EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND LIMITED RELEASE

This Private Attorneys General Act Settlement Agreement and Release ("Agreement") is made by and between Katherine Hopper ("Plaintiff"), on behalf of herself, on behalf of the PAGA Employees (as defined below), and as a proxy/agent for the California Labor Workforce Development Agency ("LWDA"), and Defendant FM Orange County ("Defendant"), to resolve the PAGA Action and Released Claims, subject to the terms and conditions hereof and the approval of the Court. Plaintiff and Defendant are collectively referred to herein as the "Parties" and each may be individually referred to as a "Party."

I. REPRESENTATIONS AND DEFINITIONS

1. "Agreement" or "Settlement" means the arm's-length settlement agreement reached between the Parties as set forth in this Private Attorneys General Act Settlement Agreement and Limited Release, and the terms, conditions and requirements set forth herein, including any attached exhibits.

2. "Complaint" means and refers to: the Complaint, filed on May 3, 2021, in the Action; the First Amended Complaint filed on July 12, 2021, in which a cause of action under the Private Attorneys General Act (PAGA), Cal. Lab. Code § 2698 et seq. based on the alleged violations of the Labor Code and Wage Orders was added; and the Second Amended Complaint filed on October 7, 2022.

3. "Counsel for Defendant" means and refers to Grace Y. Horoupian and Kyley Chelwick of Fisher & Phillips, LLP.

4. "Court" means and refers to the Superior Court of California for the County of Orange. Court shall also mean any other Court that acquires proper jurisdiction of this Action.

5. "Defendant" means and refers to FM Orange County LLC.

6. "Effective Date" means and refers to the date on which the Court has signed and entered the Approval Order approving the PAGA Settlement.

7. "LWDA" means and refers to the California Labor and Workforce Development Agency.

8. "PAGA" means and refers to the Labor Code Private Attorneys General Act of 2004, codified at California Labor Code § 2698, *et seq*.

9. "PAGA Employees" or singularly "PAGA Employee" means and refers to Plaintiff and all former non-exempt employees who worked for FM Orange County, LLC within the State of California during the PAGA Period.

10. "PAGA Period" means the time period from May 7, 2020 through the Effective Date of this Settlement.

11. "Parties" means and refers to, collectively, Plaintiff and Defendant, and "Party" means and refers to Parties individually.

12. "Pay Periods" means and refers to the total number of pay periods that each PAGA Employee worked as a non-exempt employee for Defendant during the PAGA Period.

13. "Plaintiff" means Katherine Hopper.

14. "Plaintiff's Counsel" means and refers to Thomas Diachenko of the Law Offices of Thomas Diachenko, APC and Jason Whoopper of W Law.

15. "Released Claims" or "PAGA Claims" means and refers to the claims under the twelfth cause of action in the Complaint for civil penalties under the PAGA, California Labor Code § 2698, *et seq.*, that are based upon or arise from the factual allegations alleged in the Complaint and/or Plaintiff's PAGA notice, arising during the PAGA Period, including for the failure to properly pay all minimum wages, overtime wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages during employment and upon separation of employment, and for violation of and/or based on California Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198.

16. "Released Parties" means and refers to Defendant FM Orange County LLC.

17. "Settlement Administrator" means and refers to Phoenix.

II. TERMS OF SETTLEMENT

1. In consideration of the mutual covenants, promises and representations set forth in this Agreement, Plaintiff, on behalf of herself, the State of California, and all PAGA Employees, and Defendant agree to settle and compromise the Action and the Released Claims.

2. The Gross Settlement Amount. As consideration for the settlement described herein and the release provided herein, Defendant agrees to pay the all inclusive total amount of Six Thousand Dollars and zero cents ($6,000.00) ("Gross Settlement Amount"). Defendant shall fund the Gross Settlement Amount as set forth herein, at section V.2. The Gross Settlement Amount will comprise the following payments, which Plaintiff will seek approval of from the Court, in conformity with this Agreement:

a. Payment to the Settlement Administrator in the amount of up to One Thousand Dollars and Zero Cents ($1,000.00) ("Settlement Administration Costs");

b. Payment of Attorneys' Fees and Costs in the amount of One Thousand Dollars and Zero Cents ($1,000.00) payable to Counsel for Plaintiff, "Law Offices of Thomas M. Diachenko, APC" ;

c. The PAGA Penalties to be paid to the LWDA and PAGA Employees, as set forth herein.

3. Allocation and Calculation of the PAGA Penalties. The net amount available for distribution to the LWDA and PAGA Employees ("PAGA Penalties") is the Gross Settlement Amount less the Payment of Attorneys' Fees and Costs to Plaintiff's Counsel and the Settlement Administration Costs to the Settlement Administrator. Seventy Five Percent (75%) of the PAGA Penalties will be paid to the LWDA ("LWDA Payment"), and Twenty Five Percent (25%) of the PAGA Penalties will be paid to the PAGA Employees ("Employee Amount"), as required by California Labor Code § 2699(i).

4. Allocation and Calculation of the Individual Settlement Payments. Each PAGA Employee will receive a *pro rata* portion of the Employee Amount, determined based on the pay periods that he or she worked for Defendant in the State of California during the PAGA Period, to be calculated as follows: the Employee Amount will be divided by the total number of Pay Periods worked by all PAGA Employees during the PAGA Period to yield the "Per Pay Period Amount," and then each PAGA Employee's individual number of Pay Periods will be multiplied by the Per Pay Period Amount to yield his or her "Individual Settlement Payment." Individual Settlement

Payments shall be paid to PAGA Employees by way of a single check to each PAGA Employee ("Individual Settlement Check").

5. Tax Treatment of Individual Settlement Payments to PAGA Employees. The Parties agree that Individual Settlement Payments sent to PAGA Employees will be characterized One Hundred Percent (100%) as penalties and Form 1099s will be issued. Nothing in this Agreement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff and PAGA Employees shall be deemed to acknowledge that they have not obtained any tax advice from Defendant, Counsel for Defendant, or Plaintiff's Counsel, and that neither Defendant, Counsel for Defendant, nor Plaintiff's Counsel have made any representation concerning the tax consequences, if any, of any payments made pursuant to this Agreement. To the extent that this Agreement or its attachment(s) are interpreted to contain or constitute advice regarding any U.S. or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code.

