF MOTION TO APPROVE  
PRIVATE ATTORNEYS GENERAL ACT  
SETTLEMENT AND DISMISS CLASS  
CLAIMS WITHOUT PREJUDICE**

Reservation No.: 2654377

Date: August 12, 2022

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

1 I, Brittany Berzin, declare

2 1. I am an attorney at law duly admitted to practice before all the courts of the State of  
3 California and an attorney of record for Plaintiff Leopold Estrada, Jr. (“Plaintiff”) herein. I am making  
4 this declaration on behalf of Plaintiff, and in support of Plaintiff’s Motion to Approve Private Attorneys  
5 General Act Settlement and Dismiss Class Claims Without Prejudice. A true and correct copy of the  
6 Private Attorneys General Act Settlement is being filed with this Motion as Exhibit A.

7 2. This case was initially brought as a class action and Private Attorneys General Act  
8 (“PAGA”) lawsuit based on Plaintiff’s contention that Defendant MAD Security Services, Inc  
9 (“Defendant”) failed to provide legally compliant meal periods or pay premiums in lieu thereof, failed  
10 to provide legally compliant rest periods or pay premiums in lieu thereof, failed to reimburse for  
11 personal cellphone use, failed to provide accurate wage statements, failed to timely pay all final wages,  
12 and failed to maintain accurate records. These claims primarily stemmed from Plaintiff’s allegations  
13 that Defendant violated California law by 1) requiring employees to remain on duty during meal and  
14 rest periods without paying meal or rest premiums; 2) requiring employees to download an app on their  
15 personal cellphones to track hours worked and to use personal cellphones during their shifts for work  
16 communications without reimbursement; and 3) failing to keep accurate records of hours worked,  
17 including start and end times for any meal periods. The wage statement, waiting time, unfair  
18 competition, and PAGA claims are derivative.

19 3. Leopold Estrada, Jr. is the only named Plaintiff in this matter. From our initial  
20 investigations of Plaintiff’s claims and documents, we believed these claims had merit and could be  
21 maintained as a class action and PAGA action. Plaintiff filed the original complaint on May 12, 2021.  
22 Plaintiff exhausted his administrative remedies through the Labor and Workforce Development Agency  
23 (“LWDA”) prior to filing the Complaint in order to pursue penalties under PAGA. Plaintiff filed a  
24 notice with the LWDA on May 12, 2021, setting forth the facts and theories of liability. A true and  
25 correct copy of the notice filed with the LWDA is being filed with this Motion as Exhibit C. A copy of  
26 the notice was also sent to Defendant via certified mail and the \$75.00 filing fee was remitted to the  
27 LWDA at that time. There was no response by the LWDA regarding its intent to investigate the claims  
28 alleged in Plaintiff’s notice. As such, Plaintiff became authorized to commence a civil action under the

1 PAGA and filed a First Amended Complaint adding PAGA claims on July 22, 2021. A copy of the  
2 complaint was uploaded to the LWDA shortly thereafter on August 20, 2021, after we received an  
3 endorsed copy back from Court. A true and correct copy of Plaintiff's operative First Amended  
4 Complaint is being filed with this Motion as Exhibit B. Currently, there is no trial date set in this  
5 matter and no class has been certified.

6 4. Although this case was originally brought as a class action, Plaintiff is now seeking to  
7 dismiss his class claims without prejudice. Defendant contends that because it had legally compliant  
8 meal and rest period policies in effect during the class period and records reflecting meal periods taken,  
9 individual inquiries would be necessary to determine what communications individual putative class  
10 members received regarding meal and rest periods, whether individual putative class members missed  
11 meal and rest periods despite records reflecting they were received, and to the extent meal and rest  
12 periods were not received, the reasons why. Defendant further contends that individual issues would  
13 exist due to the fact that putative class members worked as security guards at many different locations.  
14 After investigating Defendant's contentions, Plaintiff made the decision to proceed on a PAGA only  
15 basis through settlement negotiations. Because the settlement is a PAGA only settlement, no  
16 certification procedures have or need to occur in the context of approving the submitted PAGA  
17 settlement pursuant to *Arias v. Superior Court*, 46 Cal.4th 969 (2009) and Labor Code section  
18 2699(l)(2). No certification motion has been filed and there has been no order scheduling a  
19 certification motion to be filed. Neither Plaintiff nor my firm are receiving any compensation for  
20 dismissing the class action claims as they are being dismissed without prejudice. I do not believe there  
21 will be any prejudice to putative class members as a result of dismissing the class claims without  
22 prejudice. I do not believe any notice specific to the class claims being dismissed without prejudice is  
23 necessary because no class has been certified, there have been no communications with putative class  
24 members, and putative class members would not have their individual substantive claims affected by  
25 the outcome of this litigation as the class claims are being dismissed without prejudice. The Notice of  
26 Settlement that will be provided to employees identifies the scope of the settlement and claims being  
27 released. For this reason, I believe no additional communications or notice with regard to the class  
28 claims are necessary.

1           5.       Defendant is represented in this matter by Brian D. Bertossa and Anahit Davtyan of  
2 Cook Brown, LLP. From the beginning, Defendant has contested the merits of this case and Plaintiff's  
3 ability to prove a violation in each pay period for each employee among other defenses and contentions  
4 they made challenging the propriety of this action. For instance, Defendant contended that they had  
5 legally compliant meal and rest period policies, employees were relieved of duty for meal and rest  
6 periods and that time records evidenced employees received their meal periods. Defendant further  
7 contended that, even assuming there was a finding supporting the imposition of PAGA penalties, the  
8 Court would likely exercise its discretion to substantially reduce any such penalties owed based on  
9 evidence of good faith attempts to comply with Labor Code obligations by Defendant.  
10 Notwithstanding their agreement to settle this matter, Defendant believes the practices Plaintiff is  
11 contending are unlawful either do not exist or, to the extent they do exist, fully comply with all state  
12 and federal employment laws with respect to Plaintiff and Aggrieved Employees.

13           6.       Based on the expected testimony from Plaintiff and Aggrieved Employees, a review of  
14 Defendant's policies and procedures and other documents relating to the alleged claims, information on  
15 the number of Aggrieved Employees, and pay periods worked by Aggrieved Employees, the scope of  
16 the potential penalties at issue in light of the claims alleged, the Court's statutorily authorized discretion  
17 to reduce any penalties assessed, and the negotiations that have taken place, I believe that the proposed  
18 settlement is in the best interest of Plaintiff, Aggrieved Employees affected by the Agreement and the  
19 LWDA. The length and risks of trial and other normal perils of complex litigation that impact the value  
20 of the claims were also considered and weighed in reaching the proposed settlement. In addition, I  
21 carefully considered the difficulties of complex litigation, such as the difficulties of litigating the  
22 existence of violations for each individual Aggrieved Employee in each pay period they worked, and the  
23 lengthy process of establishing specific damages and various possible delays and appeals in agreeing to  
24 the proposed settlement. I further considered the fact that penalties under the PAGA could be  
25 substantially cut at the discretion of the Court even if Plaintiff was successful on proving the claims and  
26 there was risk that a Court could find no willfulness in the failure to pay final wages at separation, which  
27 would eliminate the value of the waiting time penalty entirely. Overall, I believe it is more beneficial to  
28

1 secure a guaranteed benefit to Plaintiff, Aggrieved Employees, and the LWDA now rather than to  
2 proceed with litigation and potentially obtain zero funds due to legal or factual issues.

3         7. My office, including one of the partners, Justin P. Rodriguez, my paralegals, and myself,  
4 along with Plaintiff's assistance, thoroughly investigated the merits of the claims and potential damages  
5 for such claims. The parties engaged in informal discovery, including information about Aggrieved  
6 Employees, such as the number of pay periods worked in the claim period for the entirety of the statute  
7 of limitations applicable to the PAGA claims. I considered all aspects of the asserted claims, including  
8 merits issues, damages, the scope and configuration of Aggrieved Employees, the content and  
9 implementation of the wage and hour policies at issue, issues relating to manageability concerns at trial,  
10 among other relevant areas. From the informal discovery we were able to determine information critical  
11 to a reliable damages analysis such as the number of pay periods that had potential violations based on  
12 the asserted claims. My office was able to assess both liability and damages and create an accurate  
13 damages model. Plaintiff assisted in all aspects of this litigation including providing factual information  
14 relating to Defendant's employment conditions and answering questions regarding Defendant's factual  
15 contentions in this matter. This was important because it directly related to our ability to maintain this  
16 case as a PAGA action under manageability concerns and our ability to obtain a favorable settlement for  
17 the PAGA claims.

18         8. Throughout this litigation our office had numerous communications with Defendant's  
19 counsel discussing our respective positions. It was only after approximately one year of extensive,  
20 arm's length negotiations that the parties were able to reach a settlement. The negotiations were at all  
21 times contentious and adversarial, though still professional in nature.

22         9. The parties reviewed and analyzed substantial amounts of data regarding the claims.  
23 Based on our analysis and review of all relevant documents and Aggrieved Employee information, I  
24 have determined that the maximum damages for the asserted PAGA claims is approximately  
25 \$59,153.00 based on the counts alleged to the LWDA and the Aggrieved Employee data. As of  
26 November 2021, there were about 38.5 pay periods worked by Aggrieved Employees within the claim  
27 period. Based on our research, we did not find any prior Labor Commissioner or court decisions that  
28 stated Defendant's practices and/or policies were improper. As such, a "subsequent violation" may not

1 be found for penalty calculation purposes and the exposure analysis here is based on an “initial  
2 violation” valuation being adopted by any fact finder if this matter went to trial.

3       10. I believe the PAGA penalties in this case may be reduced due to the fact that some of the  
4 penalties are based on violations due to technical non-compliance with the Labor Code as opposed to  
5 substantive wage loss or other more egregious forms of wage and hour violations such as the wholesale  
6 failure of any attempt to comply or intentional non-compliance with Labor Code obligations.  
7 Furthermore, a Court may find Defendant’s policies and practices demonstrate a good faith attempt at  
8 compliance that merits the reduction of civil penalties. The statutorily authorized discretion that Courts  
9 have used to reduce penalties ranges substantially. *See, e.g., Thurman v. Bayshore Transit Mgmt., Inc.*,  
10 203 Cal.App.4th 1112, 1135 (2012) (30% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. DIST.  
11 LEXIS 154590, \*9 (C.D. Cal. 2011) (82% reduction). Thus, it is more likely that the civil penalties  
12 would be cut somewhere in the range of approximately \$10,654.74 (82% reduction) to \$41,407.10  
13 (30% reduction). After reduction of the allocated attorneys’ fees and costs from the total settlement  
14 amount of \$21,500, the net recovery of penalties is approximately \$9,748.10, which equals  
15 approximately 23.5% to 91.5% of the total available civil penalties. I believe the Agreement represents  
16 a reasonable compromise of claims based on the legal and factual disputes in this case.

