

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

Attorneys for Plaintiff and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

LORELEI CHAMBERS, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

SOMACIS INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 37-2021-00033445-CU-OE-CTL

(Assigned to Hon. Eddie C. Sturgeon, Dept. C-67)

**DECLARATION OF NICHOLAS
ROSENTHAL IN SUPPORT OF PLAINTIFF'S
MOTION TO APPROVE SETTLEMENT
AGREEMENT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT**

Date: November 18, 2022

Time: 9:00 a.m.

Dept.: C-67

Complaint Filed: August 5, 2021

Trial Date: None Set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, Nicholas Rosenthal, declare as follows:

1. I am an attorney at law duly admitted to practice before all courts in the State of California and am a member of the law firm of the Diversity Law Group, P.C., one of the attorneys of record for Plaintiff Lorelei Chambers (“Plaintiff”) in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called upon as a witness to testify thereto, I could and would competently do so.

PROCEDURAL HISTORY

2. On June 1, 2021, Plaintiff submitted her written notice under Labor Code § 2699.3 (the “PAGA Notice”) to the Labor and Workforce Development Agency (“LWDA”) and Defendant. As set forth in the PAGA Notice, Plaintiff alleged that Defendant failed to pay wages in a timely manner, in violation of California Labor Code § 204.

3. On August 5, 2021, Plaintiff filed a representative PAGA action against Defendant in the Superior Court of California, County of San Diego (the “Action”). The Complaint alleges a single cause of action for violation of Labor Code § 2698, *et seq.*, based on the facts described in Plaintiff’s PAGA Notice. As alleged in the Complaint, Plaintiff contends that Defendant failed in its affirmative obligation to make timely payments of wages to employees according to the terms of Labor Code § 204(d). Specifically, Plaintiff alleges that Defendant, as a matter of policy and practice, paid the wages of employees beyond the time periods allowed pursuant to Labor Code § 204.

MEDIATION

4. After the filing of the Complaint and meeting and conferring regarding Plaintiff's claims, the Parties agreed to participate in private mediation with the Hon. Brian C. Walsh (Ret.). Prior to the mediation, Defendant produced data relevant to the potential value of the claims, including the number of alleged aggrieved employees and pay periods encompassed by the allegations of Plaintiff's complaint. Using the data provided by Defendant, Plaintiff's Counsel performed a comprehensive damages analysis.

5. On January 19, 2022, the Parties engaged in an all-day mediation session before

1 Retired Judge Walsh, a respected mediator knowledgeable of the wage and hour laws and
2 representative claims at issue in this action.

3 6. During the mediation, counsel zealously advocated on behalf of their respective
4 clients. The Parties gained valuable insight and exchanged significant information about their
5 respective positions. Defendant argued that it made a good faith effort to comply with Labor
6 Code Section 204 and that Section 2699(e)(2) provides courts with the discretion to reduce any
7 civil penalties recoverable in a PAGA action if imposition of the full penalty amount would be
8 “unjust, arbitrary and oppressive, or confiscatory.” As the California Court of Appeal has
9 affirmed, trial courts are well within their discretion to reduce PAGA penalties “for technical
10 violations that cause no injury,” especially where the “violation was inadvertent.” *Raines v.*
11 *Coastal Pac. Food Distributors, Inc.*, 23 Cal. App. 5th 667, 681 (2018). In deciding whether to
12 award the maximum penalty amount, courts may focus on whether the employer made a **good**
13 **faith effort to follow the law**. *Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App.
14 4th 1112, 1136 (2012). In *Thurman*, the Court of Appeal upheld the trial court’s significant
15 reduction of PAGA penalties by 30% because the **employer was not initially on notice that it**
16 **was in violation of the law** and because it would have been **unfair** to award penalties where the
17 employer was unaware of the violations. *Id.* When the employer made aware of the violations, it
18 timely took steps to come into compliance. *Id.* By contrast, the imposition of full penalties was
19 justified when an employer took a “cavalier approach to fulfilling its contractual and statutory
20 obligations” and demonstrated “reckless disregard” with respect to paying its employees.
21 *Amaral v. Cintas Corp.*, 163 Cal. App. 4th 1157, 1214 (2008). In this case, Defendant asserted
22 that a substantial reduction in potential PAGA penalties was warranted because (1) the alleged
23 violation was inadvertent, (2) the alleged violation was a mere technicality, (3) Defendant
24 changed its practices to eliminate the violation, (4) the allegedly aggrieved employees did not
25 suffer any actual damages, and (5) PAGA penalties were completely unnecessary to punish or
26 deter Defendant’s behavior. As soon as Defendant received Plaintiff’s pre-filing LWDA notice,
27 it changed its payroll system to eliminate the possibility of any future late paydays and there
28 were only some pay periods when Defendant paid its employees a day or two later than required

1 by Labor Code § 204. Defendant asserted that the delay was understandable given the ambiguous
2 requirements and menu of options for setting paydays under Labor Code § 204. Thus, Defendant
3 argued that its occasional failure to meet Section 204's technical requirements was not only
4 inadvertent, but wholly understandable. Significantly, not a single employee complained, prior to
5 this lawsuit, that Defendant violated Labor Code § 204 because not a single employee suffered
6 any damages. Thus, Defendant contended that no PAGA penalties were needed to punish or
7 deter Defendant for its inadvertent behavior, much less to deter it from committing any future
8 violations that were completely foreclosed by its new payroll schedule.

9 7. Plaintiff's counsel also considered the Court of Appeal's recent holding in
10 *Wesson v. Staples the Off. Superstore, LLC*, 68 Cal. App. 5th 746, 763, 283 Cal. Rptr. 3d 846,
11 857 (2021), *reh'g denied* (Sept. 27, 2021), *review denied* (Dec. 22, 2021), which upheld the trial
12 court's order striking PAGA claim as unmanageable.

13 8. After a full day of arm's length negotiations, the Parties agreed to a settlement of
14 the Action and executed a memorandum of understanding. The Parties thereafter worked to
15 memorialize the terms of the settlement in a long-form settlement agreement, which is attached
16 as Exhibit A to this Declaration.

17 **SUMMARY OF THE MONETARY TERMS OF SETTLEMENT**

18 9. Attached hereto as **Exhibit A** is a true and correct copy of the Settlement
19 Agreement and Release.