6. Plaintiff's Counsel's Attorneys' Fees and Costs. Payment of Attorneys' Fees will be reflected in a Form 1099 to Plaintiff's Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments. Should the Court approve a lesser amount , the difference shall be a part of the PAGA Penalties to be distributed to the LWDA and PAGA Employees as described above.

7. No Effect on Employee Benefits. The payments made to Plaintiff and other PAGA Employees pursuant to this Agreement are not intended to count as earnings by Plaintiff or the PAGA Employees, and will not entitle Plaintiff or the PAGA Employees to any additional compensation and/or benefits under any retirement, benefit, bonus, incentive, pension, welfare, and/or any other plan of or sponsored by Defendant. Defendant shall not make as part of this Agreement, nor be required to make, any deductions, nor pay any monthly contributions for any insurance, retirement, bonuses, 403(b), or profit sharing plans related to monies paid as a result of this Agreement. The Individual Settlement Payments paid to PAGA Employees shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g. bonuses, vacation, holiday pay, retirement plans, etc.) of PAGA Employees. The Parties agree that any Individual Settlement Payment paid to PAGA Employees under the terms of this Agreement do not represent any modification of PAGA Employees' previously credited hours of service or other eligibility criteria under an employee benefit plan sponsored by Defendants. Further, any Individual Settlement Payments are penalties and thus shall not be considered "compensation" in

any year for purposes of determining eligibility for, or benefit accrual within, and employee benefit plan or bonus plan sponsored by Defendants.

III. RELEASE OF CLAIMS

1. Release by Plaintiff, the State of California, and PAGA Employees. Upon the Effective Date, Plaintiff, the State of California, and each PAGA Employee, shall fully release and forever discharge Released Parties from the Released Claims during the period from May 3, 2020 through the Effective Date of the Settlement.

2. It is understood and agreed that this Agreement neither releases the Released Parties from liability, if any, to PAGA Employees for violations of any predicate statutes other than for civil penalties under PAGA, nor effects a waiver of claims by PAGA Employees against the Released Parties for the same. This PAGA Agreement does not release any of the PAGA Employees' ("aggrieved") individual (non-PAGA) claims, if any exist, against Defendant.

IV. DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

1. Settlement Approval by Court. The Parties recognize that Court approval is required in the event of any settlement of a PAGA action, in accordance with California Labor Code § 2699(l)(2), and that a judgment with respect to the PAGA action is binding with respect to non-party aggrieved employees upon Court approval, pursuant to California Labor Code § 2699(l) and *Arias v. Superior Ct.* (2009) 46 Cal.4th 969. Parties further recognize that a settlement of a PAGA action is not subject to class action procedural rules, and that PAGA Employees do not have the right to opt-out of or otherwise exclude themselves from the Settlement, or object to the Settlement, and upon approval of the Settlement by the Court and funding of the Settlement, all PAGA Employees will have released the Released Parties of and for the Released Claims and PAGA Employees will be entitled to receive payment, in conformity with the Settlement. In order to comply with the requirements of California Labor Code § 2699, promptly upon execution of this Agreement, Plaintiff's Counsel shall prepare, file and serve a proposed Stipulation and Order (or motion if necessary) requesting that the Court approve the Settlement, including and not limited to the PAGA Penalties, Attorneys' Fees and Costs, and Settlement Administration Costs, and apply to the Court for the entry of an order approving the Settlement and all of the requested payments and entering judgment ("Approval Order and Judgment"). The stipulation shall advocate that the penalties are fair, adequate, and reasonable, which will draw no opposition from Defendant or Defense Counsel. Before Plaintiff applies to the Court for approval of the Settlement, Plaintiff's

Counsel shall submit the Agreement to the LWDA in conformity with California Labor Code § 2699(l)(2).

2. With Plaintiff's Joint Stipulation and/or motion for approval of Settlement, Plaintiff shall submit a proposed Approval Order which shall seek approval of this Settlement and the terms herein. Upon entry of the Approval Order by the Court, Plaintiff's Counsel shall submit the Approval Order to the LWDA in conformity with California Labor Code § 2699(l)(2).

V. ADMINISTRATION OF THE SETTLEMENT

1. PAGA Employee List. Defendant shall compile a list containing the following information regarding each of the PAGA Employees: (1) full name; (2) last known mailing address; (3) Social Security number; (4) dates of employment; and (5) the total number of pay periods he or he worked during the PAGA Period (the "PAGA Employee List"). The PAGA Employee List will be provided to the Settlement Administrator within ten (10) court days after the Court has signed and entered the Approval Order and Judgment. This information shall be treated as and remain confidential and shall be used solely to manage the notice and payment process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.

2. Funding of Settlement. Defendant shall fund the Gross Settlement Amount by way of electronic transfer to the account to be established by the Settlement Administrator for purposes of administration of the Settlement ("Settlement Administration Account") within 15 days after the Approval Date.

3. Payments to LWDA, Plaintiff's Counsel, Plaintiff, and Settlement Administrator. Within ten (10) business days after receiving the PAGA Employee List and the Gross Settlement Amount, the Settlement Administrator shall pay the Court-approved LWDA Payment to the LWDA, Attorneys' Fees, and Settlement Administration Costs to itself.

4. Employee Notices and Payments to PAGA Employees. Within fifteen (15) business days after receiving the PAGA Employee List and the Gross Settlement Amount, the Settlement Administrator shall mail via U.S. First Class mail to each PAGA Employee his or her Individual Settlement Check at the last known address in the PAGA Employee List or a more updated address from the National Change of Address Database. A notice letter explaining why the check is being sent ("Employee Notice"), in a mutually-agreed upon form that has been approved by the Court, in substantially the form that is attached hereto as "**Exhibit A**," will be

included in the mailing of each PAGA Employee's Individual Settlement Check. Together, an Individual Settlement Check that is mailed to a PAGA Employee with the Employee Notice is referred to as a "Payment Packet." Prior to mailing the Payment Packets, the Settlement Administrator shall check the addresses provided using the National Change of Address database. Should any of the Employee Notices be returned as undeliverable, the Settlement Administrator will have ten (10) business days after it receives the returned undeliverable mail to search for a more current address for the PAGA Employee (via a skip trace or other reasonable method) and to re-mail Employee Notices to the traced address.