17       11. I am an associate at Shimoda & Rodriguez Law, PC. Our law firm is a boutique law  
18 practice that focuses primarily on employment litigation, emphasizing wage and hour litigation. I  
19 attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Psychology. I  
20 received my J.D. from the University of the Pacific McGeorge School of Law. I joined Shimoda &  
21 Rodriguez Law, PC as a law clerk in February 2015 where I gained civil litigation experience working  
22 on individual, class action and PAGA employment cases throughout law school. I also participated in  
23 an employment law clinic in 2015 and 2016 that helps low-income workers by providing free legal  
24 consultations, advising employees of their legal remedies on a variety of matters (*e.g.*, wage and hour,  
25 discrimination/harassment, California leave laws, unemployment, workers’ compensation, retaliation,  
26 and wrongful termination, etc.), preparing wage claims, and providing representation in wage claims  
27 before the California Labor Commissioner. From 2016-2017, I completed an externship at the Federal  
28 Public Defenders Office as a Certified Law Student where I obtained discovery, completed legal

research, drafted motions, negotiated plea deals, represented clients in a variety of hearings (*e.g.*, arraignments, motion hearings, sentencing hearings, etc.), and defended a client against five misdemeanor charges in a jury trial in the United States District Court for The Eastern District of California. I was also a member of the nationally recognized McGeorge Mock Trial Team and went on to coach a high school Mock Trial team in 2018 after graduating from law school. In May 2017, I graduated from the University of the Pacific, McGeorge School of Law with Great Distinction and was inducted into the Order of the Coif, graduating in the top 10% of my class. I received the Witkin Award for Academic Excellence in Legal Research and Writing, Civil Procedure, Bankruptcy, and Criminal Procedure. From 2020 to present, I have been recognized as a Super Lawyer (Rising Star). I have been a member of the executive committee of the Sacramento County Bar Association Labor & Employment Section since January 2020, serving as Co-Chair of the committee in 2021. I have over seven years of experience working on civil litigation and employment law matters. Most of that experience has been specific to analyzing and litigating wage and hour claims. As an associate, I have worked on a variety of individual, class action, and PAGA cases involving wage and hour claims, such as failure to pay overtime, failure to pay minimum wages, failure to provide meal and rest periods, failure to pay reimbursement expenses, unlawful deductions, failure to keep accurate time records, failure to provide paid sick leave, failure to pay all wages upon separation, unfair competition, breach of contract, independent contractor misclassification, and salaried misclassifications. Some of the class action and/or PAGA cases I am litigating and/or have litigated as lead or co-counsel include the following:

- *Arosemena v. Ranchhodrai, Inc., et al.*, Case No. STK-CV-UOE-2019-15963 (San Joaquin Sup. Ct.);
- *Arroyo v. Epic Home Solar*, Case No. 34-2021-00310634 (Sac. Sup. Ct.);
- *Balli v. Brown Box Investments, Inc., et al.*, Case No. 34-2018-00232656 (Sac. Sup. Ct.);
- *Barkhousen, et al. v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Barrios v. American Property Management, Inc.*, Case No. 1:18-cv-00352-AWI-SKO (E.D. Cal.);

- *Blair v. Clark Wagaman Designs*, Case No. 34-2021-00313156 (Sac. Sup. Ct.);
- *Callahan v. Creative Alternatives, Inc., et al.*, Case No. 2027518 (Stanislaus Sup. Ct.);
- *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092 (Sac. Sup. Ct.);
- *Cristobal v. BAT Residential Services, Inc.*, Case No. FCS056331 (Solano Sup. Ct.);
- *Coronado v. MGD, Inc.*, Case No. STK-CV-UOE-2021-893 (San Joaquin Sup. Ct.);
- *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
- *Finance of America Wage And Hour Cases*, Case No. JCCP 5081 (Orange County Sup. Ct.);
- *Gomez, et al. v. Kleary Masonry, Inc.*, Case No. 34-2020-00278067 (Sac. Sup. Ct.);
- *Gonzalez v. Northcentral Pizza, LLC, et. al.*, Case No. 34-2019-00252018 (Sac. Sup. Ct.);
- *Gordon, et al. v. Hospice Source, LLC*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
- *Green v. Warden Security Associates, Inc.*, Case No. 22CV396140 (Santa Clara Sup. Ct.);
- *Hampton v. Unlimited Security Specialists, Inc.*, Case No. CV2021-2130 (Yolo Sup. Ct.);
- *Hercules, et al. v. Maximus Services, LLC*, Case No. 34-2019-00268385 (Sac. Sup. Ct.);
- *Insixiengmay v. Hyatt Corporation*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal);
- *Kurtz v. Perimeter Security Group, LLC, et al.*, Case No. CU19-083650 (Nevada Sup. Ct.);
- *Leong-Call v. MRB Foods, Inc.*, Case No. 34-2020-00287486 (Sac. Sup. Ct.);
- *Magat v. Medical Care Professionals, Inc., et. al.*, Case No. SCV0042579 (Placer Sup. Ct.);
- *Mayorga v. Brown Strauss, Inc.*, Case No. STK-CV-UOE-2020-0010906 (San Joaquin Sup. Ct.);
- *McGhee v. Salute Incorporated*, Case No. 34-2022-00315317 (Sac Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Meals v. Grass Valley Extended Care, Inc., et al.*, Case No. CU19-083606 (Nevada Sup. Ct.);
- *Munoz v. Wilmor And Sons Plumbing And Construction*, Case No. 34-2021-00306609 (Sac. Sup. Ct.);
- *Neufield v. Professional Transportation, Inc.*, Case No. 34-2021-00309849 (Sac. Sup. Ct.);
- *Ruiz v. CTE Cal, Inc.*, Case No. 34-2020-00289168 (Sac. Sup. Ct.);
- *Saavedra, et al. v. SMF Global, Inc.*, Case No. 34-2018-00243363 (Sac. Sup. Ct.);

- *Scarano v. J.R. Putman, Inc., et al.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Scoggins, et al. v. Energy Star Construction, Inc.*, Case No. 34-2018-00243048 (Sac. Sup. Ct.);
- *Strawn v. Bridgestone Retail Operations, LLC*, Case No. 34-2018-00242049 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Tracy v. Von Housen's Sacramento, Inc.*, Case No. 34-2020-00282778 (Sac. Sup. Ct.);
- *Uribe v. Ecoguard Pest Management, Inc.*, Case No. 34-2021-00300650 (Sac. Sup. Ct.);
- *Vasquez v. Chriswell Home Improvements, Inc.*, Case No. 34-2021-00305938 (Sac. Sup. Ct.);
- *Villarruel, et al. v. General Produce Company, et al.*, Case No. 34-2021-00311463 (Sac. Sup. Ct.);
- *Walker v. Yan Kalika Dental Corporation*, Case No. 34-2021-00305106 (Sac. Sup. Ct.); and
- *Webb v. Professional Healthcare At Home, LLC*, Case No. FCS055317 (Solano Sup. Ct.).

12. The preceding list of cases does not include those where, for a variety of reasons, the case was initially filed as a class and/or PAGA action but did not maintain that status through the end of the case.

13. Justin P. Rodriguez, Esq., also worked with me on this matter and was critical in assisting with all aspects of the litigation of this case. Mr. Rodriguez attended and graduated college from U.C. Davis, receiving a Bachelor of Arts in Philosophy and the Departmental Citation for Academic Achievement in the Philosophy program. He was one of only two recipients of this award out of the entire Philosophy Department. After U.C. Davis, Mr. Rodriguez attended the University of the Pacific, McGeorge School of Law, graduating in 2011 and receiving a Juris Doctorate. He graduated in the top 20% of his class and was a member of the Traynor Honor Society at McGeorge. Other academic achievements of his include receiving a Witkin Award (top grade) in his legal research and writing course, a Witkin Award in complex civil litigation, being a member of the Dean's List from 2008 to 2011, being a Legislative Staff Writer for the *McGeorge Law Review* from 2009–2010, being an Associate Comment Editor for the *Pacific McGeorge Global Business & Development Law Journal* from 2010–2011, and being selected as a Sacramento County Bar Association Diversity Fellow in

2009. Mr. Rodriguez was also a member of the Employment and Labor Law Society and an officer for the Latino Law Students Association from 2009 to 2010.

14. Mr. Rodriguez was an associate of the Shimoda Law Corp from 2011 to 2016 and became a partner in 2017. Shimoda Law Corp. became Shimoda & Rodriguez Law, PC, in 2022. Since 2017, he has received an AV Preeminent rating from Martindale-Hubbell for his legal ability and ethical standards. From 2018 to present, he has been recognized as a Super Lawyer (Rising Star). In September 2018, he was a panel speaker for the Sacramento County Bar Association Labor and Employment Law Section's presentation of "*Epic Systems*, PAGA, and the Future of Employment Arbitration in California." In July 2020, he was a panel speaker for the Association of Defense Counsel of Northern California & Nevada presentation of "Class Actions and PAGA Claims." His practice focuses on complex civil litigation, including wage and hour class actions, PAGA claims, and Fair Labor Standards Act ("FLSA") claims. He is actively involved in most of the complex litigation handled by our firm. Class and/or PAGA actions he has litigated or is currently litigating, including the instant case, includes, but is not limited to, the following:

- *Aanerud v. Neumann Ltd., et al.*, Case No. 34-2014-00169324 (Sac. Sup. Ct.);
- *Adams-Angway v. Placer Title Company, et al.*, Case No. SCV0040845 (Placer Sup. Ct.);
- *Adewumi v. GHS Interactive Security, LLC*, Case No. 34-2017-00210768 (Sac. Sup. Ct.);
- *Arrington v. Capital Express Lines, Inc., et al.*, Case No. 34-2012-00134195 (Sac. Sup. Ct.);
- *Aslam v. American Custom Private Security, Inc.*, Case No. STK-CV-UOE-2018-0012080 (San Joaquin Sup. Ct.);
- *Aslam v. Cypress Security, LLC*, Case No. 34-2017-00220143 (Sac. Sup. Ct.);
- *Aslam v. Surveillance, Security, Inc.*, Case No. 34-2017-00220142 (Sac. Sup. Ct.);
- *Azzolino v. Brake Masters of Sacramento, LLC, et al.*, Case No. 34-2017-00218293 (Sac. Sup. Ct.);
- *Barkhausen v. Bank of Stockton*, Case No. STK-CV-UOE-2019-17145 (San Joaquin Sup. Ct.);
- *Benak v. MDStat Urgent Care, Inc.*, Case No. 34-2015-00188181 (Sac. Sup. Ct.);
- *Bigornia v. Quest Diagnostics Clinical Laboratories, Inc., et al.*, Case No. 34-2019-

- 00271174 (Sac. Sup. Ct.);
- *Blig v. Medical Management International, Inc.*, Case No. 34-2017-00213906 (Sac. Sup. Ct.);
  - *Caguioa, et al. v. Fortune Senior Enterprises, et al.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
  - *Camacho, et al. v. Z Street, Inc., d.b.a. Tower Café, et al.*, Case No. 34-2014-00163880 (Sac. Sup. Ct.);
  - *Castorena v. Flowmaster, Inc.*, Case No. CV18-2191 (Yolo Sup. Ct.);
  - *Cannon v. Miller Event Management, Inc., et al.*, Case No. 34-2014-00168103 (Sac. Sup. Ct.);
  - *Carr, et al. v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
  - *Chace v. Daisy Holdings, LLC, dba Pine Creek Care Center, et al.*, Case No. 34-2017-00209613 (Sac. Sup. Ct.);
  - *Clamens-Hollenback v. Atterro, Inc.*, Case No. 17-CV-305535 (Santa Clara Sup. Ct.);
  - *Cress, et al. v. Mitsubishi Chemical Carbon Fiber and Composites, Inc.*, Case No. 34-2017-00222101 (Sac. Sup. Ct.);
  - *De Arcos v. Amware Pallet Services, LLC*, Case No. CV-17-629 (Yolo Sup. Ct.);
  - *Ferreyra v. Point Digital Finance, Inc., et al.*, Case No. 20CV373776 (Santa Clara Sup. Ct.);
  - *Foye v. The Golden 1 Credit Union*, Case No. 34-2018-00235003 (Sac. Sup. Ct.);
  - *Garcia v. A-L Financial Corp.*, Case No. 34-2014-00171831 (Sac. Sup. Ct.);
  - *Garcia v. Royal Plywood Company, LLC, et al.*, Case No. 34-2017-00221627 (Sac. Sup. Ct.);
  - *Gomes v. Progressive Casualty Insurance Company*, Case No. 34-2018-00241979 (Sac. Sup. Ct.);
  - *Gomez v. Mayflower Farms Incorporated, et al.*, Case No. CV24157 (Colusa Sup. Ct.);
  - *Gilliam v. Matrix Energy Services, Inc.* Case No. RG 11592345 (Alameda Sup. Court);
  - *Gonzalez v. Northcentral Pizza, LLC, et al.*, Case No. 34-2019-00252018 (Sac Sup. Ct.);
  - *Gordon, et al. v. Hospice Source, LLC, et al.*, Case No. 34-2019-00250022 (Sac. Sup. Ct.);
  - *Gotts v. John L. Sullivan Chevrolet, Inc.*, Case No. 34-2018-00231576 (Sac Sup. Ct.);