20 10. As defined by the Settlement, "PAGA Settlement Group Members" means "all
21 employees who were employed by SOMACIS in the State of California during the PAGA
22 Period" ("PAGA Settlement Group Members"). (Settlement Agreement ¶ I.O.)

23 11. Based upon Defendant's records, the PAGA Settlement Group Members worked
24 approximately 3,224 pay periods during the period of June 1, 2020, through June 15, 2021.
25 (Settlement Agreement ¶¶ I.N, III.A.b.)

26 12. The Settlement Agreement requires Defendant to pay a "Settlement Fund" in the
27 amount of \$120,000.00 for resolution of the Action. (Settlement Agreement ¶ I.V.) The balance
28 of the Settlement Fund remaining after deduction of approved attorneys' fees and litigation costs,

approved enhancement award to Plaintiff, and costs of the settlement administration, will be available for distribution to the LWDA and Aggrieved Employees. (Settlement Agreement ¶¶ I.L, I.M.)

13. As part of the Settlement Agreement, up to thirty-three and one-third percent (33 1/3%) of the Settlement Fund in attorneys' fees, or \$40,000.00, will be paid as attorneys' fees, as well as declared litigation costs not to exceed \$15,000.00. (Settlement Agreement ¶¶ V.A, V.B.) Plaintiff's Counsel's actual litigation costs incurred total \$6,131.83, which consists of costs associated with prosecuting the action and participating with mediation.

14. The Settlement Agreement further provides that Plaintiff will be entitled to request an Enhancement Award in the amount of \$7,500.00, which is meant to compensate Plaintiff for her assistance in prosecuting this action. (Settlement Agreement ¶ V.E.)

15. The Parties have selected Phoenix Settlement Administrators as the Settlement Administrator. (Settlement Agreement ¶ I.U.) The Settlement Agreement allocates \$3,500.00 to cover the costs related to the administration of the settlement. (Settlement Agreement ¶ VI.K.) Based on my experience, I am of the opinion that this amount is reasonable in relation to the value of the settlement. The administration costs will be deducted from the Settlement Fund. (*Id.*)

16. Any portion of the attorneys' fees and litigation costs, Enhancement Award to Plaintiff and/or settlement administration costs not used or approved by the Court shall be added to the net settlement amount for distribution to the LWDA and PAGA Settlement Group Members.

PAYMENTS TO AGGRIEVED EMPLOYEES AND THE LWDA

17. Assuming that the Court approves the Enhancement Award to Plaintiff (\$7,500.00), attorneys' fees (\$40,000.00), litigation costs, which were estimated at \$15,000.00,¹ and the settlement administration costs (\$3,000.00), I estimate that the remaining amount, or net

¹ As noted above, the actual litigation costs sought by Plaintiff's counsel are less than what was allocated as part of the Settlement, and thus the net settlement amount will actually increase.

1 settlement amount, will total \$62,868.17. Seventy-five (75%) percent of the net settlement
2 amount, or approximately \$47,151.12, will be paid to the LWDA for PAGA penalties (“LWDA
3 Payment”). (Settlement Agreement ¶ I.L.) The remaining twenty-five percent (25%) of the net
4 settlement amount, or approximately \$15,717.04, will be paid to the PAGA Settlement Group
5 Members (“Net Employee Benefit Funds”). (Settlement Agreement ¶ I.M.)

6 18. The individual settlement payments to PAGA Settlement Group Members, or Net
7 Employee Benefit Funds, will be based on the number of pay periods worked by the employee
8 during the PAGA Period. (Settlement Agreement ¶ VI.B.)

9 19. Based on the net settlement amount of approximately \$62,868.17, the civil
10 penalty value of each pay period during which each PAGA Settlement Group Member worked
11 during the PAGA Period is approximately \$19.50 ($\$62,868.17 \div 3,224$ pay periods = \$19.50 per
12 pay period). The amount each PAGA Settlement Group Member will be entitled to recover will
13 be premised on the number of pay periods he or she worked during the PAGA Period, and upon
14 the distribution of \$15,717.04, or 25% of the net settlement amount, pursuant to the Labor Code
15 § 2699. *See ZB, N.A.*, 8 Cal. 5th at 175. The amount any particular PAGA Settlement Group
16 Member will be entitled to recover will vary depending on the number of pay periods he or she
17 worked, with some entitled to receive more, and others less. This is fair, as it directly allocates
18 greater penalties to individual PAGA Settlement Group Members who experienced a higher
19 number of alleged violations. Based on the estimated number of employees provided before
20 mediation and based on a raw average, each PAGA Settlement Group Member will receive
21 approximately \$103.40 as a result of the Settlement ($\$15,717.04 \div 152$ PAGA Settlement Group
22 Member = \$103.40).

23 20. Any PAGA Settlement Group Member Settlement Share that remains uncashed
24 for more than 180 days after issuance shall be transmitted by the Settlement Administrator to the
25 National Employment Law Project, a non-profit organization that advocates for workers’ rights.
26 (Settlement Agreement ¶ VI.B.c.)

27 21. Plaintiff and the PAGA Settlement Group Members will release Defendant and
28 the Released Parties from the following:

1 all claims or causes of action that are delineated in Plaintiff's letter
2 to the LWDA and/or asserted in, or that could have been asserted
3 in, the Action against Defendant regarding employees who worked
4 for Defendant in California during the PAGA Period, including
5 any and all claims for civil penalties under PAGA that were or
6 could have been pled based on California Labor Code sections
7 204, 210, and 2699, *et seq.*

8 (Settlement Agreement ¶¶ I.S, VII.) As noted above, this release is limited to those claims
9 premised on the PAGA and thus is appropriately tailored to the allegations of the Complaint.