5. Within twenty (20) calendar days of distributing the Gross Settlement Fund, the Settlement Administrator shall provide to Plaintiff's and Defendants' Counsel written confirmation verifying that it effected disbursement of the Gross Settlement Fund pursuant to the terms of this Agreement.

6. Expiration of Settlement Checks. All Individual Settlement Checks will expire one hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets to the PAGA Employees, and thereafter, shall be cancelled. If any funds remain in the Settlement Administration Account as a result of cancelled Individual Settlement Checks, such funds shall be transmitted to the State Controller's Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided. All duties set forth herein shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount.

7. Disputes Relating to Settlement Administration. Any disputes concerning administration of the Settlement which cannot be resolved by the Parties shall be submitted to and resolved by the Court.

8. Settlement Administrator's Tax Reporting. The Settlement Administrator shall be responsible for providing the requisite Form 1099's as required by this Agreement, and the completion of any other steps necessary for compliance with any tax obligations of the Settlement under federal, state, and/or local law, as applicable.

9. As soon as practicable after execution of this Agreement, Plaintiff's Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the approval of this Settlement from the Court. Irrespective of whether a PAGA Employee's Individual Settlement Check has been cashed, he or she will be deemed to be bound to this Settlement, the release provided herein, and the Court's Approval Order.

10. Dismissal of Action. Within ten (10) days of delivery of the payments described above and written confirmation verifying that the Settlement Administrator effected disbursement of the Gross Settlement Funds pursuant to the terms of this PAGA Agreement., Plaintiff shall provide Defendant a fully-executed Request for Dismissal with prejudice of the PAGA claims as pled in the Twelfth Cause of Action ("Request for Dismissal") for filing with the Court. ;

VI. ADDITIONAL TERMS.

1. No Prior Assignments. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

2. No Admission. Nothing contained herein, nor is the consummation of this Settlement, to be construed or deemed an admission with respect to liability, culpability, negligence, or wrongdoing on the part of Defendant, Released Parties, Plaintiff, Plaintiff's Counsel, PAGA Employees, or the LWDA. Each of the Parties hereto has entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any respect, that they have any liability to anyone under the claims asserted in the Action. The Parties agree that this Agreement does not constitute an admission by Defendants or any of the Released Parties of any of the matters alleged in the Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendants or any of the Released Parties.

3. Nullification. If the Court should fail to approve the Settlement as agreed upon by the Parties, the Parties shall coordinate efforts to address the Court's questions or concerns and work jointly to make reasonable efforts to remedy the Settlement in order to obtain the Court's approval. If the Parties cannot resolve the issues identified by the Court in denying approval, the Parties shall be restored to their litigation positions and all funds returned to Defendant. If, after the Parties make a second attempt to obtain approval of the material terms of the Settlement, unless the Parties specifically agree to continue with their coordinated efforts to obtain Court approval, the Court fails to approve the material terms of the settlement in the form agreed to by the Parties,

or if the Court's approval of this Agreement is reversed, modified, or declared or rendered void, then: (a) this Agreement shall be considered null and void; (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

4. Attorneys' Fees, Costs And Expenses. Except as specifically set forth herein, the Parties shall bear their own attorneys' fees, costs and expenses, taxable or otherwise, incurred by them arising out of the PAGA Claims in this Action, and shall not seek reimbursement thereof from any other party to this Agreement, unless otherwise specifically stated.

5. Enforcement And Continuing Jurisdiction Of The Court. The Parties agree that upon approval by the Court, this Agreement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction pursuant to California Code of Civil Procedure § 664.6 of this action over all Parties and PAGA Employees to interpret and enforce the terms, conditions, and obligations set forth in this Agreement. In the event that one Party institutes any legal action or other proceeding against any other Party to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party will be entitled to recover from the unsuccessful Party reasonable attorneys' fees and costs.

6. Severability. The Parties agree that if any immaterial provision of this Agreement is held to be invalid by a court of competent jurisdiction, that provision shall be deemed severed and deleted from this Agreement, and neither that provision nor its severance and deletion shall affect the validity of the remaining provisions, and the remaining provisions shall be deemed enforceable.

7. Construction. The Parties hereto agree that the terms and conditions of this Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff and Defendants regarding the settlement of the Released Claims and that this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding the resolution of the Released Claims.

8. Given that all Parties hereto had the opportunity to draft, review, and edit the language of this Agreement, no presumption for or against any Party arising out of drafting all or any part of this Agreement may be applied in any action relating to, connected to, or involving this

Agreement. Accordingly, the Parties hereby waive the benefit of any legal principle or rule providing that, in cases of uncertainty, the language of a contract should be interpreted against the Party who caused the uncertainty to exist.

9. Non-Evidentiary Use. Neither the existence of this Agreement, the terms of this Agreement, the negotiation and execution of this Agreement, all acts performed or documents executed pursuant to or in furtherance of this Agreement, nor the settlement of the Action shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff, the LWDA, Defendants or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, culpability, fault, wrongdoing, omission, concession, or damage, or of the truth of any of the factual allegations in the Operative Complaint in the Action; (b) disclosed, referred to, or offered in evidence against Plaintiff, the LWDA, or any of the Released Parties in any further proceeding in the Action, or any other civil, criminal, or administrative action or proceeding in any court, administrative agency or other tribunal except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendants to attempt to establish that a PAGA Employee has resolved or been compensated for any claims made by that employee; and (c) deemed to be, nor used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification or administration other than for purposes of administering this Settlement. Nothing herein shall constitute an admission by Defendants that the Action was properly brought as a representative action other than for settlement purposes.

10. Choice Of Law. The rights and obligations of the Parties under this Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California. California law shall govern the interpretation of this Agreement even if a choice of law analysis under state or federal law would dictate that another forum's law be applied.