- *Hartwell v. Techforce Telecom, Inc.*, Case No. 39-2014-00307197 (San Joaquin Sup. Ct.);
- *Hellum v. A1 Protective Services, LLC, et al.*, Case No. 34-2018-00234449 (Sac. Sup. Ct.);
- *Hercules v. Maximus Services, LLC, et al.*, Case No. 34-2019-00268385 (Sac Sup. Ct.);
- *Hernandez v. Snyir, Inc.*, Case No. 34-2017-00207641 (Sac. Sup. Ct.);
- *Heinz v. Wright Tree Services*, Case No. 34-2012-00131949 (Sac. Sup. Ct.);
- *Hoover v. Mom365*, Case No. 2:17-cv-01328-TLN-CKD (E.D. Cal.);
- *Insixiengmay v. Hyatt Corporation, et al.*, Case No. 2:18-cv-02993-TLN-DB (E.D. Cal.);
- *Josol v. Dial Medical Corp.*, Case No. 34-2008-00010040 (Sac. Sup. Ct.);
- *McMahon v. Airco Mechanical, Inc.*, Case No. 34-2019-00259269 (Sac. Sup. Ct.);
- *Muhieddine v. KBA Docusys, Inc.*, Case No. 34-2014-00164720 (Sac. Sup. Ct.);
- *Nguyen v. Cardinal Health Pharmacy Services, LLC, et al.*, Case No. 2:19-cv-01939-KJM-EFB (E.D. Cal.);
- *Prasad v. D. G. Smith Enterprises, Inc.*, Case No. 34-2017-00215046 (Sac. Sup. Ct.);
- *Ralston v. JMJ Incorporated, Inc. et al.*, Case No. 34-2017-00217047 (Sac. Sup. Ct.);
- *Roberts v. CableCom, LLC*, Case No. 34-2017-00212739 (Sac. Sup. Ct.);
- *Robinson v. West of Chicago Restaurants, Inc., dba Chicago Fire*, Case No. 34-2010-00082201 (Sac Sup. Ct.);
- *Salas, et al. v. Joint Ventures, LLC, et al.*, Case No. 34-2018-00227493 (Sac. Sup. Ct.);
- *Salmon v. Ovarions Fanfare, L.P., et al.*, Case No. 34-2018-00244749 (Sac. Sup. Ct.);
- *Scarano v. J.R. Putman, Inc.*, Case No. 34-2018-00244753 (Sac. Sup. Ct.);
- *Smith v. Greyhound Lines, Inc.*, Case No. 34-2017-00219188 (Sac. Sup. Ct.);
- *Sullivan v. National Response Corporation*, Case No. 34-2018-00244757 (Sac. Sup. Ct.);
- *Talent v. Leslie's Poolmart, Inc.*, Case No. 34-2012-00128539 (Sac. Sup. Ct.);
- *Thornton v. McConnell Jones Lanier & Murphy LLP*, Case No. 34-2017-00211553 (Sac. Sup. Ct.);
- *Watson v. Quarter At A Time, LLC*, Case No. 34-2017-00217570 (Sac. Sup. Ct.); and
- *Willis v. Premier Pools, Incorporated*, Case No. 34-2017-00211710 (Sac. Sup. Ct.).

1           15.     The preceding list of cases does not include those where, for a variety of reasons, the  
2 case was initially filed as a class and/or PAGA action but did not maintain that status through the end  
3 of the case.

4           16.     I am requesting attorneys' fees and costs pursuant to the common fund doctrine as I  
5 believe it to be applicable to the present case pursuant to *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977),  
6 *Laffitte v. Robert Half Internat. Inc.*, 1 Cal.5th 480 (2016), and *Paul, Johnson, Alston & Hunt v.*  
7 *Grauly*, 886 F.2d 268, 271 (9th Cir. 1989). Plaintiff and our firm have been able to secure an  
8 identifiable benefit on behalf of Aggrieved Employees and the LWDA and equity counsels that the cost  
9 of the representation should be born equally amongst all who are receiving these benefits. The  
10 settlement recovery provides an excellent result and is the product of substantial time and effort in  
11 analyzing the facts and law applicable to this case. I agreed to take this case on a contingency and as a  
12 representative action with the possibility that I would not receive any compensation for my time and  
13 efforts due to issues regarding the merits and have carried that risk over the course of this case. I have  
14 reviewed fee arrangements and Court ordered fee awards in similar class cases and I believe that the  
15 \$8,600 fee request is within the accepted ranges. In my experience with contingency cases in  
16 employment law cases, the typical percentage negotiated between parties ranges from thirty-five to  
17 forty percent (35% to 40%) in individual litigation. In class action and PAGA litigation, my experience  
18 in my own firm and working with several other firms has been that the typical percentage negotiated  
19 between parties and approved by a court ranges from thirty to forty percent (30% to 40%) based on the  
20 same factors. I have also reviewed several recent Federal District Court Cases where the Court has  
21 approved common fund-based fee requests. These cases include *In re Activision Sec. Litigation*, 723  
22 F.Supp. 1373, 1379 (N.D. Cal. 1989), *Watson v. Raytheon Company*, USDC Southern District, Case  
23 No. 3:10-cv-0063, *Dirienzo v. Dunbar Armored, Inc.*, USDC Southern District, Case No. 3:09-cv-  
24 02745, *Green, et al. v. Penske Logistics, L.L.C., et al.*, USDC Southern District, Case No. 3:09-cv-  
25 00069, *Benitez et al. v. Wilbur*, USDC Eastern District, Case No. 1:08-cv-01122, *Chavez et al. v.*  
26 *Petrissans et al.*, USDC Eastern District, Case No. 1:08-cv-00122, and *Willis et al. v. Cal-Western*  
27 *Transport*, USDC Eastern District, Case No. 1:00-cv-05695, which are cited in Plaintiff's  
28 Memorandum of Points and Authorities. I believe my request of \$8,600 for attorneys' fees is justified

1 given the results obtained on behalf of Aggrieved Employees and the LWDA. Moreover, at this time,  
2 my firm has advanced all costs for Plaintiff and Aggrieved Employees and has not received any  
3 compensation whatsoever for our time expended in this case. The incurred costs to date and the  
4 expected costs through overseeing the complete distribution of all settlement proceeds are \$3,151.90.  
5 Attached as Exhibit F is a true and correct copy of an itemization of our firm's incurred costs and  
6 expected costs through the complete distribution of all settlement proceeds.

7 17. A copy of the proposed Settlement Agreement and the entire Motion to Approve the  
8 PAGA Settlement was submitted to the LWDA at the same time the Motion was submitted to the Court  
9 pursuant to California Labor Code section 2699(1)(2). A true and correct copy of the proof of  
10 submission from the LWDA is being filed with this Motion as Exhibit D.

11 18. A true and correct copy of the proposed Notice of Settlement to be distributed to  
12 similarly situated employees informing them of the settlement and all material terms is being filed with  
13 this Motion as Exhibit E.

14 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
15 true and correct. Executed this \_15th\_ day of July 2022 in Elk Grove, California.

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Brittany Berzin

Galen T. Shimoda (Cal. State Bar No. 226752)  
Justin P. Rodriguez (Cal. State Bar No. 278275)  
Brittany V. Berzin (Cal. State Bar No. 325121)  
**Shimoda & Rodriguez Law, PC**  
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Telephone: (916) 525-0716  
Facsimile: (916) 760-3733

Attorneys for Plaintiff LEOPOLD ESTRADA, JR.  
individually and on behalf of similarly situated employees

**SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

LEOPOLD ESTRADA, JR., individually and  
on behalf of all other similarly situated  
employees,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a  
California Corporation;  
DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual; and  
DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**DECLARATION OF PLAINTIFF LEOPOLD  
ESTRADA, JR. IN SUPPORT OF MOTION  
TO APPROVE PRIVATE ATTORNEYS  
GENERAL ACT SETTLEMENT AND  
DISMISS CLASS CLAIMS WITHOUT  
PREJUDICE**

Reservation No.: 2654377

Date: August 12, 2022

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

1 I, Leopold Estrada, Jr., declare:

2 1. I am a competent adult, I have personal knowledge of the facts set forth in this  
3 declaration, and I am making this declaration on behalf of myself, as a named plaintiff, and in support  
4 of Plaintiff's Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims  
5 Without Prejudice.

6 2. I worked for Defendant MAD Security Services, Inc. ("Defendant") from approximately  
7 June 2020 to February 2021 as a Security Guard. I was classified as a non-exempt employee and  
8 received an hourly wage. I was subject to all of Defendant's alleged unlawful practices in the operative  
9 Complaint and the notice sent to the Labor and Workforce Development Agency, including the  
10 following: 1) requiring employees to remain on duty during meal and rest periods without paying meal  
11 or rest premiums; 2) requiring employees to download an app on their personal cellphones to track  
12 hours worked and to use personal cellphones during their shifts for work communications without  
13 reimbursement; and 3) failing to keep accurate records of hours worked, including start and end times  
14 for any meal periods.

15 3. I have actively participated in the litigation of this case. I have given a detailed account  
16 of all the facts related to my employment and the claims asserted in the Complaint. I provided or  
17 obtained documentation in support of the claims brought against Defendant including my personnel  
18 file, paystubs, Defendant's policies, correspondence with MAD Security Services, Inc. during my  
19 employment, and other documents related to my work with Defendant and to the claims brought in the  
20 action. I communicated with and assisted my attorneys in understanding the documents and providing  
21 context for Defendant's employment practices as they applied to me and how I believed they applied to  
22 other Aggrieved Employees.

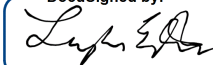
23 4. I maintained communication with my attorneys throughout the litigation, discussing the  
24 facts, policies, and practices at issue in the case with Shimoda & Rodriguez Law, PC. I asked questions  
25 when I needed clarification about various aspects of this case to make sure there were continually steps  
26 taken to advance the interests of Aggrieved Employees. I also understood that the recovery in this case  
27 was for the benefit of my fellow coworkers, not just for me. When my attorneys contacted me asking  
28 about more information or documents related to the case, I made myself available and tried to give or

1 obtain any additional information I could. I participated in the negotiations and settlement discussions  
2 in this case, speaking with my attorneys to answer questions, providing any additional information  
3 needed to assist the negotiations, and discussing the potential terms of the Agreement to evaluate its  
4 adequacy.

5 5. I have reviewed the final Private Attorneys General Act Settlement, discussed the terms  
6 with my attorney, and asked my attorney any questions I had. I believe the settlement terms and  
7 allocations are fair and reasonable given the facts of the case.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
9 true and correct. Executed this 14th day of July 2022 in Sacramento, California.

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Leopold Estrada, Jr.

1 Galen T. Shimoda (Cal. State Bar No. 226752)  
Justin P. Rodriguez (Cal. State Bar No. 278275)  
2 Brittany V. Berzin (Cal. State Bar No. 325121)  
3 **Shimoda & Rodriguez Law, PC**  
9401 East Stockton Boulevard, Suite 120  
4 Elk Grove, CA 95624  
Telephone: (916) 525-0716  
5 Facsimile: (916) 760-3733

6 Attorneys for Plaintiff LEOPOLD ESTRADA, JR.  
7 individually and on behalf of similarly situated employees

8 **SUPERIOR COURT OF CALIFORNIA**  
9  
10 **FOR THE COUNTY OF SACRAMENTO**

11 LEOPOLD ESTRADA, JR., individually and  
12 on behalf of all other similarly situated  
employees,

13 Plaintiff,

14 vs.

15 MAD SECURITY SERVICES, INC., a  
16 California Corporation;  
17 DAVID BLAINE FAIR, an individual;  
18 MARGIE NELL FAIR, an individual; and  
DOES 1 to 100, inclusive,

19 Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**EXHIBIT LIST AND EXHIBITS IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
APPROVE PRIVATE ATTORNEYS  
GENERAL ACT SETTLEMENT AND  
DISMISS CLASS CLAIMS WITHOUT  
PREJUDICE**

Reservation No.: 2654377

Date: August 12, 2022

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

| <b><u>EXHIBIT</u></b> | <b><u>DESCRIPTION</u></b>                                        |
|-----------------------|------------------------------------------------------------------|
| <b>A</b>              | Proposed Private Attorneys General Act Settlement                |
| <b>B</b>              | Plaintiff's Operative Complaint                                  |
| <b>C</b>              | Plaintiff's Letter to the Labor and Workforce Development Agency |
| <b>D</b>              | Proposed Notice of Settlement                                    |
| <b>E</b>              | Proof of Submission of Proposed Settlement Agreement to LWDA     |
| <b>F</b>              | Plaintiff's Itemized Costs                                       |

Dated: July 14, 2022

**Shimoda & Rodriguez Law, PC**

By: \_\_\_\_\_



Galen T. Shimoda  
Justin P. Rodriguez  
Brittany V. Berzin  
Attorneys for Plaintiff

# **EXHIBIT A**

## **SETTLEMENT AGREEMENT OF PLAINTIFF'S PAGA CLAIM**

This Settlement Agreement and General Release ("Agreement") is made and entered into by and between Plaintiff Leopold Estrada, Jr. ("Plaintiff") and Defendants MAD Security Services, Inc., David Blaine Fair and Margie Nell Fair ("Defendants") (Plaintiff and Defendants sometimes collectively referred to as "Parties"), as follows:

### **RECITALS**

A. WHEREAS, Plaintiff alleged a representative claim under the Private Attorneys General Act ("PAGA") for violation of California Labor Code based on Defendants' alleged failure to provide meal periods or pay premiums in lieu thereof, failure to provide rest periods or pay premiums in lieu thereof, failure to maintain accurate records, failure to reimburse expenses, failure to provide accurate wage statements, and failure to pay final wages. Plaintiff submitted notice of said claims to the Labor and Workforce Development Agency ("LWDA") on May 12, 2021.