10 **POTENTIAL CIVIL PENALTIES**

11 22. I negotiated the settlement based on a clear understanding of the maximum
12 exposure in this case. There are approximately 3,224 pay periods in which Plaintiff contends that
13 Defendant paid the wages of PAGA Settlement Group Members beyond the time periods
14 allowed under Labor Code § 204. Defendant represented that there were approximately 152
15 PAGA Settlement Group Members during the PAGA Period. Pursuant to Labor Code § 210,
16 there is an initial penalty of \$100 for the first violation and a \$200 penalty for each subsequent
17 violation. Under PAGA, based on underlying violation of Labor Code § 204, the statutory
18 penalty is \$100 for any initial violation and \$200 for each subsequent violation for each
19 employee. Labor Code § 210. Thus, based on the data provided to Plaintiff's Counsel prior to
20 mediation, the estimated potential penalties based on the numbers Defendant has provided to
21 Plaintiff, the potential civil penalties are approximately 322,400 ([3,224 pay periods x \$100 =
22 \$322,400]). While Labor Code § 210 also provides for a portion of wages withheld to be
23 allocated as a component of the penalty, in my experience under the PAGA, courts are often
24 hesitant to award that component of the penalty—especially without a finding that there had been
25 a prior known violation of the Labor Code cited against the employer. *See Bernstein v. Virgin*
26 *Am., Inc.*, 3 F.4th 1127, 1144 (9th Cir. 2021) (holding employer was not subject to heightened
27 penalty under the PAGA because it “was not notified by the Labor Commissioner or any court
28 that it was subject to the California Labor Code....”).

23. The maximum penalty calculation assumes that Plaintiff will prevail on the
merits. However, Plaintiff's claims are contested. Defendant, moreover, has argued that even if

1 the Court ultimately found the pay practice violative of Labor Code § 204, the alleged violation
2 is a technical one and the Court has discretion under PAGA to substantially reduce the PAGA
3 penalties or to decide not to award PAGA penalties at all. Defendant may have sought summary
4 judgment on this issue or proceeded to trial. Should Defendant have prevailed, the State of
5 California and Aggrieved Employees would have been left with zero recovery.

6 24. I am also aware that Courts routinely award far less than the statutory maximum
7 amount of civil penalties, even where an underlying violation of the Labor Code is found. For
8 example, as shown in the Court of Appeal's decision in *Carrington v. Starbucks Corp.*, while the
9 plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA
10 penalty amount by 90%, citing the employer's good faith attempt at complying with the law. 30
11 Cal. App. 5th 504, 517 (2018). Similarly, in the matter of *Magadia v. Wal-Mart Assocs., Inc.*,
12 2019 U.S. Dist. Lexis 91792 (N.D. Cal. May 31, 2019), while the trial court imposed substantial
13 PAGA penalties upon the defendant, such amount still represented reductions of 67% and 80%
14 of the potential PAGA penalties at issue. *Id.* at *87-*100. Moreover, this was only after the
15 plaintiff in *Magadia* had prevailed after trial. Thereafter, the Ninth Circuit reversed a substantial
16 judgment in favor of the plaintiff and the aggrieved employees. *Magadia v. Wal-Mart Assocs.,*
17 *Inc.*, 999 F.3d 668, 682 (9th Cir. 2021). Thus, the maximum penalty calculation does not factor
18 in the likelihood that the Court would reduce the amount of penalties at trial.

19 25. I strongly believe that Plaintiff can prevail at trial. However, after taking into
20 account sharply disputed factual and legal issues involved in this litigation, the risks attending
21 further prosecution, and the substantial benefits to be received pursuant to the compromise and
22 settlement of the litigation, I have concluded that settlement on the terms set forth in the
23 Settlement Agreement is appropriate and in the best interests of Plaintiff and the PAGA
24 Settlement Group Members. Here, the Settlement Fund is approximately 37.2 % of the total
25 estimated exposure (\$120,000 Settlement Fund ÷ \$322,400 maximum penalties). This settlement
26 is fair and reasonable, considering the attendant risks.

27 **ATTORNEY EXPERIENCE**

28 26. My firm has a great deal of experience in wage and hour class action litigation

1 and has been approved as class counsel in a number of class actions.

2 27. I am one of the primary attorneys on this matter. My qualifications are as
3 follows: I received my JD from University of Southern California Gould School of Law in
4 2009. Upon graduation, I practiced law as an associate at Seyfarth Shaw LLP, representing
5 corporate clients in both single-plaintiff and wage hour class actions. In 2014, I began as an
6 associate at Diversity Law Group.

7 28. I have handled a number of wage and hour matters including class actions and
8 multiple-plaintiff actions. I have been named as Class Counsel in a number of class actions that
9 have been granted certification or preliminary or final approval by the Superior Courts of Los
10 Angeles County, Orange County, Alameda County, and Monterey County, the United States
11 District Court for the Central District of California, and the United States District Court for the
12 Northern District of California. These cases include, but are not limited to: *Diller v. Under*
13 *Armour Retail, Inc.*, Santa Clara County Superior Court Case No. 114-CV-265729, *Lopez v.*
14 *Imperial Body Shop, Inc.*, Orange County Superior Court Case No. Case No. 30-2015-00816193-
15 CU-OE-CXC, *Hughes v. Lincare, Inc., et al.*, Monterey County Superior Court Case No.
16 M124764, *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case
17 No. CIVDS1823132, *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County
18 Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing Association*, Alameda County
19 Superior Court Case No. RG18908139, *Morones v. Bimbo Bakeries USA, Inc.*, Sacramento
20 County Superior Court Case No. 34-2018-00245481-CU-OE-GDS *Foaad Hanna v. Equinix,*
21 *LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*,
22 Los Angeles County Superior Court Case No. BC720144; *Markham v. Quik Stop Markets, Inc.*,
23 Santa Clara Superior Court Case No.19CV341582; *Siron v. Raypak, Inc.*, Ventura Superior
24 Court Case No. 56-2019-005279959-CU-OE-VTA; *Carter v. Kline Services, Inc.*, San
25 Bernardino Superior Court Case No. CIVDS1828867, *Pascual v. Satellite Healthcare, Inc.*,
26 Santa Clara County Superior Court Case No. 19CV345211; *Carrillo v. New Balance Athletics,*
27 *Inc.*, Santa Clara County Superior Court Case No. 19CV352469; *Vogel v. Veolia North America,*
28 *LLC*, Monterey County Superior Court Case No. 19CV001443; *Holman v. American Sugar*

1 *Refining, Inc.*, Contra Costa County Superior Court Case No. MSC18-00415; *Chavez v.*
2 *Converse, Inc.*, United States District Court – Northern District of California Case No. 15-cv-
3 03746-NC, and *Rodriguez v. Nike Retail Services, Inc.*, United States District Court – Northern
4 District of California Case No. 5:14-CV-1508 BLF.

5 29. To date, I have incurred approximately 30.4 hours in connection with the
6 litigation of this lawsuit. Attached hereto as **Exhibit B** is a chart summarizing the amount of
7 work I have incurred to date on this matter.