11. Cooperation. Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

12. Captions And Headings. Paragraph titles, captions, or headings contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provision hereof.

13. Modification. This Agreement may not be changed, altered, waived, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

14. Binding. This Agreement is binding upon, and shall inure to the benefit of, the Parties hereto and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

15. Electronic Signatures and Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Private Attorneys General Act Settlement Agreement and Release as of the date set forth below.

PLAINTIFF KATHERINE HOPPER

DATED: ________________

____
Katherine Hopper

DEFENDANT FM ORANGE COUNTY LLC

DATED: 7/31/2023

____
By: Authorized Representative
Name: Robert Riiska

FP 47273557.1

13. Modification. This Agreement may not be changed, altered, waived, or modified, except in writing and signed by counsel for the Parties hereto, and approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

14. Binding. This Agreement is binding upon, and shall inure to the benefit of, the Parties hereto and their respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, heirs, executors, administrators, insurers, and successors in interest.

15. Electronic Signatures and Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement, which shall be binding upon and effective as to all Parties. The counterparts may be executed and/or transmitted electronically or by facsimile.

IN WITNESS WHEREOF, the parties knowingly and voluntarily executed this Private Attorneys General Act Settlement Agreement and Release as of the date set forth below.

PLAINTIFF KATHERINE HOPPER

DATED: 08/22/2023

Katherine H.

____
Katherine Hopper

DEFENDANT FM ORANGE COUNTY LLC

DATED: ________________

____
By:
Name:

APPROVED AS TO FORM:

Dated: July 19, 2023 By: ____________________
Thomas Diachenko, Esq.
Law Offices of Thomas M. Diachenko, APC
Attorneys for Plaintiff Katherine Hopper

Dated: August 21, 2023 By: ____________________
Grace Y. Horoupian, Esq.
Fisher & Phillips LLC
Attorneys for FM Orange County LLC and William Story

Exhibit A

Employee Notice

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: PAGA Settlement Payment for the case of: *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of **<<amount of payment>>** ("PAGA Settlement Check"). This check is your portion of payment from the settlement of the PAGA claims asserted in the lawsuit entitled *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL, filed on May 3, 2021 ("Action"), pending in the Superior Court of California for the County of Orange ("Court").

The lawsuit was filed by Katherine Hopper ("Plaintiff"), a former employee of Defendant FM Orange County LLC, on behalf of the State of California with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). Plaintiff alleged that Defendant violated the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay all wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages owed during employment and upon separation of employment. Defendant denies these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendant, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for FM Orange County May 3, 2020 through [DATE] (PAGA Employees").

On <<Approval Date>>, the PAGA settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the PAGA Employees. You are receiving a portion of the settlement (the enclosed Individual Settlement Check) because you have been identified as a PAGA Employee. Your Individual Settlement Check is based on the total number of pay periods that you worked as a PAGA Employee during the period between May 3, 2020 through [DATE] ("PAGA Period"). The Individual Settlement Check is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of this PAGA settlement, you are deemed to fully release and forever discharge the Released Parties from the Released Claims. The "Released Parties" means Defendants and each of their past, present, and future officers, employees, attorneys, agents, assigns, insurers, representatives, counsel, benefit plan administrators, other administrators, successors, parent companies, subsidiaries, related entities, shareholders, and/or directors. The "Released Claims" means and refers to claims for civil penalties under the PAGA, California Labor Code § 2698, *et seq.*, that are based upon or arise from the factual allegations in the operative Complaint in the Action and/or Plaintiff's PAGA notice to the California Labor and Workforce Development Agency, arising during the PAGA Period, including penalties for the failure to properly pay all minimum wages, overtime wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages during employment and upon separation of employment, and for violation of and/or based on California Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

Exhibit A

Employee Notice

Your PAGA Settlement Check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your PAGA Settlement Check will be cancelled and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in the name of the PAGA Employee whose check is voided.

Do <u>not</u> call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.

EXHIBIT 3

PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	50
Opt Out Rate	N/A
Opt Outs Received	
Total Class Claimants	50
Subtotal Admin Only	**$1,000.00**

Not-to-Exceed Total $1,000.00

For 50 Class Members

Pricing Good for Scope of Estimate Only

April 27, 2023
Case: TBD PAGA Admin

Phoenix Contact: Jodey Lawrence
Contact Number: 949-566-1455
Email: Jodey@phoenixclassaction.com

Requesting Party: Grace Y. Horoupian
Firm: Fisher Phillips
Contact Number: 949.798.2145
Email: ghoroupian@fisherphillips.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PSA will need to adjust this Estimate accordingly. Estimate is based on 50 Class Members. PSA assumes class data will be sent in Microsoft Excel or other usable format with no or reasonable additional formatting needed. A rate of $150 per hour will be charged for any additional analysis or programming.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	$45.00	1	$45.00
Programming Database & Setup	$45.00	1	$45.00
Toll Free Setup*	$3.92	1	$3.92
Call Center & Long Distance	$1.00	5	$5.00
NCOA (USPS)	$2.00	1	$2.00
		Total	**$100.92**

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Check & Postage

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	$45.00	1	$45.00
Data Merge & Duplication Scrub	$0.25	50	$12.50
Notice and Check Packet	$1.00	50	$50.00
Estimated Postage (up to 1 oz.)*	$0.64	50	$32.00
		Total	**$139.50**

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.

PHOENIX
CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Case Associate	$45.00	1	$45.00
Skip Tracing Undeliverables	$1.00	8	$7.50
Remail Notice Packets	$1.00	8	$7.50
Estimated Postage	$0.61	8	$4.58
Programming Undeliverables	$50.00	1	$50.00
		Total	**$114.58**

Database Programming			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Programming Claims Database	$50.00	1	$50.00
Case Manager	$50.00	1	$50.00
		Total	**$100.00**

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Programming Calculations	$45.00	1	$45.00
Disbursement Review	$45.00	1	$45.00
Programming Manager	$45.00	1	$45.00
QSF Bank Account & EIN	$45.00	1	$45.00
Check Run Setup & Printing	$45.00	1	$45.00
		Total	**$225.00**

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing

PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations			
Project Action:	**Rate**	**Hours/Units**	**Line Item Estimate**
Case Supervisor	$45.00	1	$45.00
Remail Undeliverable Checks (Postage Included)	$1.00	5	$5.00
Case Associate	$45.00	1	$45.00
Reconcile Uncashed Checks	$45.00	1	$45.00
Conclusion Reports	$45.00	1	$45.00
Case Manager Conclusion	$45.00	1	$45.00
Final Reporting & Declarations	$45.00	1	$45.00
QSF Annual Tax Reporting * (State Tax Reporting Included)	$45.00	1	$45.00
		Total	**$320.00**

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibilty.