B. WHEREAS, the LWDA has not stated it intends to investigate the allegations raised in Plaintiff's PAGA letter, thereby authorizing Plaintiff to seek to recover penalties on behalf of Plaintiff and all other Aggrieved Employees of Defendants for the PAGA Claims.

C. WHEREAS, Plaintiff filed a class action complaint in the Sacramento County Superior Court (Case Number 34-2021-00300627) on May 12, 2021 as amended on July 22, 2021, alleging several California Labor Code violations against Defendants, including failure to provide meal periods or pay premiums in lieu thereof, failure to provide rest periods or pay premiums in lieu thereof, failure to maintain accurate records, failure to reimburse expenses, failure to provide accurate wage statements, and failure to pay final wages (the "Action"). In the First Amended Complaint, Plaintiff added a claim for civil penalties pursuant to the PAGA.

D. WHEREAS, the Parties have since engaged in further discussions concerning the merits of Plaintiff's remaining claims.

E. WHEREAS, as a result, the Parties wish to finally settle and resolve all grievances, disputes, controversies, claims, actions, and potential actions between them concerning the PAGA cause of action in order to avoid further litigation and the expenses and costs incident thereto.

NOW, THEREFORE, AND SUBJECT TO COURT APPROVAL, the Parties agree as follows:

#### **1. Non-Admission Of Liability, Wrongdoing, Or Status As A Representative Action.**

This Agreement shall not in any way be construed as an admission by Defendants that Defendants acted wrongfully with respect to Plaintiff or any other employees or individuals. Defendants have specifically denied any liability to, or wrongful acts against Plaintiff, on the part of Defendants and Defendants' parents, subsidiaries, affiliates, predecessors, successors, officers, directors, employees, or agents. Defendants have denied that there is any

factual evidence to support any claims that Plaintiff may bring on behalf of Plaintiff or other alleged Aggrieved Employees.

2. Gross Settlement Amount. In consideration for the covenants, promises, waivers, and releases contained in this Agreement, and subject to Court approval, Defendants shall pay the sum of Twenty-One Thousand Five Hundred Dollars (\$21,500) (“Gross Settlement Amount”) in full and final settlement of the PAGA Claim. As described in more detail below, the remaining amount after deductions for attorney’s fees and costs, *i.e.*, the Net Settlement Amount, will be provided to the LWDA and the Aggrieved Employees as defined below (*i.e.*, 75% of the remaining amount to the LWDA and 25% of the remaining amount to Aggrieved Employees).

- a. Plaintiff’s attorneys’ fees will not exceed \$8,600 and the amount requested for litigation costs will not exceed \$3,500.
- b. Any difference between the amount of attorneys’ fees and costs incurred or approved by the Court and the maximum amounts allocated shall be added to the Net Settlement Amount for distribution between the LWDA and Aggrieved Employees as required under Labor Code § 2699(i) (*i.e.* 75% to the LWDA and 25% to the Aggrieved Employees).

3. Aggrieved Employees and PAGA Claim Period. The scope of the Aggrieved Employees shall include all individuals who have worked, or continue to work, for Defendants in California as a Security Guard or other title performing Security Guard job duties. “PAGA Claim Period” shall be from May 12, 2020 up to either (1) the Final Approval Date or June 30, 2022, whichever is earlier.

4. Release. For and in consideration of the mutual promises and consideration set forth in this Agreement, Plaintiff and Aggrieved Employees, on behalf of themselves, and their heirs, successors, assigns, attorneys and agents, hereby release and forever discharge Defendants, as well as Defendants’ officers, shareholders, directors, agents, employees, attorneys, and insurers (“Releasees”) from all PAGA claims alleged against Defendants in the Complaint, *i.e.*, claims for civil penalties under the Private Attorneys General Act, Cal. Lab. Code §§ 2698 *et seq.* predicated on violations of Labor Code §§ 226, 226.3, 201, 202, 203, 2802, 226.7, 512, 1198 and IWC Wage Order No. 4, §§ 11(A), 11(B), 12(A), and 7(A), including those contained in Plaintiff’s May 12, 2021 letter to the LWDA and/or operative Complaint. This release shall extend through the PAGA Claim Period. However, the Released PAGA Claims shall not extend to any PAGA claims outside of those asserted in the Action or the PAGA Claim Period. Any claims of putative class members shall be dismissed without prejudice.

5. Dismissal of Class Action Claims. Plaintiff will request to dismiss without prejudice any outstanding claims made on behalf of putative class members as alleged in his operative Complaint on file in this Action. Plaintiff and Defendants understand and agree that no money is being paid under this Agreement and that no money is being allocated towards any alleged putative class member as any claims they may have are not being compromised under this Agreement and are being dismissed without prejudice.

6. Distribution Method. The Parties agree that Defendants' counsel will process and distribute the Gross Settlement Amount in accordance with the Agreement. In addition, and subject to Court approval, timelines and methods related to the administration of this Agreement shall be as follows:

- a. After Court approved attorneys' fees and costs are determined and a Net Settlement Amount has been established, that Net Settlement Amount shall be divided between the PAGA Payment and payment to Aggrieved Employees. The PAGA Payment to the LWDA will be 75% of the Net Settlement Amount. 25% of the Net Settlement Amount will be paid to Aggrieved Employees. Each individual Aggrieved Employee's share shall be determined by taking the Qualifying Pay Periods, *i.e.* pay periods worked by Aggrieved Employees during the PAGA Claim Period, for each individual Aggrieved Employee and dividing that by the Qualifying Pay Periods for all Aggrieved Employees and multiplying that fraction by the 25% share of the Net Settlement Amount. Payment to Aggrieved Employees of their Claim Amount will not require the submission of any claim form. A Notice of Settlement informing Aggrieved Employees of the basic information regarding the reason for the payment and the claims waived will be provided with the payment to Aggrieved Employees.
- b. Within 14 calendar days after the Court signs and files an order approving of this agreement, Defendants' counsel shall calculate and report to the Parties the Net Settlement Amount, the PAGA Payment, and each Aggrieved Employees share of the Net Settlement Amount.
- c. Funding of the Gross Settlement Amount shall occur within 14 calendar days after a signed order approving this Agreement has been filed. This Agreement shall become effective upon the date a signed order approving this Agreement has been filed unless there is a timely objection lodged that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day after a signed order approving this settlement has been filed provided no appellate proceeding having been filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been finally dismissed with no material change to the terms of this settlement and there is no right to pursue further remedies or relief, whichever is later ("Effective Date").
- d. Within 7 calendar days after funding, Defendants' counsel will mail the Notice of Settlement and payment to Aggrieved Employees. Defendants' counsel will also deliver payment of Plaintiff's counsel's attorney's fees and costs, and the PAGA Payment at this time.
- e. One Hundred Percent (100%) of the PAGA Payment and payment to Aggrieved Employees will be considered 1099 income representing payment for penalties. Defendants shall be responsible for all tax reporting and documentation related to payment under this Agreement.

- f. Aggrieved Employees shall have 120 days to cash their respective settlement checks. Any checks not negotiated within the 120 days will be voided and will not be reissued. Any unclaimed funds from payment to the Aggrieved Employees shall be donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc. and the Center For Workers' Rights under the doctrine of *cy pres*.

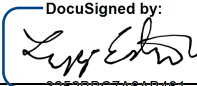
7. Number of Pay Periods. Defendants have represented that as of November 24, 2021 there were no more than 38.5 pay periods in the PAGA Claim Period. In the event the number of pay periods during the PAGA Claim Period is more than 46.5 (*i.e.*, greater than 20% more than 38.5), then the Gross Settlement Amount shall be increased proportionally by the pay periods in excess of 46.5, multiplied by the pay period value of \$244.16. For example, if there were 38.5 pay periods represented to exist during the PAGA Claim Period, but there are actually 52 pay periods in the PAGA Claim Period, Defendants would have to increase the Gross Settlement Amount by \$1,342.88 (52 pay periods – 46.5 pay periods = 5.5 pay periods x 244.16/pay period).

8. Applicable Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain jurisdiction solely with respect to the interpretation, implementation, and enforcement of the terms of this Agreement, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith. In the case of a dispute regarding the payment of the Gross Settlement Amount or the enforcement of this Agreement, the prevailing party shall be entitled to recover their attorneys' fees and costs.

9. Counterparts. This Agreement may be signed in counterparts. Fax, scan, and/or electronic copies of signatures shall be deemed effective as originals.

**For Plaintiff:**

Date: 6/14/2022

DocuSigned by:  
  
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\_\_\_\_\_  
Leopold Estrada, Jr.

**For Defendants:**

Date: \_\_\_\_\_

\_\_\_\_\_  
By:  
For MAD Security Services, Inc.

Date: \_\_\_\_\_

\_\_\_\_\_  
By:  
For David Blaine Fair

Date: \_\_\_\_\_

\_\_\_\_\_  
By:  
For Margie Nell Fair

APPROVED AS TO FORM

**Shimoda & Rodriguez Law, PC**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Galen T. Shimoda  
Justin P. Rodriguez  
Brittany V. Berzin  
Attorney for Plaintiff and Aggrieved  
Employees

APPROVED AS TO FORM

**COOK BROWN, LLP**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Brian D. Bertossa  
Attorney for Defendants

- f. Aggrieved Employees shall have 120 days to cash their respective settlement checks. Any checks not negotiated within the 120 days will be voided and will not be reissued. Any unclaimed funds from payment to the Aggrieved Employees shall be donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc. and the Center For Workers' Rights under the doctrine of *cypres*.

7. Number of Pay Periods. Defendants have represented that as of November 24, 2021 there were no more than 38.5 pay periods in the PAGA Claim Period. In the event the number of pay periods during the PAGA Claim Period is more than 46.5 (*i.e.*, greater than 20% more than 38.5), then the Gross Settlement Amount shall be increased proportionally by the pay periods in excess of 46.5, multiplied by the pay period value of \$244.16. For example, if there were 38.5 pay periods represented to exist during the PAGA Claim Period, but there are actually 52 pay periods in the PAGA Claim Period, Defendants would have to increase the Gross Settlement Amount by \$1,342.88 (52 pay periods – 46.5 pay periods = 5.5 pay periods x 244.16/pay period).

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9. Counterparts. This Agreement may be signed in counterparts. Fax, scan, and/or electronic copies of signatures shall be deemed effective as originals.

**For Plaintiff:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Leopold Estrada, Jr.

**For Defendants:**

Date: 6-14-2022

\_\_\_\_\_  
By: David Blaine Fair  
For MAD Security Services, Inc.

Date: 6-14-2022

\_\_\_\_\_  
By: David Blaine Fair  
For David Blaine Fair

Date: 6-14-22

Margie Nell Fair  
By:  
For Margie Nell Fair

APPROVED AS TO FORM

Dated: 6/14/22

Shimoda & Rodriguez Law, PC

By: [Signature]  
Galen T. Shimoda  
Justin P. Rodriguez  
Brittany V. Berzin  
Attorney for Plaintiff and Aggrieved  
Employees

APPROVED AS TO FORM

Dated: 6.14.22

COOK BROWN, LLP

By: [Signature]  
Brian D. Bertossa  
Attorney for Defendants

# **EXHIBIT B**

1 Galen T. Shimoda (Cal. State Bar No. 226752)  
2 Justin P. Rodriguez (Cal. State Bar No. 278275)  
3 Brittany V. Berzin (Cal. State Bar No. 325121)  
4 **Shimoda Law Corp.**  
5 9401 East Stockton Blvd., Suite 120  
6 Elk Grove, CA 95624  
7 Telephone: (916) 525-0716  
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LEOPOLD ESTRADA, JR.,  
10 on behalf of himself and similarly situated employees

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**07/22/2021**  
**rsanmiguel**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2021-00300627**

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**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SACRAMENTO**

LEOPOLD ESTRADA, JR., as an  
individual, and on behalf of all others  
similarly situated,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a  
California Corporation;  
DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual;  
and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2021-00300627

**CLASS ACTION**

**FIRST AMENDED COMPLAINT FOR  
DAMAGES**

1. Failure to Provide Meal Periods
2. Failure to Provide Rest Periods
3. Failure to Provide Reimbursements
4. Failure to Provide Accurate Wage Statements
5. Waiting Time Penalties
6. Unfair Competition
7. Private Attorneys General Act

**JURY TRIAL DEMANDED**

Plaintiff LEOPOLD ESTRADA, JR. ("Plaintiff"), on behalf of himself and all other similarly situated employees, hereby files this Complaint against Defendants MAD SECURITY SERVICES, INC., a California Corporation; DAVID BLAINE FAIR, an individual; MARGIE NELL FAIR, an individual; and DOES 1 to 100, inclusive (hereinafter collectively referred to as "Defendants").