8 30. The total lodestar for my hours will be approximately \$21,280 based on 30.4 total
9 hours, at an hourly rate of \$700.00 per hour. I have been approved at an hourly rate of \$650.00
10 per hour by various courts, including: *Pittman v. Martinez Steel Corporation*, San Bernardino
11 County Superior Court Case No. CIVDS1823132, *Della Maggiora v. Watsonville Community*
12 *Hospital*, Santa Cruz County Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing*
13 *Association*, Alameda County Superior Court Case No. RG18908139, *Morones v. Bimbo*
14 *Bakeries USA, Inc.*, Sacramento County Superior Court Case No. 34-2018-00245481-CU-OE-
15 GDS *Foaad Hanna v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365;
16 *Alicia Harris v. 24 Seven LLC*, Los Angeles County Superior Court Case No. BC720144;
17 *Markham v. Quik Stop Markets, Inc.*, Santa Clara Superior Court Case No. 19CV341582; *Siron*
18 *v. Raypak, Inc.*, Ventura Superior Court Case No. 56-2019-005279959-CU-OE-VTA; *Carter v.*
19 *Kline Services, Inc.*, San Bernardino Superior Court Case No. CIVDS1828867, *Pascual v.*
20 *Satellite Healthcare, Inc.*, Santa Clara County Superior Court Case No. 19CV345211; *Carrillo*
21 *v. New Balance Athletics, Inc.*, Santa Clara County Superior Court Case No. 19CV352469; *Vogel*
22 *v. Veolia North America, LLC*, Monterey County Superior Court Case No. 19CV001443;
23 *Holman v. American Sugar Refining, Inc.*, Contra Costa County Superior Court Case No.
24 MSC18-00415; and *Chavez v. Converse, Inc.*, United States District Court, Northern District of
25 California Case No. 15-cv-03746-NC. As of January 1, 2022, I increased my hourly rate to
26 \$700.00 per hour. I have been approved at the \$700.00 rate in *Gutierrez v. Spa Havens, LP*, San
27 Diego Superior Court Case No. 37-2019-00057065-CU-OE-NC, *Cruzado v. Ontario T, Inc.*, San
28 Bernardino Superior Court Case No. CIVSB2027249, *Ray v. C&W Facility Services, Inc.*, San

1 Bernardino Superior Case No. CIVSB2101321, *Alvarez v. Forterra Building Products*, San
2 Diego Superior Court Case No. 37-2020-00018179-CU-OE-CTL, and *Bautista v. Western*
3 *Refining Retail*, Alameda Superior Court Case No. RG19013250.

4 **LITIGATION COSTS**

5 31. At the time the Parties negotiated the Settlement Agreement, I did not have a final
6 tally of the litigation costs incurred to date. As such, the Parties included a maximum amount
7 that could be attributed to costs under the settlement.

8 32. Diversity Law Group requests costs in the amount of \$6,131.83. Attached hereto
9 as **Exhibit C** is a true and correct copy of the cost report demonstrating those costs incurred to
10 date.

11 **NOTICE TO LWDA**

12 33. Concurrent with the filing of the Motion to Approve Settlement Pursuant to
13 PAGA, my office uploaded the motion, Settlement Agreement, and proposed order to the
14 LWDA's website. In addition, my office shall submit to the LWDA a copy of the Court's
15 judgment and order approving the Settlement Agreement within ten (10) days after entry of
16 judgment or order.

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

19 Executed on this 17th day of May 2022, at Los Angeles, California.

20 
21 _____
22 Nicholas Rosenthal
23
24
25
26
27
28

EXHIBIT A

SETTLEMENT AGREEMENT

This Agreement is made by and between Lorelei Chambers, individually and on behalf of the PAGA Settlement Group Members she seeks to represent, on the one hand, and SOMACIS Inc., on the other hand, subject to both the terms and conditions hereof and the approval of the Court.

I. Definitions.

A. "Action" means the Complaint filed in the lawsuit filed by Plaintiff Lorelei Chambers on August 5, 2021, entitled *Lorelei Chambers, as an individual and on behalf of all others similarly situated v. SOMACIS INC., a California Corporation; and Does 1 through 50, inclusive*, Superior Court of California, County of San Diego, case number 37-2021-00033445-CU-OE-CTL.

B. "Administrative Costs" means the actual and direct costs reasonably charged by the Settlement Administrator in an amount not to exceed Three Thousand Five Hundred Dollars (\$3,500.00) for its services in administering and distributing the Settlement Fund.

C. "Agreement" means this document and Exhibit A hereto. Exhibit A is expressly incorporated into this document by reference as though fully set forth herein.

D. "Approval" means the date on which the Court approves the Settlement and judgment is entered by the Court.

E. "Approval Order" means an order issued by the Court approving this Agreement as binding upon the Parties.

F. "Attorneys' Costs Award" means the reimbursement of costs authorized by the Court to be paid to Plaintiff's Counsel in connection with services rendered representing Plaintiff and the PAGA Settlement Group Members in the Action. Defendant shall not oppose an Attorneys' Costs Award of up to Fifteen Thousand Dollars (\$15,000.00).

G. "Attorneys' Fee Award" means an award of attorneys' fees authorized by the Court to be paid to Plaintiff's Counsel for the services rendered representing Plaintiff and the PAGA Settlement Group Members in the Action. In no event shall the Attorneys' Fee Award exceed one-third of the Settlement Fund.

H. "Court" means the Superior Court of the State of California, County of San Diego, where the Action is pending.

I. "Defendant" means SOMACIS Inc.

J. "Defendant's Counsel" means the law firm of Ricketts Case LLP, counsel for Defendant in the Action.

K. "Enhancement Award" means an award authorized by the Court to be paid to Plaintiff in recognition of her efforts in prosecuting the Action and obtaining the settlement in a representative capacity. In no event shall any Enhancement Award to Plaintiff exceed Seven Thousand Five Hundred Dollars (\$7,500).

L. "LWDA Payment" means seventy-five percent (75%) of the Settlement Fund remaining after subtracting the Attorneys' Fee Award, Attorneys' Costs Award, Administrative Costs, and Enhancement Award, to be paid by the Settlement Administrator to the California Labor and Workforce Development Agency ("LWDA") from the Settlement Fund within fifteen (15) business days after Defendant makes the Settlement Fund Payment consistent with the terms of this Agreement.