Estimate Total:	**$1,000.00**

CLASS ACTION ADMINISTRATION SOLUTIONS

TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.

2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.

3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.

4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.

5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

EXHIBIT 5-A

REDLINE OF REVISED ORDER

[PROPOSED] ORDER

This Court has reviewed the stipulation submitted by Plaintiff Katherine Hopper ("Plaintiff") and Defendant FM Orange County, LLC ("Defendant") (collectively, the "Parties") in support of approval of a PAGA Settlement pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698 et seq. ("PAGA"). The PAGA Settlement and Release Agreement ("PAGA Settlement," or "PAGA Agreement"), is attached hereto as **Exhibit 1**. Based upon this review, and the findings below, the Court finds good cause to enter this order.

FINDINGS:

1. Unless otherwise specified, defined terms in this Order granting approval of the PAGA Settlement ("Order") have the same definition as the terms of the PAGA Settlement.

2. The Court has jurisdiction over the subject matter of the PAGA cause of action, which was not submitted to binding arbitration, over all hourly paid, non-exempt employees of Defendant who worked for Defendant from May 7, 2020, through August 23, 2023, ("PAGA Members" and "PAGA Period"), and over those persons or entities undertaking affirmative obligations under this PAGA Settlement.

3. On May 7, 2021, Plaintiff served a notice letter to the California Labor and Workforce Development Agency ("LWDA") and Defendant, pursuant to California Labor Code Section 2699.3, to notify the LWDA of the alleged California Labor Code violations. The LWDA did not respond to Plaintiff's LWDA Notice letter within the statutorily prescribed 60-day time-period, allowing Plaintiff to proceed with the 12th cause of action for PAGA violations and penalties.

4. On May 3, 2021, Plaintiff filed her lawsuit against Defendant, *entitled Katherine Hopper v. FM Orange County LLC*, et al., case number 30-2021-01199454-CU-OE-CJC, wherein she asserted causes of action for (1) failure to pay overtime, (2) failure to pay premiums, (3) failure to indemnify, (4) records violation, (5) failure to timely pay wages upon termination, (6) unfair business practices, (7) gender based harassment/discrimination, (8) failure to prevent harassment (9) violation of public policy, (10) retaliation, and (11) Intentional Infliction of Emotional Distress.

On July 12, 2021, after the required 60-day notice period expired, Plaintiff filed a First Amended Complaint adding a cause of action under the Private Attorneys General Act (PAGA), Cal. Lab. Code § 2698 et seq. based on the alleged violations of the Labor Code and Wage Orders. In doing so, Plaintiff on behalf of the State of California, sought to represent herself and all hourly paid, non-exempt employees of Defendant who were employed by Defendant from May 7, 2020, through the present date ("PAGA Members" and "PAGA Period"). On October 7, 2022, Plaintiff filed a Second Amended Complaint.

5. Thereafter, the Parties stipulated to submit Plaintiff's individual claims to arbitration and to stay the remaining PAGA cause of action. The proposed Order submitting the individual claims to binding arbitration was signed and entered by the Court on November 15, 2022.

6. The Parties expressly acknowledge in the PAGA Settlement that the PAGA Settlement is entered into solely for the purpose of compromising significantly disputed claims, and that nothing contained therein is an admission of liability or wrongdoing by Defendant.

7. The Court determines that there is sufficient evidence to determine that the PAGA Settlement is not "unjust, arbitrary and oppressive, or confiscatory" but was entered into in good faith, is fair, reasonable, and adequate under the circumstances, and that the Parties have satisfied the standards and applicable requirements for approval of a settlement of claims brought under the PAGA.

8. The Court finds that pursuant to California Labor Code Section 2699(l)(2) and (l)(4), the LWDA was given timely notice of the PAGA Settlement. On August 23, 2023, Plaintiff submitted to the LWDA a notice of the PAGA Settlement, attached to which was a copy of the PAGA Settlement & Release Agreement. Plaintiff's notice of PAGA Settlement complied with the requirements of California Labor Code section 2699(l)(2).

IT IS HEREBY ORDERED THAT:

1. The terms of the PAGA Settlement are approved under California Labor Code section 2699(l)(2).

2. The Court affirms approval of the PAGA Settlement in the attached **<u>Exhibit 1</u>** as to the following group of individuals, collectively referred to as the "PAGA Members": all hourly

paid, non-exempt employees of Defendant who were employed by Defendants at any time from May 7, 2020, through August 23, 2023.