1 Plaintiff is informed and believes, and on the basis of that information and belief, alleges the  
2 following:

3 **INTRODUCTION**

4 1. This is a class action brought by Plaintiff seeking unpaid meal and rest period  
5 premiums, unpaid reimbursement expenses, and derivative penalties for failure to provide accurate  
6 wage statements and pay all wages at termination.

7 **JURISDICTION AND VENUE**

8 2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to  
9 California Code of Civil Procedure § 410.10 to determine alleged violations of the California Labor  
10 Code, the California Business and Professions Code, and Industrial Welfare Commission Wage  
11 Order (“Wage Order”) No. 4-2001.

12 3. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some  
13 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.  
14 Additionally, Defendants’ obligation to pay wages arose in Sacramento County pursuant to *Madera*  
15 *Police Officers Assn. v. City of Madera*, 36 Cal.3d 403, 414 (1984) and Defendants’ principal place  
16 of business is within San Joaquin County.

17 4. Plaintiff sought permission pursuant to Labor Code section 2699 *et seq.* to pursue the  
18 claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of himself  
19 and other similarly situated employees. Pursuant to Labor Code section 2699.3, Plaintiff gave written  
20 notice via online submission to the Labor and Workforce Development Agency (“LWDA”) on  
21 approximately May 12, 2021. Plaintiff provided facts and legal bases for his claims within the notice to  
22 the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiff  
23 submitted the \$75.00 filing fee. The May 12, 2021 notice was also sent via certified mail to Defendants  
24 on the same day. Plaintiff is informed and believes, that to date, the LWDA has not provided any  
25 response to Plaintiff’s notice correspondence. Accordingly, Plaintiff is informed and believes that he  
26 has exhausted all administrative remedied pursuant to the Private Attorneys General Act and may bring  
27 this action on behalf of himself and all similarly situated employees. *See* Cal. Labor Code §  
28

1 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc. v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19  
2 (2005).

3 **PARTIES**

4 5. Plaintiff LEOPOLD ESTRADA, JR. is over the age of eighteen (18) and is a resident  
5 of the State of California.

6 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant MAD  
7 SECURITY SERVICES, INC., is now and/or at all times mentioned in this Complaint was a  
8 California Corporation and the owner and operator of an industry, business and/or facility licensed to  
9 do business and actually doing business in the State of California.

10 7. Plaintiff is informed and believes, and thereupon alleges, that DAVID BLAINE FAIR  
11 is an individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff  
12 further alleges that DAVID BLAINE FAIR is an owner, director, officer, and/or managing agent of  
13 MAD SECURITY SERVICES, INC. responsible for causing the violations outlined in the first  
14 through fifth and seventh causes of action. As such DAVID BLAINE FAIR is individually liable  
15 pursuant to California Labor Code section 558.1.

16 8. Plaintiff is informed and believes, and thereupon alleges, that MARGIE NELL FAIR  
17 is an individual over the age of eighteen (18) and is a resident of the State of California. Plaintiff  
18 further alleges that MARGIE NELL FAIR is an owner, director, officer, and/or managing agent of  
19 MAD SECURITY SERVICES, INC. responsible for causing the violations outlined in the first  
20 through fifth and seventh causes of action. As such MARGIE NELL FAIR is individually liable  
21 pursuant to California Labor Code section 558.1.

22 9. Defendants DOES 1 through 100 are persons and entities whose true names and  
23 identities are presently unknown to Plaintiff, and who therefore are sued by such fictitious names.  
24 Plaintiff is informed and believes, and on that basis alleges that each of the fictitiously named  
25 Defendants is responsible in some manner for the matters alleged herein and is jointly and severally  
26 liable to Plaintiff. Plaintiff will seek leave of court to amend this Complaint to state the true names  
27 and capacities of such fictitiously named Defendants when ascertained.

28 //

10. At all times mentioned herein, each Defendant was the agent or employee of each of the other Defendants and were acting within the course and scope of such agency or employment. The Defendants are jointly and severally liable to Plaintiffs.

11. Defendants, and each of them, are now and/or at all times mentioned in this Complaint were members of and/or engaged in a joint employment, joint venture, partnership and common enterprise, and were acting within the course and scope of, and in pursuance of said joint employment, joint venture, partnership and common enterprise.

12. Defendants, and each of them, are now and/or at all times mentioned in this Complaint approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

13. Defendants proximately caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or damages alleged in this Class Action Complaint.

## CLASS ALLEGATIONS

14. Plaintiff brings this action, on behalf of himself and all others similarly situated, as a class action pursuant to California Code of Civil Procedure section 382. The classes that Plaintiff seeks to represent is composed of and defined as follows:

All non-exempt hourly employees who have, or continue to, perform work for Defendants within California as a Security Guard or other title performing Security Guard job duties from May 12, 2017 up to the present date.

15. This action has been brought and may be properly maintained as a class action, pursuant to the provision of California Code of Civil Procedure section 382, because there is a well-defined community of interests in the litigation and the proposed class is easily ascertainable.

(a) **Numerosity:** The Plaintiff's Class is so numerous that the individual joinder of all members is impracticable under the circumstances of this case. While the exact number of class members is unknown to Plaintiff at this time, based upon the number of employees Defendants has employed throughout the State of California or who were California residents during the time Defendants employed them during the applicable statute of limitations, Plaintiff is informed and

1 believes that as many as fifty (50) or more individuals were subjected to the practices outlined in this  
2 Complaint. As such, joinder of all members of the Plaintiff's Class is not practicable.

3 (b) Common Questions Predominate: Common questions of law and fact exist as to all  
4 members of the Plaintiff's Class and predominate over questions which affect only individual  
5 members of the class. These common questions of law and fact include, without limitation, the  
6 following:

- 7 (1) Whether Defendants' employees are owed any reimbursement expenses;
- 8 (2) Whether Defendants had a policy to reimburse its employees for expenses;
- 9 (3) Whether Defendants' employees were given paystubs that complied with  
10 California Labor Code section 226;
- 11 (4) Whether Defendants' scheduling, meal period, and pay policies made it so  
12 class members were not provided with legally compliant meal periods;
- 13 (5) Whether Defendants' scheduling, rest period, and pay policies made it so class  
14 members were not provided with legally compliant rest periods;
- 15 (6) Whether Defendants had a policy and practice to require on-duty meal and rest  
16 periods;
- 17 (7) Whether Defendants had any pattern or practice to pay meal and rest period  
18 premiums;
- 19 (8) Whether Defendants had a policy and/or practice of failing to pay Plaintiff all  
20 wages due on termination;

21 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the class.  
22 Plaintiff also sustained damages arising out of Defendants' common course of conduct in violation  
23 of the law as complained of herein. Plaintiff, and all members of the class, worked as non-exempt  
24 employees and were not reimbursed for using their personal cellphones, were not provided legally  
25 compliant meal and rest periods, were not provided legally compliant wage statements, and were not  
26 timely paid their final wages.

27 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of  
28 the class. Plaintiff resides in California, worked for Defendants in California, and is an adequate

1 representative of the class as he has no interests which are adverse to those of absent class members.  
2 Additionally, Plaintiff has retained counsel who has substantial experience in complex civil litigation  
3 and wage and hour matters.

4 (e) Superiority: A class action is superior to other available means for the fair and  
5 efficient adjudication of the controversy since individual joinder of all members of the class is  
6 impracticable. Class action treatment will permit a larger number of similarly situated persons to  
7 prosecute their common claims in a single forum simultaneously, efficiently, and without the  
8 unnecessary duplication of effort and expense that numerous individual actions would engender.  
9 Further, as damages suffered by each individual member of the class may be relatively small, the  
10 expenses and burden of the individual litigation would make it difficult or impossible for individual  
11 members of the class to redress the wrongs done to them, while an important public interest will be  
12 served by addressing the matter as a class action. The cost to the court system of adjudication of  
13 such individualized litigation would be substantial. Individualized litigation would also present the  
14 potential for inconsistent or contradictory judgments.

15 16. Plaintiff is unaware of any difficulties that are likely to be encountered in the  
16 management of this action that would preclude its maintenance as a class action.

#### 17 FACTUAL ALLEGATIONS

18 17. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 16 as though  
19 fully set forth herein.

20 18. Plaintiff worked for Defendants from approximately June 2020 to February 2021 as  
21 an hourly, non-exempt security guard. Plaintiff and similarly situated employees regularly worked  
22 eight (8) hours a day or more.

23 19. Defendants failed to authorize and permit Plaintiff and similarly situated employees  
24 to take all meal and rest periods owed to them. Defendants required Plaintiff and similarly situated  
25 employees to remain on the work premises during their meal and rest breaks, patrol the area, always  
26 keep cellphones with them and respond to any texts or calls received from dispatch, and to remain  
27 vigilant in case there was a security incident. Plaintiff and similarly situated employees worked  
28 more than 10 hours in a day Defendants did not authorize and permit them to take second meal

1 periods or third rest periods. Defendants did not pay Plaintiff and similarly situated employees all  
2 meal or rest period premiums owed to them.

3 20. As a result of Defendants' failure to pay Plaintiff and similarly situated employees  
4 meal and rest period premiums, Plaintiff and similarly situated employees were not paid all wages  
5 owed to them upon their termination or resignation. Additionally, Defendants failed to itemize the  
6 correct gross and net wages earned, missed meal and rest period premiums, and corresponding rates  
7 of pay on Plaintiff's and similarly situated employees' paystubs.

8 21. Further, Defendants did not reimburse Plaintiff and similarly situated employees for  
9 the use of their personal cellphones for work. Defendants required Plaintiff and similarly situated  
10 employees to download a Paylocity app on their personal cellphones to clock in and out for work  
11 and to remain in contact with the office/dispatch during their shifts using their personal cellphones.  
12 Defendants required Plaintiff and similarly situated employees to call or text dispatch within the first  
13 hour of their assigned shifts and periodically throughout their shift. Plaintiff and similarly situated  
14 employees were also expected to respond to any texts or phone calls from dispatch and report any  
15 incidents that occurred on their shift to dispatch. Defendants regularly required Plaintiff and  
16 similarly situated employees to incur personal cellphone expenses without paying any  
17 reimbursements.

18 22. Defendants failed to keep accurate records of the hours Plaintiff and similarly situated  
19 employees worked. Defendants did not keep track of the start and end times of Plaintiff's and  
20 similarly situated employees' meal periods.

21 23. Defendant MAD Security Services, Inc. identified Defendant David Blaine Fair in its  
22 filings with the California Secretary of State as the Chief Executive Officer and officer during the  
23 class period. Defendant MAD Security Services, Inc. identified Defendant Margie Nell Fair in its  
24 filings with the California Secretary of State as the Chief Financial Officer and Secretary during the  
25 class period. Plaintiff is informed and believes that David Blaine Fair and Margie Nell Fair were  
26 owners of MAD Security Services, Inc. during the class period and responsible for creating and  
27 electing to implement MAD Security Services, Inc.'s payroll and compensation policies and  
28 practices or that they were aware of such policies and practices and ratified them.

**CAUSES OF ACTION**  
**FIRST CAUSE OF ACTION**  
**FAILURE TO PROVIDE MEAL PERIODS**  
**(As to Defendants)**

24. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 23 as though fully set forth herein.

25. An employer must provide an employee a meal period in accordance with the applicable Wage Order, and Labor Code sections 226.7 and 512.

26. Labor Code sections 226.7 and 512 and Wage Order 4, section 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30) minutes for each work period of more than five (5) hours.

27. Labor Code section 512 and Wage Order 4, section 11(B) further provide that employers may not employ employees for a work period for more than ten (10) hours per day without providing the employee with a second meal period of at least thirty (30) minutes. However, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period.

28. Plaintiff alleges that Defendants employed Plaintiff and similarly situated employees for periods of more than five (5) hours without providing meal periods of at least thirty (30) minutes and more than ten (10) hours without providing a second meal period. Plaintiff and similarly situated employees did not waive their rights to any meal periods throughout their employment relationship.

29. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

30. As a proximate cause of Defendants' failure to permit meal periods as legally required, Plaintiff and similarly situated employees are entitled to one (1) hour of pay at their regular rate of compensation for each meal period not provided, as a wage, from three (3) years of the filing of this action. Labor Code § 226.7 and Wage Order 4, § 11(D).

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**SECOND CAUSE OF ACTION**  
**FAILURE TO PROVIDE REST PERIODS**  
**(As to Defendants)**

31. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 30 above as though fully set forth herein.