M. "Net Employee Benefit Funds" means the net of the Settlement Fund less (1) any Attorneys' Fee Award, (2) any Attorneys' Costs Award, (3) any Administrative Costs, (4) LWDA Payment, and (5) any Enhancement Award.

N. "PAGA Period" means the time period between June 1, 2020 to June 15, 2021.

O. "PAGA Settlement Group Members" means all employees who were employed by SOMACIS in the State of California during the PAGA Period.

P. "Parties" means Plaintiff and Defendant.

Q. "Plaintiff" means the plaintiff in the Action, Lorelei Chambers.

R. "Plaintiff's Counsel" means the law firms of Diversity Law Group and Polaris Law Group, counsel for Plaintiff.

S. "Settled Claims" means all claims or causes of action that are delineated in Plaintiff's letter to the LWDA and/or asserted in, or that could have been asserted in, the Action against Defendant regarding employees who worked for Defendant in California during the PAGA Period, including any and all claims for civil penalties under PAGA that were or could have been pled based on California Labor Code sections 204, 210, and 2699, *et seq.*

T. "Settlement" means the terms and conditions set forth in this Agreement.

U. "Settlement Administrator" means the settlement administrator appointed to administer this Settlement pursuant to the Agreement, Phoenix Settlement Administrators.

V. "Settlement Fund" means the total amount to be paid by Defendant not to exceed One Hundred Twenty Thousand Dollars (\$120,000.00) which will be apportioned into the following amounts as set forth herein: (1) Administrative Costs (not to exceed \$3,500.00); (2) any Enhancement Award (not to exceed \$7,500.00) to be paid to Plaintiff; (3) an Attorneys' Fee Award not to exceed \$40,000 to be paid to Plaintiff's Counsel; (4) any Attorneys' Costs Award (not to exceed \$15,000.00) to be paid to Plaintiff's Counsel; (5) the Net Employee Benefit Funds

to be distributed for the benefit of the PAGA Settlement Group Members; and (6) the LWDA Payment.

W. "Settlement Share" means the portion of the Net Employee Benefit Funds allocable to each PAGA Settlement Group Member as provided by this Agreement.

II. Recitals.

A. On June 1, 2021, Plaintiff, an employee of Defendant, sent a PAGA letter to the LWDA alleging Defendant violated California Labor Code section 204. On August 5, 2021, Plaintiff filed this Action against Defendant on a representative basis under PAGA, asserting violations of PAGA with respect to the payment of wages.

B. On October 8, 2021, Defendant filed an answer to Plaintiff's Complaint, denying the material allegations and asserting various affirmative defenses.

C. The parties engaged in informal discovery, including Defendant's production of payroll data.

D. On January 19, 2022, the Parties participated in a full-day mediation with the Honorable Brian C. Walsh (Ret.), engaged in extensive arm's length negotiations, and reached a settlement.

E. Plaintiff has claimed, and continues to claim, that the contentions she has made in the Action have merit. Nothing in this Agreement may be construed as, or may be used as, an admission by Plaintiff that any of her claims are without merit.

F. Defendant expressly denies any liability. Defendant denies all claims, contentions, and each and every allegation made by Plaintiff in the Action. Nothing in this Agreement may constitute, may be construed as, or may be used as an admission by Defendant of any fault, wrongdoing, or liability whatsoever. Further, nothing in this Agreement shall constitute an admission of the accuracy of any allegation made by Plaintiff or Plaintiff's Counsel.

G. Plaintiff's Counsel and Defendant's Counsel have conducted sufficient investigation and research to reach this Agreement.

H. Plaintiff's Counsel have investigated and evaluated the applicable law and facts regarding the claims presented in the Action and the potential defenses thereto. Plaintiff's Counsel have discussed and assessed the relative strength of the fundamental premises underlying the Action and have concluded that this Settlement is fair and adequate under the circumstances.

I. Plaintiff therefore deems it desirable and beneficial that the Action be settled in the manner and upon the terms and conditions set forth herein.

J. Plaintiff, on her own behalf and as a representative of the PAGA Settlement Group Members, further acknowledges and agrees that Defendant disputes the merits of the claims against it.

K. Defendant recognizes that the defense of this litigation will be protracted and expensive. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiff. Defendant, therefore, has agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Action.

NOW THEREFORE, it is agreed by and between the undersigned that the Action be settled and compromised as among Plaintiff (on behalf of herself and of the PAGA Settlement Group Members) and Defendant, conditioned upon approval of the Court, on the following terms and conditions.

III. Consideration from Defendant.

A. Total Settlement Amount. In full, complete, and final settlement and satisfaction of the Action as against Defendant, and all Settled Claims, and subject always to all of the terms, conditions, and provisions of this Agreement, including Court Approval, Defendant agrees to provide the following consideration:

- a. The Parties acknowledge and agree Defendant shall pay a total of One Hundred Twenty Thousand Dollars (\$120,000.00) in consideration of the Settled Claims asserted in the Action.
- b. PAGA Settlement Group Members. Defendant represents that there are approximately one hundred fifty-two (152) employees employed by SOMACIS during the PAGA Period and three thousand two hundred twenty-four (3,224) pay periods during the PAGA Period.
- c. Escalator. Should the actual number of pay periods worked by the PAGA Settlement Group during the PAGA Period exceed 3,547 (i.e., ten percent more than 3,224), the Total Settlement Amount will increase in proportion to the increase in the pay period count above 3,547. For example, should the actual number of pay periods be 12 percent greater than 3,224, the Total Settlement Amount will increase by 2 percent.
- d. Within twenty-one (21) business days after the Court issues the Approval Order, Defendant shall fund the Settlement Fund.
- e. In the event the Settlement is cancelled pursuant to this Agreement, the Court denies Approval, or an appeal leaves the Settlement unenforceable, the Parties shall be returned to the same positions as existed at the time of this Agreement and all funds in the Settlement Fund provided for in this paragraph shall be returned to Defendant, with the exception of amounts

paid or owing to the Settlement Administrator for Administration Costs actually incurred for services already performed.