3. Upon the Effective Final Settlement Date and payment by Defendant of the Gross Settlement Amount of $6,000 as set forth in Exhibit 1, this PAGA Settlement forever bars Plaintiff, the LWDA, and all PAGA Members on behalf of themselves or as representatives acting as proxy or agent of the LWDA, and each of their heirs, executors, administrators, attorneys, agents, predecessors, successors, and assigns ("Releasing Parties"), for the period spanning May 7, 2020 through date of approval of this settlement, from pursuing any action for claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA against Defendant and each of its parents, subsidiaries, and related entities, and its officers, directors, shareholders, persons, current and former employees, including but not limited to William Story, agents, servants, representatives, members, attorneys, insurers, re-insurers, assigns, and affiliates and any and all other entities with whom it has been, is now, or may hereafter be affiliated ("Released Parties") based on the factual allegations and Labor Code Sections alleged or that could have been alleged against the Released Parties arising out of the facts, circumstances, and primary rights at issue in the First and Second Amended Complaint, including but not limited to allegations of, and/or violation of, California Labor Code § § ~~7, 98, 98.6, 200,~~ 201 ~~, 201.5, 201.7, 202~~, 203, ~~203.1,~~ 204, ~~206, 206.5, 209,~~ 210, ~~212, 215, 216, 218, 218.5, 218.6, 221, 222-224, 225, 225.5,~~ 226, ~~226(a),~~ 226.3, ~~226.6,~~ 226.7, ~~227, 227.3, 232, 246, 256, 351, 500,~~ 510, 512, ~~516, 552,~~ 558, ~~558.1, 1102.5,~~ 1174, 1174.5, ~~1175,~~ 1182.12, ~~1193.6,~~ 1194, 1194.2, ~~1194.3,~~ 1197, 1197.1, ~~1197.5,~~ 1198, ~~1198.5, 1199, 2502, 2551, 2698 et. seq., 2699(a), 2699, 2699.3, 2699.5, 2751, 2800 and 2802, the IWC Order 4-2001, sections 2, 4, 7, 11, 12, 20, and Civil Code 3289 and all applicable Wage orders~~ (the "PAGA Released Claims"). This release applies whether or not a given PAGA Member receives or cashes his or her portion of the Net PAGA Settlement allocable to each PAGA Member as consideration for the settlement and release of claims for penalties under the PAGA ("PAGA Settlement Share"). Notwithstanding the above, the PAGA Settlement does not release the remaining Defendants in this lawsuit for any PAGA Members employed by BBB Orange County, LLC. Any PAGA claims alleged against the non-settling Defendants remain intact.

4. The total PAGA Settlement amount of $6,000, the Net PAGA Settlement, and the methodology used to calculate and pay each PAGA Settlement Share, in accordance with the PAGA Settlement, is approved under California Labor Code section 2699(l)(2).

5. The Court approves an award of $1,000.00 in attorneys' fees from the Gross Settlement Amount to Plaintiff's Counsel as attorney fees. The Court approves an award of up to $1,000.00 to the Settlement Administrator, Phoenix, from the Gross Settlement Amount. The remaining funds after the amounts allocated to the attorney fees and settlement administrator have been deducted from the Gross Settlement Amount will be referred to as the "Net PAGA Settlement" totaling $4,000.00 in PAGA civil penalties. A total of seventy-five percent (75%), or $3,000.00, of the Net PAGA Settlement shall be paid to the Labor and Workforce Development Agency ("LWDA"). The remaining twenty-five percent (25%), or $1,000.00, of the Net PAGA Settlement shall be payable to the PAGA Members as set forth in the PAGA Settlement, Exhibit 1 herein.

6. ~~If a PAGA Member fails to cash the check or deposit the check, which shall remain valid for no less than one-hundred eighty days (180) calendar days after the date of issuance,~~ All Individual Settlement Checks will expire one hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets to the PAGA Employees, and thereafter, shall be cancelled. **Any check that is required to be resent to PAGA Employee shall expire one hundred eighty (180) calendar days after the second mailing of the check.** If any funds remain in the Settlement Administration Account as a result of cancelled Individual Settlement Checks, such funds shall be transmitted to the State Controller's Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided. All duties set forth herein shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount.

~~Defendant will distribute the funds represented by the uncashed check(s) as set forth in the PAGA Settlement.~~

7. Pursuant to Code of Civil Procedure section 664.6, after entry of the request for dismissal of the Action, with prejudice, the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the PAGA Settlement, (ii) PAGA Settlement administration matters, and (iii) such matters as may be appropriate under

court rules or applicable law, or as set forth in the PAGA Settlement.

8. Nothing in this Order or PAGA Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendant. This PAGA Settlement and the fact that Plaintiff and Defendant are willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the PAGA Settlement).

9. Within ten (10) calendar days after entry of this Order approving the PAGA Settlement, Plaintiff shall submit a copy of the Order to the LWDA in compliance with California Labor Code section 2699(l)(3).

10. Within thirty (30) calendar days after the Settlement Administrator distributes the Net PAGA Settlement to the LWDA and PAGA Members, the Settlement Administrator shall provide Plaintiff a declaration confirming the same, and within fourteen (14) calendar days after Plaintiff receives the Settlement Administrator's declaration, Plaintiff shall file a request for dismissal with prejudice of the Action for FM Orange County and William Story, only.

IT IS SO ORDER.

DATED: ________________ By:

____
Hon. Randall J. Sherman
Judge of the Superior Court

EXHIBIT 5-B

CLEAN OF REVISED ORDER

[*PROPOSED*] ORDER

This Court has reviewed the stipulation submitted by Plaintiff Katherine Hopper ("Plaintiff") and Defendant FM Orange County, LLC ("Defendant") (collectively, the "Parties") in support of approval of a PAGA Settlement pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698 et seq. ("PAGA"). The PAGA Settlement and Release Agreement ("PAGA Settlement," or "PAGA Agreement"), is attached hereto as **Exhibit 1**. Based upon this review, and the findings below, the Court finds good cause to enter this order.

FINDINGS:

1. Unless otherwise specified, defined terms in this Order granting approval of the PAGA Settlement ("Order") have the same definition as the terms of the PAGA Settlement.

2. The Court has jurisdiction over the subject matter of the PAGA cause of action, which was not submitted to binding arbitration, over all hourly paid, non-exempt employees of Defendant who worked for Defendant from May 7, 2020, through August 23, 2023, ("PAGA Members" and "PAGA Period"), and over those persons or entities undertaking affirmative obligations under this PAGA Settlement.

3. On May 7, 2021, Plaintiff served a notice letter to the California Labor and Workforce Development Agency ("LWDA") and Defendant, pursuant to California Labor Code Section 2699.3, to notify the LWDA of the alleged California Labor Code violations. The LWDA did not respond to Plaintiff's LWDA Notice letter within the statutorily prescribed 60-day time-period, allowing Plaintiff to proceed with the 12th cause of action for PAGA violations and penalties.