32. An employer must provide an employee a rest period in accordance with the applicable Wage Order and Labor Code sections 226.7.

33. Section 12(A) of the applicable wage order requires every employer to authorize and permit employees to take rest periods. For each four (4) hours or major fraction thereof worked by the employee, the employee shall receive ten (10) minutes net rest time.

34. Plaintiff alleges that Defendants failed to provide Plaintiff and similarly situated employees with a paid, off-duty rest break of ten (10) minutes for each four (4) hours or major fraction thereof worked.

35. As a proximate cause of Defendants' failure to provide Plaintiff's paid, off-duty rest breaks, Plaintiff, and similarly situated employees, are entitled to one (1) hour of pay at the employees' regular rate of compensation for each rest period not provided as a wage, from three (3) years of the filing of this Complaint. *See* Labor Code § 226.7.

**THIRD CAUSE OF ACTION**  
**FAILURE TO PAY REIMBURSEMENT EXPENSES**  
**(As to Defendants)**

36. Plaintiff herein incorporates by reference paragraphs 1 through 35 above as though fully set forth herein.

37. Labor Code section 2802(a) states that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

38. Defendants required Plaintiff and those similarly situated to make personal expenditures by using their personal cellphones. These expenses are reimbursable as they were incurred by Plaintiff at the direction of Defendants and in the discharge of Plaintiff's and similarly

1 situated employees job duties required job responsibilities. However, Defendants had a pattern and  
2 practice of not reimbursing Plaintiff and similarly situated employees.

3 39. Defendants' conduct described herein violated California Labor Code section 2802.

4 40. Plaintiff suffered damages legally caused by Defendants' acts as stated in the section  
5 below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in  
6 full.

7 **FOURTH CAUSE OF ACTION**  
8 **WAGE STATEMENT VIOLATIONS**  
9 **(As to Defendants)**

10 41. Plaintiff herein incorporates by reference paragraphs 1 through 40 above as though  
11 fully set forth herein.

12 42. According to Labor Code section 226(a), an employer must provide an itemized  
13 statement to an employee, semimonthly or at the time of each payment of wages, showing:

14 *(1) gross wages earned, (2) total hours worked by the employee, except for*  
15 *any employee whose compensation is solely based on a salary and who is*  
16 *exempt from payment of overtime under subdivision (a) of Section 515 or*  
17 *any applicable order of the Industrial Welfare Commission, (3) the*  
18 *number of piece-rate units earned and any applicable piece rate if the*  
19 *employee is paid on a piece-rate basis, (4) all deductions, provided that*  
20 *all deductions made on written orders of the employee may be aggregated*  
21 *and shown as one item, (5) net wages earned, (6) the inclusive dates of the*  
22 *period for which the employee is paid, (7) the name of the employee and*  
23 *the last four digits of his or her social security number or an employee*  
24 *identification number other than a social security number, (8) the name*  
25 *and address of the legal entity that is the employer and, if the employer is*  
26 *a farm labor contractor, as defined in subdivision (b) of Section 1682, the*  
27 *name and address of the legal entity that secured the services of the*  
28 *employer, and (9) all applicable hourly rates in effect during the pay*  
*period and the corresponding number of hours worked at each hourly rate*  
*by the employee. The deductions made from payment of wages shall be*  
*recorded in ink or other indelible form, properly dated, showing the*  
*month, day, and year, and a copy of the statement and the record of the*  
*deductions shall be kept on file by the employer for at least three years at*  
*the place of employment or at a central location within the State of*  
*California.*

43. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an  
itemized statement or failed to provide an accurate and complete itemized statement showing the  
requirements set forth in Labor Code section 226(a). Defendants did not itemize all meal and rest period  
premiums and the corresponding rate of pay or the correct amount of gross and net wages. As a result,

1 Plaintiff and those similarly situated were unable to determine the amount of unpaid wages owed to  
2 them.

3 44. Additionally, Plaintiff alleges that they suffered injury as a result of (1) Defendants'  
4 failure provide a wage statement, or (2) by Defendants' failure to provide accurate and complete  
5 information as required by any one or more of items (1) to (9), inclusive, of Labor Code section 226,  
6 subdivision (a), and Plaintiff cannot promptly and easily determine (*i.e.* a reasonable person in  
7 Plaintiff's position would not be able to readily ascertain the information without reference to other  
8 documents or information) from the wage statement alone, one or more of the following:

- 9 a. The amount of the gross wages or net wages paid to the employee during the pay  
10 period or any of the other information required to be provided on the itemized wage  
11 statement pursuant to items (2) to (4), inclusive, (6), and (9) of section 226,  
12 subdivision (a).

13 45. As a proximate cause of Defendants' failure to provide accurate statements, Plaintiff was  
14 damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent  
15 pertinent as if set forth here in full.

16 **FIFTH CAUSE OF ACTION**  
17 **WAITING TIME PENALTIES**  
18 **(As to Defendants)**

19 46. Plaintiff herein incorporates by reference paragraphs 1 through 45 above as though  
20 fully set forth herein.

21 47. An employer must pay an employee who is terminated all unpaid wages immediately  
22 upon termination. Labor Code § 201.

23 48. An employer must pay an employee who resigns all unpaid wages within seventy-two  
24 (72) hours of their resignation. Labor Code § 202.

25 49. Plaintiff did not receive all wages, including meal and rest period premiums within the  
26 legally required time from separation.

27 50. An employer who willfully fails to pay an employee wages in accordance with Labor  
28 Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to 30 days. Labor  
Code § 203.

51. Defendants knew of their obligation to pay Plaintiff meal and rest period premiums because it is black letter law that employers cannot simply require on-call and/or on duty meal and rest periods, cannot require employees stay on premises for meal and rest periods, and a second meal period must be provided for employees working beyond ten (10) hours a day. Defendants had knowledge of what its own policies and practices were, which were also in violation of these laws on meal and rest periods. Thus, Defendants' failure to pay meal and rest period premiums was in complete disregard of their obligations. Such conduct shows Defendants' knowledge of its obligation to pay all wages owed upon termination and willful refusal.

52. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of his wages and seeks their daily rate of pay multiplied by 30 days for Defendants' failure to pay all wages due.

**SIXTH CAUSE OF ACTION**  
**UNFAIR COMPETITION**  
**(As to MAD Security Services, Inc. and DOES 1 to 100)**

53. Plaintiff herein incorporates by reference paragraphs 1 through 52 above as though fully set forth herein.

54. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See California Business and Professions (“B&P”) Code § 17200.*

55. Through Defendants' conduct Plaintiffs and similarly situated employees were denied statutory protections regarding meal and rest periods. Plaintiffs are also informed and believe and thereon allege that such actions and/or conduct constitute a violation of the California Unfair Competition Law ("UCL") (Business and Professions Code 17200 *et seq.*).

56. As a direct and legal result of Defendants' conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiffs are entitled to restitution as a result of its unfair business practices, including, but not limited to, interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor Code sections 226.7, 510, 512, and 1194, all in an amount as yet unascertained but subject to proof at trial, for four (4) years from the filing of this Complaint.

**SEVENTH CAUSE OF ACTION**  
**PRIVATE ATTORNEYS GENERAL ACT**  
**(As to Defendants)**

57. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 56 as though fully set forth herein.

58. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the following provisions of the Labor Code in their dealings with him and other similarly situated current and former employees:

- Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements For Expenses)
- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 226.7, 512; IWC Wage Order 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 226.7; IWC Wage Order 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)
- Violation of Labor Code § 1198; IWC Wage Order 4, § 7(A) (Failure to Maintain Accurate Records)

59. Plaintiff seeks civil penalties against Defendants as provided in the Labor Code, or, if no civil penalty is provided, default penalties pursuant to Labor Code section 2699(f)(2).

60. Plaintiff seeks these civil penalties from Defendants pursuant to Labor Code sections 2699(a) and 2699.3.

**DAMAGES**

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. A jury trial; and
2. As to the First Cause of Action:
  - a. Wages in an amount proven at trial;

- 1           b. Attorney's fees pursuant to California Code of Civil Procedure section 1021.5;
- 2   3. As to the Second Cause of Action:
- 3           a. Wages in an amount proven at trial;
- 4           b. Attorney's fees pursuant to California Code of Civil Procedure section 1021.5;
- 5   4. As to the Third Cause of Action:
- 6           a. For compensatory damages in an amount proven at trial;
- 7           b. For reasonable attorney's fees and costs pursuant to Labor Code section 2802;
- 8   5. As to the Fourth Cause of Action:
- 9           a. Penalties as provided for in Labor Code section 226, including the greater of all
- 10           actual damages or fifty dollars (\$50) for the initial pay period in which the
- 11           violation occurred and one hundred dollars (\$100) per employee for each
- 12           violation in the subsequent pay periods, but not to exceed four thousand dollars
- 13           (\$4,000);
- 14           b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
- 15           226(e);
- 16           c. For total penalties in an amount proven at trial;
- 17   6. As to the Seventh Cause of Action:
- 18           a. For civil penalties as provided for in the Labor Code for each enumerated violation in
- 19           an amount proven at trial;
- 20           b. For those Labor Code sections, the violation of which there is no civil penalty
- 21           provided, the default penalty provided in Labor Code section 2699(f): for any initial
- 22           violation, one hundred dollars (\$100) for each aggrieved employee per pay period;
- 23           For any subsequent violation, two hundred dollars (\$200) for each aggrieved
- 24           employee per pay period;
- 25           c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 26           d. For any other remedies as allowed by law and/or deemed appropriate by the Court;
- 27   7. For such other and further relief this Court may deem just and proper, including, but not
- 28   limited to:

- 1 a. Wages as proven at trial;  
2 b. Reasonable attorney's fees and costs as provided by law; and  
3 c. Interest  
4

5 DATED: July 21, 2021

**Shimoda Law Corp.**

6  
7 By: 

Galen T. Shimoda  
Justin P. Rodriguez  
Brittany V. Berzin  
Attorneys for Plaintiff  
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# **EXHIBIT C**



Shimoda Law Corp.  
9401 East Stockton Blvd.  
Suite #200  
Elk Grove, CA 95624  
Ph. (916) 525-0716  
Fax (916) 760-3733  
www.shimodalaw.com

May 12, 2021

**For Online Filing:**

Labor and Workforce Development Agency  
Attn. PAGA Administrator  
1515 Clay Street, Ste. 801  
Oakland, CA 94612

**Re: *Estrada v. MAD Security Services, Inc.***

Dear Labor Commissioner,

As counsel for Leopold Estrada, Jr. ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

Mad Security Services, Inc.  
3941 Park Dr. Suite 20-427  
El Dorado Hills, CA 95762

David Blaine Fair  
1600 Sacramento Inn Way Suite 130  
Sacramento, CA 95815

Margie Nell Fair  
1600 Sacramento Inn Way Suite 130  
Sacramento, CA 95815

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against MAD Security Services, Inc., David Blaine Fair and Margie Nell Fair ("Defendants"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but is not limited to the following: all individuals who have worked, or continue to work, for Defendants in California as a Security Guard or other title performing Security Guard job duties. Plaintiff is clearly entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745, 757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).

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**A. FACTS**

Plaintiff worked for Defendants during 2015 and from approximately June 1, 2020 to February 18, 2021 as an hourly, non-exempt security guard. Plaintiff and Aggrieved Employees regularly worked eight (8) hours a day or more.

Defendants failed to authorize and permit Plaintiff and Aggrieved Employees to take all meal and rest periods owed to them. Defendants required Plaintiff and Aggrieved Employees to remain on the work premises during their meal and rest breaks, patrol the area, always keep cellphones with them and respond to any texts or calls received from dispatch, and to remain vigilant in case there was a security incident. Plaintiff and similarly situated employees worked more than 10 hours in a day Defendants did not authorize and permit them to take second meal periods or third rest periods. Defendants did not pay Plaintiff and Aggrieved Employees all meal or rest period premiums owed to them.

As a result of Defendants' failure to pay Plaintiff and Aggrieved Employees meal and rest period premiums, Plaintiff and similarly situated employees were not paid all wages owed to them upon their termination or resignation. Additionally, Defendants failed to itemize the correct gross and net wages earned, missed meal and rest period premiums, and corresponding rates of pay on Plaintiff's and Aggrieved Employees' paystubs.

Further, Defendants did not reimburse Plaintiff and Aggrieved Employees for the use of their personal cellphones for work. Defendants required Plaintiff and Aggrieved Employees to download a Paylocity app on their personal cellphones to clock in and out for work and to remain in contact with the office/dispatch during their shifts using their personal cellphones. Defendants required Plaintiff and Aggrieved Employees to call or text dispatch within the first hour of their assigned shifts and periodically throughout their shift. Plaintiff and Aggrieved Employees were also expected to respond to any texts or phone calls from dispatch and report any incidents that occurred on their shift to dispatch. Defendants regularly required Plaintiff and similarly situated employees to incur personal cellphone expenses without paying any reimbursements.