IV. Court Approval.

A. Motion for Court Approval of Settlement. Counsel for the Parties shall jointly request a hearing before the Court to be held on the earliest practicable date to seek Approval of the Settlement. In conjunction with such hearing, Plaintiff's Counsel shall submit this Agreement, together with Exhibit A hereto, a Motion for Court Approval of Settlement, and any other documents necessary to implement the Settlement. Plaintiff's Counsel will draft the Motion for Court Approval of Settlement, will make it available to Defendant at least five (5) business days prior to the filing of the motion, and will work with Defendant in good faith to make the motion acceptable to Defendant.

B. The Parties agree there is no statutory right to provide PAGA Settlement Group Members the option to opt out of the Settlement.

C. Submission to LWDA. Within ten (10) calendar days after the Court's entry of the Approval Order, Plaintiff's Counsel will submit a copy of the Court's Approval Order to the LWDA pursuant to California Labor Code section 2699(1)(3).

D. The Court shall retain jurisdiction to enforce the terms of this Agreement and the Approval Order, and this Agreement shall be admissible to prove the Settlement and the PAGA Settlement Group Members' release of the Settled Claims.

V. Fee, Expense, and Enhancement Awards.

A. Attorneys' Costs Award. As a part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court award them an Attorneys' Costs Award but agree that the requested Attorneys' Cost Award shall not exceed Fifteen Thousand Dollars (\$15,000.00). Plaintiff's Counsel shall not be permitted to petition the Court against Defendant for any additional payments for costs or expenses from Defendant, except with respect to the request for an Attorneys' Fee Award as set forth in this Agreement. The Attorneys' Costs Award shall be for all claims for costs and expenses, past, present, and future incurred in the Action (exclusive of any request for an Attorneys' Fee Award as set forth in this Agreement). Defendant shall not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request for an Attorneys' Costs Award provided Plaintiff's Counsel's request for an Attorneys' Costs Award shall not exceed Fifteen Thousand Dollars (\$15,000.00). The Settlement Administrator shall pay the Attorneys' Costs Award from the Settlement Fund to Plaintiff's Counsel within fifteen (15) business days after Defendant funds the Settlement Fund.

- a. If the Court awards Plaintiff's Counsel less than Fifteen Thousand Dollars (\$15,000.00) for the Attorneys' Costs Award, the remainder will be added back to the Settlement Fund.

B. Attorneys' Fee Award. As part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court award them an Attorneys' Fee Award but agree that the requested Attorneys' Fee Award shall not exceed one-third of the Settlement Fund, or Forty Thousand Dollars (\$40,000.00). Plaintiff's Counsel shall not be permitted to petition the Court against Defendant for any additional payments for fees from Defendant unless the Escalator Clause in III.A.c. is activated, provided, however, that under no circumstance may Plaintiff's Counsel seek an Attorneys' Fee Award in excess of one-third of any increased Total Settlement Amount resulting from the Escalator Clause. The Attorneys' Fee Award shall be for all claims for attorneys' fees, past, present, and future incurred in the Action (exclusive of any request for an Attorneys' Costs Award as set forth in this Agreement). Defendant shall not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request for an Attorneys' Fee Award provided Plaintiff's Counsel's request for an Attorneys' Fee Award shall not exceed Forty Thousand Dollars (\$40,000.00), i.e., one-third of the Settlement Fund. The Settlement Administrator shall pay the Attorneys' Fee Award from the Settlement Fund to Plaintiff's Counsel within fifteen (15) business days after Defendant funds the Settlement Fund.

- a. If the Court awards Plaintiff's Counsel less than one-third of the Settlement Fund for the Attorneys' Fee Award, then Defendant shall have no obligation to pay Plaintiff's Counsel any additional amount for attorneys' fees.
- b. If the Court awards less than one-third of the Settlement Fund for the Attorneys' Fee Award, the remainder will be added back to the Settlement Fund.

C. Payment of any Attorneys' Fee Award and Attorneys' Costs Award to Plaintiff's Counsel from the Settlement Fund shall constitute full satisfaction by Defendant of any obligation to pay any amounts to any person, attorney, or law firm for attorneys' fees, expenses, or costs in the Action incurred by any attorney on behalf of Plaintiff and/or the PAGA Settlement Group Members, and shall relieve Defendant and Defendant's Counsel of any other claims or liability to any other attorney or law firm for any attorneys' fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of the Plaintiff and/or PAGA Settlement Group Members.

D. Defendant's own legal fees, costs, and expenses incurred in the Action shall be borne by Defendant.

E. Enhancement Award. As part of the Motion for Court Approval of Settlement, Plaintiff's Counsel intends to request that the Court approve an Enhancement Award for Plaintiff in an amount not to exceed a total of Seven Thousand Five Hundred Dollars (\$7,500.00) for her time in initiating and pursuing the Action against Defendant and for serving as the representative of the PAGA Settlement Group Members. Defendant will not object and will affirmatively express Defendant's non-opposition to Plaintiff's Counsel's request, provided that the Enhancement Award payable to Plaintiff does not exceed Seven Thousand Five Hundred Dollars (\$7,500.00).

- a. Any Enhancement Award approved by the Court shall be paid by the Class Administrator out of the Settlement Fund to Plaintiff within fifteen (15) business days after Defendant funds the Settlement Fund. Any Enhancement Award paid to Plaintiff shall be reported on an IRS Form 1099 (i.e., as "Other Income") and the Settlement Administrator shall issue an IRS Form 1099-MISC to Plaintiff for such amount. Plaintiff agrees that she alone is responsible for the tax consequences, including any penalties and interest, relating to the payment of any Enhancement Award.
- b. If the Court awards less than Seven Thousand Five Hundred (\$7,500.00) as an Enhancement Award, Defendant shall have no further obligation to pay any amount to Plaintiff relating to the Action apart from her payment from the Settlement Fund.
- c. If the Court awards less than Seven Thousand Five Hundred (\$7,500.00) as an Enhancement Award, the remainder will be added back to the Settlement Fund.

F. Neither the denial of, an appeal of, a modification of, nor a reversal on appeal of any Attorneys' Fee Award, Attorneys' Costs Award, Enhancement Award, or Settlement Shares (as defined in Section I(W)) shall constitute grounds for cancellation or termination of this Agreement.