4. On May 3, 2021, Plaintiff filed her lawsuit against Defendant, *entitled Katherine Hopper v. FM Orange County LLC*, et al., case number 30-2021-01199454-CU-OE-CJC, wherein she asserted causes of action for (1) failure to pay overtime, (2) failure to pay premiums, (3) failure to indemnify, (4) records violation, (5) failure to timely pay wages upon termination, (6) unfair business practices, (7) gender based harassment/discrimination, (8) failure to prevent harassment (9) violation of public policy, (10) retaliation, and (11) Intentional Infliction of Emotional Distress.

On July 12, 2021, after the required 60-day notice period expired, Plaintiff filed a First Amended Complaint adding a cause of action under the Private Attorneys General Act (PAGA), Cal. Lab. Code § 2698 et seq. based on the alleged violations of the Labor Code and Wage Orders. In doing so, Plaintiff on behalf of the State of California, sought to represent herself and all hourly paid, non-exempt employees of Defendant who were employed by Defendant from May 7, 2020, through the present date ("PAGA Members" and "PAGA Period"). On October 7, 2022, Plaintiff filed a Second Amended Complaint.

5. Thereafter, the Parties stipulated to submit Plaintiff's individual claims to arbitration and to stay the remaining PAGA cause of action. The proposed Order submitting the individual claims to binding arbitration was signed and entered by the Court on November 15, 2022.

6. The Parties expressly acknowledge in the PAGA Settlement that the PAGA Settlement is entered into solely for the purpose of compromising significantly disputed claims, and that nothing contained therein is an admission of liability or wrongdoing by Defendant.

7. The Court determines that there is sufficient evidence to determine that the PAGA Settlement is not "unjust, arbitrary and oppressive, or confiscatory" but was entered into in good faith, is fair, reasonable, and adequate under the circumstances, and that the Parties have satisfied the standards and applicable requirements for approval of a settlement of claims brought under the PAGA.

8. The Court finds that pursuant to California Labor Code Section 2699(l)(2) and (l)(4), the LWDA was given timely notice of the PAGA Settlement. On August 23, 2023, Plaintiff submitted to the LWDA a notice of the PAGA Settlement, attached to which was a copy of the PAGA Settlement & Release Agreement. Plaintiff's notice of PAGA Settlement complied with the requirements of California Labor Code section 2699(l)(2).

IT IS HEREBY ORDERED THAT:

1. The terms of the PAGA Settlement are approved under California Labor Code section 2699(l)(2).

2. The Court affirms approval of the PAGA Settlement in the attached **Exhibit 1** as to the following group of individuals, collectively referred to as the "PAGA Members": all hourly

paid, non-exempt employees of Defendant who were employed by Defendants at any time from May 7, 2020, through August 23, 2023.

3. Upon the Effective Final Settlement Date and payment by Defendant of the Gross Settlement Amount of $6,000 as set forth in Exhibit 1, this PAGA Settlement forever bars Plaintiff, the LWDA, and all PAGA Members on behalf of themselves or as representatives acting as proxy or agent of the LWDA, and each of their heirs, executors, administrators, attorneys, agents, predecessors, successors, and assigns ("Releasing Parties"), for the period spanning May 7, 2020 through date of approval of this settlement, from pursuing any action for claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA against Defendant and each of its parents, subsidiaries, and related entities, and its officers, directors, shareholders, persons, current and former employees, including but not limited to William Story, agents, servants, representatives, members, attorneys, insurers, re-insurers, assigns, and affiliates and any and all other entities with whom it has been, is now, or may hereafter be affiliated ("Released Parties") based on the factual allegations and Labor Code Sections alleged or that could have been alleged against the Released Parties arising out of the facts, circumstances, and primary rights at issue in the First and Second Amended Complaint, including but not limited to allegations of, and/or violation of, California Labor Code § § 201, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, (the "PAGA Released Claims"). This release applies whether or not a given PAGA Member receives or cashes his or her portion of the Net PAGA Settlement allocable to each PAGA Member as consideration for the settlement and release of claims for penalties under the PAGA ("PAGA Settlement Share"). Notwithstanding the above, the PAGA Settlement does not release the remaining Defendants in this lawsuit for any PAGA Members employed by BBB Orange County, LLC. Any PAGA claims alleged against the non-settling Defendants remain intact.

4. The total PAGA Settlement amount of $6,000, the Net PAGA Settlement, and the methodology used to calculate and pay each PAGA Settlement Share, in accordance with the PAGA Settlement, is approved under California Labor Code section 2699(l)(2).

5. The Court approves an award of $1,000.00 in attorneys' fees from the Gross Settlement Amount to Plaintiff's Counsel as attorney fees. The Court approves an award of up to

$1,000.00 to the Settlement Administrator, Phoenix, from the Gross Settlement Amount. The remaining funds after the amounts allocated to the attorney fees and settlement administrator have been deducted from the Gross Settlement Amount will be referred to as the "Net PAGA Settlement" totaling $4,000.00 in PAGA civil penalties. A total of seventy-five percent (75%), or $3,000.00, of the Net PAGA Settlement shall be paid to the Labor and Workforce Development Agency ("LWDA"). The remaining twenty-five percent (25%), or $1,000.00, of the Net PAGA Settlement shall be payable to the PAGA Members as set forth in the PAGA Settlement, Exhibit 1 herein.

6. All Individual Settlement Checks will expire one hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets to the PAGA Employees, and thereafter, shall be cancelled. **Any check that is required to be resent to PAGA Employee shall expire one hundred eighty (180) calendar days after the second mailing of the check.** If any funds remain in the Settlement Administration Account as a result of cancelled Individual Settlement Checks, such funds shall be transmitted to the State Controller's Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided. All duties set forth herein shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount.

7. Pursuant to Code of Civil Procedure section 664.6, after entry of the request for dismissal of the Action, with prejudice, the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the PAGA Settlement, (ii) PAGA Settlement administration matters, and (iii) such matters as may be appropriate under court rules or applicable law, or as set forth in the PAGA Settlement.

8. Nothing in this Order or PAGA Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendant. This PAGA Settlement and the fact that Plaintiff and Defendant are willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the PAGA Settlement).

9. Within ten (10) calendar days after entry of this Order approving the PAGA Settlement, Plaintiff shall submit a copy of the Order to the LWDA in compliance with California Labor Code section 2699(l)(3).