Defendants failed to keep accurate records of the hours Plaintiff and Aggrieved Employees worked. Defendants did not keep track of the start and end times of Plaintiff's and Aggrieved Employees' meal periods.

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## **B. ALLEGATIONS AND CHARGES**

### **Count One - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)**

Labor Code section 226.7 and Wage Order No. 4, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 4, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

### **Count Two – Violation of Labor Code § 226.7 and Wage Order No. 4, § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)**

Labor Code section 226.7 and Wage Order No. 4, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

### **Count Three – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)**

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee . . . .” For



the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

**Count Four – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)**

Labor Code sections 201-203 require that all wages, including meal and rest period premiums be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

**Count Five – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)**

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to pay any reimbursements for personal cellphones by Plaintiff and Aggrieved Employees. This was in violation of the law.

**Count Six – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)**

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants’ agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. David Blaine Fair and Margie Nell Fair were officers, directors, shareholders, and/or managing agents of MAD Security Services, Inc. responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.

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**Count Seven – Violation of Labor Code § 1198 and Wage Order No. 4, § 7 (Failure to Maintain Accurate Records)**

Labor Code section 1198 provides the standard conditions of labor fixed by the commission shall be the standard conditions of labor for employees. The records requirement in Wage Order No. 4, § 7 is a “standard condition of labor fixed by the commission.” *See* Cal. Labor Code § 1198. It provides, “Every employer shall keep accurate information with respect to each employee, including ... time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded ... Total hours worked during the payroll period and applicable rates of pay...” *See* Wage Order No. 4, § 7. Defendants failed to keep accurate records in compliance with Wage Order No. 4, § 7 and Labor Code § 1198. This was against the law.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

**Shimoda Law Corp.**

By: \_\_\_\_\_

  
Justin P. Rodriguez

JPR:bb

cc: Client via e-mail

1 *Estrada v. MAD Security Services, Inc.*

2 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**  
3 **and California Rules of Court, Rule 1.21 and Rule 2.150**

4 I, Caitlyn A. Lopez, declare that:

5 I am a citizen of the United States and am over the age of eighteen years and not a party to  
6 the within above-entitled action.

7 On May 12, 2021, I served the following documents on the party below:

- 8 • Private Attorney General Act Letter

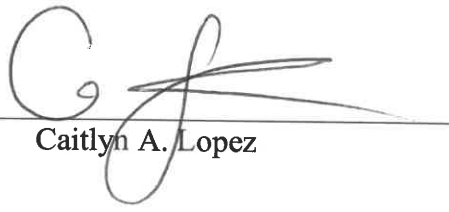
|                                                                                                |                                                                                |
|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| 9 Mad Security Services, Inc.<br>10 3941 Park Dr. Suite 20-427<br>11 El Dorado Hills, CA 95762 | David Blaine Fair<br>1600 Sacramento Inn Way Suite 130<br>Sacramento, CA 95815 |
| 12 Margie Nell Fair<br>13 1600 Sacramento Inn Way Suite 130<br>14 Sacramento, CA 95815         |                                                                                |

15 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection  
16 and processing of correspondence for mailing with the United States Postal  
17 Service and that each day's mail is deposited with the United States Postal  
18 Service that same day in the ordinary course of business. On the date set forth  
19 above, I served the aforementioned document(s) on the parties in said action by  
placing a true copy thereof enclosed in a sealed envelope with postage thereon  
fully prepaid, for collection and mailing on this date, following ordinary business  
practices, at Elk Grove, California, addressed as set forth above.

20 [ ] [By Personal Service] By personally delivering a true copy thereof to the office  
of the addressee above.

21 [ ] [By Overnight Courier] By causing a true copy and/or original thereof to be  
22 personally delivered via the following overnight courier service:\_\_\_\_\_.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing  
24 is true and correct, and that this declaration was executed on May 12, 2021, at Elk Grove, California.

25  
26   
27 Caitlyn A. Lopez  
28

# **EXHIBIT D**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

**Case No. 34-2021-00300627**

LEOPOLD ESTRADA, JR., individually and on behalf of  
all other similarly situated employees,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a California  
Corporation; DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual; and DOES 1 to 100,  
inclusive,

Defendants.

**NOTICE OF PRIVATE ATTORNEYS GENERAL  
ACT SETTLEMENT PAYMENT**

**TO:** All individuals who have worked, or continue to work, for Defendants in California as a Security Guard or other title performing Security Guard job duties from May 12, 2020 up to June 30, 2022 (the “Aggrieved Employees”)

This Notice is being provided to you to inform you of a Private Attorney General Act (“PAGA”) Settlement and your proportional share of this settlement payment. The payment is a result of a Court approved PAGA Settlement in the case of *Estrada v. MAD Security Services, Inc.*, California Superior Court County of Sacramento, Case No. 34-2021-00300627, filed May 12, 2021 (the “Action”). You are receiving this letter because you fall within the definition of Aggrieved Employees identified above.

In the Action, Plaintiff Leopold Estrada, Jr. (“Plaintiff”) sought to obtain civil penalties, fees, and costs on behalf of himself and Aggrieved Employees. Plaintiff alleged that MAD Security Services, Inc., David Blaine Fair and Margie Nell Fair (“Defendants”) failed to provide legally compliant meal periods or pay premiums in lieu thereof, failed to provide legally compliant rest periods or pay premiums in lieu thereof, failed to reimburse for personal cellphone use, failed to provide accurate wage statements, failed to timely pay all final wages, and failed to maintain accurate records. Defendants have denied all of Plaintiff’s allegations.

The Court approved the settlement on [DATE]. This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Action or the merits of the claims or defenses asserted. The Court has not made any determination as to whether the claims advanced by Plaintiff have any merit. Defendants have denied engaging in any unlawful conduct in any respect and further dispute all of Plaintiff’s allegations in the Action. By entering into the PAGA Settlement, Defendants do not admit any liability to Plaintiff or to any other current or former employees, and Defendants do not admit that any violations of Plaintiff’s rights, or the rights of any other current or former employees have occurred.

Plaintiff filed a notice with the California Labor and Workforce Development Agency (“LWDA”) to exhaust administrative remedies and pursue claims under the PAGA, California Labor Code §§ 2698 *et seq.*, predicated on alleged violations of Labor Code sections 226, 226.3, 201, 202, 203, 2802, 226.7, 512, 1198 and IWC Wage Order No. 4, §§ 11(A), 11(B), 12(A), and 7(A). The scope of the PAGA Settlement includes all of the Aggrieved Employees for the time period identified above. In exchange for payment under the Settlement, Plaintiff and Aggrieved Employees release Defendants MAD Security Services, Inc., David Blaine Fair and Margie Nell Fair from all PAGA claims alleged against Defendants in the Action., *i.e.*, claims for civil penalties under the Private Attorneys General Act, Cal. Lab. Code §§ 2698 *et seq.* predicated on violations of Labor Code §§ 226, 226.3, 201, 202, 203, 2802, 226.7, 512, 1198 and IWC Wage Order No. 4, §§ 11(A), 11(B), 12(A), and 7(A), including those contained in Plaintiff’s May 12, 2021 letter to the LWDA and/or operative Complaint. This release applies to all Aggrieved Employees, including you. This release extends from May 12, 2020 to June 30, 2022. Aggrieved Employees cannot opt out of this release of claims. The release became effective on [DATE].

Under the terms of the Settlement, Defendants have agreed to pay a Gross Settlement Amount of \$21,500 to resolve the PAGA claims alleged in the Action (“Gross Settlement Amount”). Deducted from this Gross Settlement Amount were sums approved by the Court for attorneys’ fees \$8,600 and attorneys’ costs in the amount of \$3,151.90, which will result in a “Net Settlement Amount” of \$9,748.10. The Net Settlement Amount will be distributed as follows: 75% of the Net Settlement Amount (\$7,311.08) to the Labor Workforce Development Agency and 25% of the Net Settlement Amount (\$2,437.02) to Aggrieved Employees pursuant to Labor Code section 2699(i). Each individual Aggrieved Employee’s share of the Net Settlement Amount was determined by taking their individual number of pay periods worked between May 12, 2020 and June 30, 2022 and dividing that number by the number of pay periods worked for all Aggrieved Employees between May 12, 2020 and June 30, 2022, and then multiplying that fraction by the 25% share of the Net Settlement Amount.

Enclosed in this mailing, you will find a check containing your share of the PAGA Settlement based on this allocation. Settlement checks will be null and void 120 days after issuance if not deposited or cashed. Any check not negotiated within 120 days of mailing to an Aggrieved Employee shall be distributed 50/50 to Capital Pro Bono, Inc., and the Center for Workers’ Rights.

Should you have any questions or concerns, you may contact counsel for Plaintiff and/or Defendants.

Justin P. Rodriguez  
Brittany V. Berzin  
Shimoda & Rodriguez Law, PC  
9401 East Stockton Blvd., Suite 120  
Elk Grove, CA 95624  
Telephone: (916) 525-0716  
Facsimile: (916) 760-3733  
***On behalf of Plaintiff***

Brian D. Bertossa  
Cook Brown, LLP  
2407 J Street, Second Floor  
Sacramento, California 95816  
T. 916-442-3100 | F. 916-442-4227  
E: bbertossa@cookbrown.com  
***On behalf of Defendants***

# **EXHIBIT E**

# **EXHIBIT F**

**Plaintiff Leopold Estrada Costs - Shimoda & Rodriguez Law, PC**

| <b>Date</b> | <b>Description</b>                                                                                            | <b>Amount</b>     |
|-------------|---------------------------------------------------------------------------------------------------------------|-------------------|
| 5/12/2021   | Certified Mail- PAGA Letters to Employers                                                                     | \$10.23           |
| 5/12/2021   | Payment to LWDA - PAGA Filing Fee                                                                             | \$75.00           |
| 5/12/2021   | Service Fee to Court - Complaint                                                                              | \$40.00           |
| 5/12/2021   | Payment to Court - Complaint Fee Superior Court                                                               | \$435.00          |
| 5/12/2021   | Service Fee to Court - Complaint                                                                              | \$40.00           |
| 5/31/2021   | Administration/Copy Fee - Phone, Fax, Scan, Copying, Non-Certified/Courier Postage, Westlaw Legal Research Fe | \$500.00          |
| 6/21/2021   | Payment to Court - Complex Fees                                                                               | \$1,000.00        |
| 7/22/2021   | Service Fee to Court - First Amended Complaint                                                                | \$40.00           |
| 8/26/2021   | ALS Service Fee - Mad Security Inc. Inv 166488 - Complaint                                                    | \$50.00           |
| 8/26/2021   | ALS Service Fee - Margie Nell Fair inv 166590 - Complaint                                                     | \$25.00           |
| 8/26/2021   | ALS Service Fee - David Blaine inv 166489 - Complaint                                                         | \$25.00           |
| 9/10/2021   | ALS Service Fee - Inv 166763 - \$40, 166761- \$40, 166764 - \$75 - First Amended Complaint                    | \$155.00          |
| 9/10/2021   | Certified Mail - Amended PAGA Letter to Employers                                                             | \$13.44           |
| 9/15/2021   | Service Fee to Court - Proof of Service of Summons                                                            | \$40.00           |
| 1/19/2022   | Payment for Records - PRA Documents                                                                           | \$3.23            |
| 2/16/2022   | Payment to Court - Jury Fees                                                                                  | \$150.00          |
| 2/16/2022   | Service Fee to Court - Joint Case Management Conference Statement and Notice of Paying Jury Fees to Court     | \$40.00           |
| 5/18/2022   | Service Fee to Court - Joint Case Management Conference Statement                                             | \$40.00           |
| Anticipated | Service Fee to Court - Joint Case Management Conference Statement                                             | \$40.00           |
| Anticipated | One Legal Fee - PAGA Approval Motion                                                                          | \$300.00          |
| Anticipated | Payment to Court - PAGA Approval Motion                                                                       | \$60.00           |
| Anticipated | One Legal Service Fee - Compliance Declarations                                                               | \$70.00           |
|             |                                                                                                               | <b>\$3,151.90</b> |

Galen T. Shimoda (Cal. State Bar No. 226752)  
Justin P. Rodriguez (Cal. State Bar No. 278275)  
Brittany V. Berzin (Cal. State Bar No. 325121)  
**Shimoda & Rodriguez Law, PC**  
9401 East Stockton Boulevard, Suite 120  
Elk Grove, CA 95624  
Telephone: (916) 525-0716  
Facsimile: (916) 760-3733

Attorneys for Plaintiff LEOPOLD ESTRADA, JR.  
individually and on behalf of similarly situated employees

**SUPERIOR COURT OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO**

LEOPOLD ESTRADA, JR., individually and  
on behalf of all other similarly situated  
employees,

Plaintiff,

vs.