VI. Settlement Administration.

A. Settlement Notice. The Parties, subject to Court Approval, agree to the following procedures for giving notice of this Settlement to the PAGA Settlement Group Members:

- a. Within twenty-one (21) business days of Approval or on such date otherwise ordered by the Court, Defendant shall use commercially reasonable efforts to provide to the Settlement Administrator an electronic list that includes the following information for each PAGA Settlement Group Member: their first and last name, last known mailing address, Social Security Number, and the total number of pay periods at issue during the PAGA Period. The Settlement Administrator shall not share this information with anyone, including but not limited to Plaintiff and Plaintiff's Counsel. After delivery of the information set forth in this Paragraph to the Settlement Administrator, the Settlement Administrator shall obtain updates, if any, to the last known mailing addresses using information reasonably available from the National Change of Address database maintained by the United States Postal Service and such additional efforts as the Settlement Administrator reasonably believes are appropriate to identify updated mailing addresses, if any.

- b. The Settlement Administrator shall send a copy of the notice explaining the Settlement (**Exhibit A**) ("Settlement Notice") and the PAGA Settlement Group Member's Settlement Share to all persons shown by Defendant's records to be PAGA Settlement Group Members, via First Class U.S. Mail, no later than fifteen (15) business days following receipt of the information described in paragraph VI(A)(a) of this Agreement.
- c. The Settlement Administrator shall perform a single skip trace using an industry accepted source such as Accurant and using information identifying the PAGA Settlement Group Member, as necessary, to conduct an address update on any Settlement Notice described in section VI(A)(b) returned as undeliverable to the Settlement Administrator. The Settlement Administrator shall re-mail all Settlement Notices to new addresses identified by Skip Tracing within three (3) business days of obtaining such new addresses.
- d. Any Settlement Notices returned to the Settlement Administrator as undelivered and bearing a forwarding address shall be re-mailed by the Settlement Administrator within three (3) business days following receipt of the returned mail.
- e. The Settlement Administrator shall keep Defendant's Counsel and Plaintiff's Counsel apprised of the status of distribution of the Settlement Notice and Settlement Shares to the PAGA Settlement Group Members.

B. Net Employee Benefit Funds and Settlement Shares. The Settlement Administrator shall have sole authority for determining the Net Employee Benefit Funds and Settlement Share to each PAGA Settlement Group Member.

- a. For purposes of calculating the Net Employee Benefit Funds, the Settlement Administrator shall deduct the actual Administrative Costs, the actual Enhancement Award, if any, the actual Attorneys' Fee Award, if any, the actual Attorneys' Costs Award, if any, and the LWDA Payment.
- b. The Settlement Share to each PAGA Settlement Group Member shall be determined by the Settlement Administrator dividing the Net Employee Benefit Funds by the total number of pay periods worked by the PAGA Settlement Group Members during the PAGA Period, and then multiplying that amount by the total number of pay periods attributed to that PAGA Settlement Group Member.
- c. Any check issued to any PAGA Settlement Group Member shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of its issuance, but will thereafter automatically be cancelled if not cashed by the PAGA Settlement Group Member within that time. In that event, upon the expiration of the one hundred eighty (180) calendar day

deadline for PAGA Settlement Group Members to cash the Settlement Share checks pursuant to this paragraph, each such PAGA Settlement Group Member's claim shall be deemed null and void and of no further force and effect, and the funds represented by such Settlement Share shall be paid to the National Employment Law Project within thirty calendar (30) days of the expiration of the Settlement Share checks.

- C. The Settlement Administrator shall be responsible for at least the following:
- a. Receiving, tracking, and organizing the PAGA Settlement Group Member information provided by Defendant;
 - b. Following up with Defendant with any questions about the PAGA Settlement Group Member information provided;
 - c. Printing and mailing to the PAGA Settlement Group members the Settlement Notice approved by the Court;
 - d. Performing address updates and verifications prior to the first mailing of the Settlement Notice;
 - e. Performing at least a single Skip Trace address follow up on any returned mail;
 - f. Resolving any issues that may arise concerning whether an individual is a PAGA Settlement Group Member and/or the number of pay periods at issue with regard to each PAGA Settlement Group Member;
 - g. Consulting with counsel for the Parties concerning any relevant issue, including (without limitation) distribution of the Settlement Notice and payment of Settlement Shares;
 - h. Calculating the LWDA Payment, Net Employee Benefit Funds, and Settlement Shares, consistent with the terms of this Agreement and any order of the Court;
 - i. Distributing, by mail or otherwise, and paying Settlement Shares, and the LWDA Payment, any Attorneys' Fee Award, any Attorneys' Costs Award, any Enhancement Award, and Administration Costs as may be ordered by the Court or as otherwise required by this Agreement;
 - j. All tasks assigned to the Settlement Administrator under this Agreement, which, if not completed properly or accurately, shall subject the Settlement Administrator to liability for any costs, fines, losses, or expenses or other amounts incurred by the Parties; and

k. Such other tasks as counsel for the Parties agree or the Court orders the Settlement Administrator to perform.

D. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

E. The Settlement Administrator is not an agent of Plaintiff, Plaintiff's Counsel, Defendant, or Defendant's Counsel.

F. The Settlement Administrator is not authorized by this Agreement or otherwise to act on behalf of Plaintiff, Plaintiff's Counsel, Defendant, or Defendant's Counsel except as set forth herein.

G. If a PAGA Settlement Group Member requests that the Settlement Administrator and/or its agent or employee refer him/her to Plaintiff's Counsel, or if a PAGA Settlement Group Member requests advice beyond merely ministerial information regarding the Settlement Notice or other Settlement-related documents for which the Settlement Administrator does not have an approved response, then the Settlement Administrator and/or its agent or employee shall promptly refer the inquiry to Plaintiff's Counsel and Defendant's Counsel.

H. Within two hundred eighty (280) calendar days after the entry of the Approval Order or such other date as the Court may order, the Settlement Administrator shall destroy all PAGA Settlement Group Members' personal identifying information received from Defendant and otherwise in connection with the implementation and administration of this Settlement.

I. The Parties agree to cooperate in the Settlement administration process and to use commercially reasonable efforts to carry out the terms of this Settlement and to control and minimize the costs and expenses incurred in the administration and implementation of the Settlement.

J. Within thirty (30) calendar days after the 180-day expiration period for the Settlement Shares, the Settlement Administrator shall provide counsel for all Parties with a written report listing the total amount of Net Employee Benefit Funds paid; the number of checks issued to the PAGA Settlement Group Members; the number and total dollar amount of such checks that were negotiated and cashed; the number and total dollar amount of checks issued that were not negotiated and cashed, if any; the amount of Administration Costs; and the amount of the Net Employee Benefit Funds paid or to be paid to the National Employment Law Project, if any.