10. Within thirty (30) calendar days after the Settlement Administrator distributes the Net PAGA Settlement to the LWDA and PAGA Members, the Settlement Administrator shall provide Plaintiff a declaration confirming the same, and within fourteen (14) calendar days after Plaintiff receives the Settlement Administrator's declaration, Plaintiff shall file a request for dismissal with prejudice of the Action for FM Orange County and William Story, only.

IT IS SO ORDER.

DATED: __________________ By:

____
Hon. Randall J. Sherman
Judge of the Superior Court

EXHIBIT 6-A

REDLINE VERSION OF THE PROPOSED COVER LETTER TO THE "AGGRIEVED EMPLOYEES"

Exhibit A

Employee Notice

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: PAGA Settlement Payment for the case of: *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of **<<amount of payment>>** ("PAGA Settlement Check"). This check is your portion of payment from the settlement of the PAGA claims asserted in the lawsuit entitled *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL, filed on May 3, 2021 ("Action"), pending in the Superior Court of California for the County of Orange ("Court").

The lawsuit was filed by Katherine Hopper ("Plaintiff"), a former employee of Defendant FM Orange County LLC, on behalf of the State of California with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). Plaintiff alleged that Defendant violated the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay all wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages owed during employment and upon separation of employment. Defendant denies these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendant, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for FM Orange County May 3, 2020 through [DATE] (PAGA Employees").

On <<Approval Date>>, the PAGA settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the PAGA Employees. You are receiving a portion of the settlement (the enclosed Individual Settlement Check) because you have been identified as a PAGA Employee. Your Individual Settlement Check is based on the total number of pay periods that you worked as a PAGA Employee during the period between May 3, 2020 through [DATE] ("PAGA Period"). The Individual Settlement Check is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of this PAGA settlement, you are deemed to fully release and forever discharge the Released Parties from the Released Claims. The "Released Parties" means Defendants and each of their past, present, and future officers, employees, attorneys, agents, assigns, insurers, representatives, counsel, benefit plan administrators, other administrators, successors, parent companies, subsidiaries, related entities, shareholders, and/or directors. The "Released Claims" means and refers to claims for civil penalties under the PAGA, California Labor Code § 2698, *et seq.*, that are based upon or arise from the factual allegations in the operative Complaint in the Action and/or Plaintiff's PAGA notice to the California Labor and Workforce Development Agency, arising during the PAGA Period, including penalties for the failure to properly pay all minimum wages, overtime wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages during employment and upon separation of employment, and for violation of and/or based on California Labor Code §§ 201-203, 204,210,226,226.3, 226.7, 510,512,558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

<u>Exhibit A</u>

Employee Notice

<u>Notwithstanding the proceeding provisions, no claims for unpaid or underpaid wages or any other individual claims with may exist are included in the PAGA Settlement. Therefore, no such claims are waived as this PAGA Settlement is without prejudice to the pursuit of any such claims.</u>

Your PAGA Settlement Check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your PAGA Settlement Check will be cancelled and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in the name of the PAGA Employee whose check is voided.

Do <u>not</u> call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.

<u>EXHIBIT 6-B</u>

<u>CLEAN VERSION OF THE PROPOSED COVER LETTER TO THE “AGGRIEVED EMPLOYEES”</u>

Exhibit A

Employee Notice

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: PAGA Settlement Payment for the case of: *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of **<<amount of payment>>** ("PAGA Settlement Check"). This check is your portion of payment from the settlement of the PAGA claims asserted in the lawsuit entitled *Katherine Hopper, et. al. v. FM Orange County., et al.,* Case No. 97-2021-00041803-CU-OE-CTL, filed on May 3, 2021 ("Action"), pending in the Superior Court of California for the County of Orange ("Court").

The lawsuit was filed by Katherine Hopper ("Plaintiff"), a former employee of Defendant FM Orange County LLC, on behalf of the State of California with respect to herself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). Plaintiff alleged that Defendant violated the California Labor Code and Industrial Welfare Commission Wage Orders by failing to properly pay all wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages owed during employment and upon separation of employment. Defendant denies these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendant, on behalf of Plaintiff, the State of California, and the following aggrieved employees: all current and former non-exempt employees who worked for FM Orange County May 3, 2020 through [DATE] (PAGA Employees").

On <<Approval Date>>, the PAGA settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the PAGA Employees. You are receiving a portion of the settlement (the enclosed Individual Settlement Check) because you have been identified as a PAGA Employee. Your Individual Settlement Check is based on the total number of pay periods that you worked as a PAGA Employee during the period between May 3, 2020 through [DATE] ("PAGA Period"). The Individual Settlement Check is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of this PAGA settlement, you are deemed to fully release and forever discharge the Released Parties from the Released Claims. The "Released Parties" means Defendants and each of their past, present, and future officers, employees, attorneys, agents, assigns, insurers, representatives, counsel, benefit plan administrators, other administrators, successors, parent companies, subsidiaries, related entities, shareholders, and/or directors. The "Released Claims" means and refers to claims for civil penalties under the PAGA, California Labor Code § 2698, *et seq.,* that are based upon or arise from the factual allegations in the operative Complaint in the Action and/or Plaintiff's PAGA notice to the California Labor and Workforce Development Agency, arising during the PAGA Period, including penalties for the failure to properly pay all minimum wages, overtime wages, provide lawful meal periods or compensation in lieu thereof, authorize or permit lawful rest breaks or provide compensation in lieu thereof, provide accurate itemized wage statements, and timely pay all wages during employment and upon separation of employment, and for violation of and/or based on California Labor Code §§ 201-203, 204,210,226,226.3, 226.7, 510,512,558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

<u>Exhibit A</u>

Employee Notice

Notwithstanding the proceeding provisions, no claims for unpaid or underpaid wages or any other individual claims with may exist are included in the PAGA Settlement. Therefore, no such claims are waived as this PAGA Settlement is without prejudice to the pursuit of any such claims.

Your PAGA Settlement Check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your PAGA Settlement Check will be cancelled and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in the name of the PAGA Employee whose check is voided.

Do <u>not</u> call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.