MAD SECURITY SERVICES, INC., a  
California Corporation;  
DAVID BLAINE FAIR, an individual;  
MARGIE NELL FAIR, an individual; and  
DOES 1 to 100, inclusive,

Defendants.

**Case No. 34-2021-00300627**

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION TO APPROVE  
PRIVATE ATTORNEYS GENERAL ACT  
SETTLEMENT AND DISMISS CLASS  
CLAIMS WITHOUT PREJUDICE**

Reservation No.: 2654377

Date: August 12, 2022

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: May 12, 2021

FAC Filed: July 22, 2021

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims  
3 Without Prejudice (“Motion”) in the above referenced case came before this Court on August 12, 2022,  
4 at 9:00 a.m., in Department 28 with the Honorable Lauri A. Damrell, presiding. Plaintiff Leopold  
5 Estrada, Jr. (“Plaintiff”) filed this Private Attorneys General Act (“PAGA”) action on May 12, 2021.  
6 The operative Complaint alleges that MAD Security Services, Inc (“Defendant”) violated California law  
7 by failing to provide legally compliant meal periods or pay premiums in lieu thereof, failing to provide  
8 legally compliant rest periods or pay premiums in lieu thereof, failing to reimburse for personal  
9 cellphone use, failing to provide accurate wage statements, failing to timely pay all final wages, and  
10 failing to maintain accurate records. The Complaint further alleges that Defendant is liable for civil  
11 penalties under the PAGA as a result of the alleged violations. Defendant has denied all of Plaintiff’s  
12 allegations. Plaintiff sought attorneys’ fees and costs as part of this Action.

13 The parties have agreed to a settlement of the PAGA claims and the dismissal of the class claims  
14 without prejudice. Defendant and its individual owners will provide monetary consideration in  
15 exchange for a release of claims consistent with the terms of the Private Attorneys General Act  
16 Settlement (“Agreement”). Any capitalized terms herein shall have the same meaning as set forth in the  
17 Agreement. The Court, having received and considered Plaintiff’s Motion, the declarations in support,  
18 the Agreement, the Notice of Settlement, exhibits, and other evidence, HEREBY ORDERS AND  
19 MAKES DETERMINATIONS AS FOLLOWS:

20 **1. SCOPE OF INDIVIDUALS WITHIN THE PAGA SETTLEMENT – AGGRIEVED**  
21 **EMPLOYEES**

22 The Court finds that Plaintiff has exhausted all administrative remedies required to bring the  
23 PAGA claims asserted in this litigation and is authorized to act as a private attorney general with respect  
24 to the PAGA claims being released under the proposed Agreement. The Court finds the individuals  
25 within the scope of the Agreement, its releases, and all rights and obligations thereunder include the  
26 following:

27 All individuals who have worked, or continue to work, for Defendants in  
28 California as a Security Guard or other title performing Security Guard job  
duties at any time from May 12, 2020 up to June 30, 2022.

1     **2.     APPROVING THE AGREEMENT**

2             The Court has reviewed the Agreement, which was submitted with Plaintiff’s Motion as Exhibit  
3     A. The Court finds that the Agreement is fair, reasonable, and adequate and approved as required under  
4     California Labor Code section 2698 *et seq.* Based on the amount of penalties at issue, the risk of loss on  
5     the merits, the risk of being able to prove violations in each pay period as to each individual as required  
6     by statute for damages purposes, and the Court’s statutorily authorized power to reduce penalties, the  
7     Agreement represents a substantial recovery for Aggrieved Employees and the Labor and Workforce  
8     Development Agency (“LWDA”) to further its purpose in enforcing the Labor Code. The Court also  
9     finds that the Agreement provides a recovery that creates an effective, substantial deterrent to any  
10    potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

11            The Court approves of the PAGA penalty allocations set forth in the Agreement wherein 75% of  
12    the Net Settlement Amount will be paid to the LWDA and 25% of the Net Settlement Amount will be  
13    paid to Aggrieved Employees as civil penalties pursuant to Labor Code section 2699(i).

14            Additionally, because the Court finds the Parties’ settlement to have been agreed upon only after  
15    extensive and costly investigation, arms-length negotiations, and in an attempt to avoid further delays  
16    and costs, the Court approves the Agreement and terms stated therein, which is incorporated by  
17    reference in its entirety, as if stated here in full, including the \$21,500 Gross Settlement Amount

18            The Court finds that an award of fees under the common fund doctrine is appropriate in this case  
19    because there is a sufficiently identifiable class of beneficiaries (*i.e.* Aggrieved employees and the  
20    LWDA), the benefits can be accurately traced as set forth in the Agreement, Plaintiff and Plaintiff’s  
21    Counsel were able to negotiate on behalf of Aggrieved Employees and the LWDA, and the fee can be  
22    shifted with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the  
23    Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt v. Grauly*, 886 F.2d 268, 271 (9th Cir.  
24    1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th  
25    480, 506 (2016). The Court finds the attorneys’ fees request of \$8,600 to be appropriate compensation  
26    for Plaintiff’s Counsel. The attorneys’ fees request is within the range that has been approved by other  
27    Courts in similar cases and is reasonable in light of the circumstances of this case, the substantial and  
28    beneficial results obtained on behalf of Aggrieved Employees and the LWDA, and the contingent nature

1 of the recovery over the course of this case, which included potential loss at summary judgment and/or  
2 trial proceedings. Additionally, the Court orders that \$3,151.90 of the Gross Settlement Amount will be  
3 paid to Plaintiff's Counsel for reasonable costs incurred in this case.

4 The Court orders and approves Defendants' counsel processing and distributing the Gross  
5 Settlement amount in accordance with the Agreement and the Notice of Settlement to Aggrieved  
6 Employees.

7 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to  
8 Aggrieved Employees that are not cashed by the deadline to do so shall be paid out 50/50 to Capital Pro  
9 Bono, Inc. and the Center For Workers' Rights.

10 The releases and waivers for Aggrieved Employees are also approved by the Court as set forth in  
11 the Agreement.

### 12 **3. APPROVAL OF THE NOTICE OF SETTLEMENT**

13 The Court finds that the Notice of Settlement, which was submitted with Plaintiff's Motion as  
14 Exhibit E, fairly and adequately advises Aggrieved Employees about the Agreement and its effect. The  
15 Court further finds that the Notice of Settlement and distribution of such notice by mail to each  
16 identified Aggrieved Employee at his or her most recent address comports with all constitutional  
17 requirements, including those of due process.

### 18 **4. DISMISSAL OF CLASS CLAIMS WITHOUT PREJUDICE**

19 The claims of any putative class member, class claims, and/or class allegations within the  
20 operative Complaint shall be dismissed without prejudice. Plaintiff has provided sufficient information  
21 pursuant to California Rule of Court 3.770(a) to satisfy the Court that the class claims alleged in the  
22 operative Complaint should be dismissed without prejudice. Neither Plaintiff nor his counsel are  
23 receiving any consideration, direct or indirect, in exchange for dismissal of the class action claims as  
24 they are being dismissed without prejudice. The Court finds that no notice specific to any class claims  
25 need be given to putative class members in this matter pursuant to California Rule of Court 3.770(c) as it  
26 has not been certified as a class, there have been no communications with putative class members  
27 regarding whether this matter has been certified as a class action, and putative class members would not  
28 have their individual substantive claims affected by the outcome of this litigation as the class claims are

being dismissed without prejudice. Furthermore, the Notice of Settlement specifically identifies the scope of the Agreement and that no other claims, class or otherwise, are being compromised as part of the Agreement.

#### 5. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

|                                                                                                                                                                        |                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| Last day for Defendant's counsel to calculate and report to Plaintiff's counsel the Net Settlement Amount, the PAGA Payment, and Claim Amounts for Aggrieved Employees | Within 14 calendar days after the Court signs and files an order approving of this Agreement |
| Last day to fund the settlement                                                                                                                                        | Within 14 calendar days after the Court signs and files an order approving of this Agreement |
| Last day for Defendant's counsel to mail Claim Amounts and Notice of Settlement to Aggrieved Employees and Plaintiff's counsel's attorney's fees and costs             | Within 7 calendar days after funding                                                         |
| Last day for Aggrieved Employees to cash settlement checks                                                                                                             | 120 days after issuance of checks to Aggrieved Employees                                     |
| Last day for Defendant's counsel to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries                                                        | Within 21 calendar days after settlement check cashing deadline                              |
| Last day for Defendant's counsel to provide Parties with compliance declaration                                                                                        | Within 21 days after settlement check cashing deadline                                       |

1 IT IS FURTHER ORDERED that Plaintiff's individual claims and the PAGA claims be  
2 dismissed with prejudice and the class claims dismissed without prejudice with each party to bear their  
3 own fees and costs outside of what has been ordered herein. This matter is subject to the Court's  
4 continuing jurisdiction to monitor and enforce the terms of this order and the approved Settlement  
5 Agreement pursuant to California Civil Procedure Code section 664.6.

6 IT IS SO ORDERED.

7  
8 Date: \_\_\_\_\_

By: \_\_\_\_\_

9 Judge of the Superior Court  
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1 Galen T. Shimoda (Cal. State Bar No. 226752)  
2 Justin P. Rodriguez (Cal. State Bar No. 278275)  
3 Brittany V. Berzin (Cal. State Bar No. 325121)  
4 **Shimoda & Rodriguez Law, PC**  
5 9401 East Stockton Boulevard, Suite 120  
6 Elk Grove, CA 95624  
7 Telephone: (916) 525-0716  
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff LEOPOLD ESTRADA, JR.  
10 individually and on behalf of similarly situated employees

11 **SUPERIOR COURT OF CALIFORNIA**

12 **FOR THE COUNTY OF SACRAMENTO**

13 LEOPOLD ESTRADA, JR., individually and  
14 on behalf of all other similarly situated  
15 employees,

16 Plaintiff,

17 vs.

18 MAD SECURITY SERVICES, INC., a  
19 California Corporation;  
20 DAVID BLAINE FAIR, an individual;  
21 MARGIE NELL FAIR, an individual; and  
22 DOES 1 to 100, inclusive,

23 Defendants.

24 **Case No. 34-2021-00300627**

25 **CLASS ACTION**

26 **PROOF OF SERVICE**

*Estrada v. MAD Security Services, Inc.*  
*Sacramento Superior Court Case No. 34-2021-00300627*

**PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5  
and California Rules of Court, Rule 1.21, Rule 2.150, and Rule 2.251**

I, Estefania Rodriguez, declare that:

I am a citizen of the United States and am over the age of eighteen years and not a party to the within above-entitled action.

On July 15, 2022, I served the following documents on the party below:

- Notice of Motion and Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice
- Declaration of Plaintiff Leopold Estrada, Jr. In Support of Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice
- Declaration of Brittany Berzin In Support of Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice
- Memorandum of Points & Authorities In Support of Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice
- Exhibit List and Exhibits In Support of Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice
- [Proposed] Order Granting Plaintiff's Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims Without Prejudice

|                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Brian D. Bertossa, Esq. (SBN 138388)<br>Daniel Koziejka (SBN 331123)<br><b>Cook Brown, LLP</b><br>2402 J Street, Second Floor<br>Sacramento, California 95816<br>Phone: 916-442-3100<br>Fax: 916-442-4227<br>E: <a href="mailto:bbertossa@cookbrown.com">bbertossa@cookbrown.com</a><br><a href="mailto:dkoziejka@cookbrown.com">dkoziejka@cookbrown.com</a><br><a href="mailto:jhokanson@cookbrown.com">jhokanson@cookbrown.com</a> |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

[ ] [By Mail] I am familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited with the United States Postal Service that same day in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on this date, following ordinary business practices, at Elk Grove, California, addressed as set forth above.

[ ] [By Personal Service] By personally delivering a true copy thereof to the office of the addressee above.

1 [XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above.  
2 No error was reported by the e-mail service that I used.

3 [ ] [By Overnight Courier] By causing a true copy and/or original thereof to be  
4 personally delivered via the following overnight courier service:\_\_\_\_\_.

5 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
6 true and correct, and that this declaration was executed on July 15, 2022, at Elk Grove, California.

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9 Estefania Rodriguez  
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