K. The Administration Costs incurred by, or at the direction of, the Settlement Administrator in connection with the administration and implementation of this Agreement in an amount not exceeding Three Thousand Five Hundred Dollars (\$3,500.00), absent prior approval by the Court, shall be paid out of the Settlement Fund within fifteen (15) business days after Defendant funds the Settlement Fund.

L. Upon completion of the implementation and administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to counsel for all Parties.

M. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff, Plaintiff's Counsel, or the Settlement Administrator based on the mailings, distribution, or Settlement Share payment made in accordance with this Agreement or any order of the Court.

VII. Release and Waivers.

A. Except with respect to the obligations arising out of the Settlement and in consideration of the payments and terms set forth above, Plaintiff and the PAGA Settlement Group Members expressly, to the fullest extent permitted by law, fully and forever compromises, releases, resolves, relinquishes, and discharges Defendant and its current, former, and future parents, subsidiaries, divisions, and current and former affiliated individuals and entities, legal successors, predecessors (including companies they have acquired, purchased, or absorbed), assigns, joint ventures, and each and all of their respective officers, partners, directors, owners, stockholders, servants, agents, shareholders, members, managers, principals, investment advisors, consultants, employees, representatives, attorneys, accountants, lenders, underwriters, benefits administrators, investors, funds, and insurers, past, present, and future, and all persons acting under, by, through, or in concert with any of them (collectively, the "Released Parties"), from any and all injuries, demands, losses, damages, costs, loss of service, expenses, compensation, claims, suits, causes of action, attorneys' fees, obligations, rights, and liabilities of any nature, type, or description, whether known or unknown, contingent or vested, in law or in equity, and regardless of legal theory, that relate to, are based on, concern, or arise from any and all claims asserted in, or that could have been asserted in, the Action, based on the facts alleged therein, including the Settled Claims (as defined herein). To the fullest extent permitted by law, Plaintiff will agree not to commence or participate in any claim, demand, grievance, action, or other proceeding against the Released Parties based upon the claims being released.

B. Except with respect to the obligations arising out of the Settlement, the Settled Claims of Plaintiff and the PAGA Settlement Group Members against the Released Parties are fully and forever compromised, released, resolved, relinquished, and discharged through the PAGA Period. For the avoidance of doubt, as of the entry of the Approval Order, Plaintiff and the PAGA Settlement Group Members are bound by the settlement of the Settled Claims.

VIII. Miscellaneous.

A. Confidentiality. The Parties, Plaintiff's Counsel, and Defendant's Counsel agree that the existence and contents of this Settlement and all related settlement communications will remain confidential until the Motion for Court Approval of Settlement is filed with the Court. This provision shall not prevent the disclosure of such information prior to the filing of the Motion for Court Approval of Settlement with the Court to (1) regulators, rating agencies, independent accountants, advisors, financial analysts, agents, existing or potential insurers or

reinsurers, experts, courts, and any existing or potential investor of or any existing or potential lender to any of the Released Parties, the Settlement Administrator as may reasonably be required to effectuate this Settlement, and/or as otherwise required to comply with any applicable law or regulation; (2) any person or entity to whom the Parties agree in writing disclosure must be made to effectuate this Settlement, and/or (3) by Defendant or any of the Released Parties as necessary for any reasonable commercial purpose.

B. Plaintiff and Plaintiff's Counsel agree that the discussions and the information exchanged in the course of negotiating this Settlement and Agreement are confidential and were made available on the condition that they not be disclosed to third parties, that they not be the subject of public comment, and that they not be publicly disclosed or used by Plaintiff or Plaintiff's Counsel in any way in the Action should it not settle or in any other proceeding.

C. Prohibition on Press Releases. Plaintiff and Plaintiff's Counsel agree they will not contact the press, issue any press releases, give any interviews, or comment upon this Settlement to any person in any way other than as specifically provided in this Agreement. Plaintiff and Plaintiff's Counsel agree that, if approached by any person other than PAGA Settlement Group Members, they will say only that the Action settled. Upon entry of the Approval Order, Plaintiff's Counsel may identify the Settlement and/or the Approval Order and shall comply with all confidentiality provisions of this Agreement.

D. Confidential Materials. The Parties agree to cooperate and to work with one another to protect any confidential materials exchanged in connection with mediation or otherwise produced in the Action. This includes, but is not limited to, stipulating that any confidential information submitted to any court in the Action will be sealed.

E. Agreement to Cooperate. All of the Parties, their successors and assigns, and their attorneys agree to cooperate with one another in seeking Court Approval of this Settlement and to effectuate this Agreement.

F. Discovery. The Parties agree that all pending discovery requests are withdrawn.

G. Choice of Law/Venue. In determining the rights of the Parties hereto, this Agreement shall be governed by, construed, and interpreted in accordance with the internal laws of the State of California, without regard to the conflict of laws principles thereof. In addition, any action brought to enforce the provisions of this Agreement shall be commenced, prosecuted, and defended exclusively in the Superior Court of the State of California, County of San Diego.

H. Warranties. Each signatory to this Agreement hereby warrants that (s)he has the authority to execute this Agreement and thereby bind the respective Party. Plaintiff warrants and represents that she is standing in the shoes of the LWDA with respect to the Settled Claims and has not heretofore voluntarily, by operation of law or otherwise, sold, assigned, or transferred or purported to sell, assign, or transfer to any other person or entity any Settled Claims or any part or portion thereof.

I. Binding Effect of the Agreement. The terms of this Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective heirs, legal representatives, executors, administrators, successors, and assigns.

J. Integration Clause. This Agreement and its attachments constitute the entire agreement of the Parties with respect to the matters discussed herein, and supersede all prior or contemporaneous oral or written understandings, negotiations, agreements, statements, or promises. In executing this Agreement, the Parties acknowledge that they have not relied upon any oral or written understandings, negotiations, agreements, statements, or promises that are not set forth in this Agreement or its incorporated Exhibit A.

K. Modifications in Writing Only. This Agreement may not be amended or modified in any respect except by a written instrument duly executed by all of the Parties to this Agreement or their counsel. Non-material amendments or modifications to this Agreement may be made in writing between Plaintiff's Counsel and Defendant's Counsel without the need to seek the Court's approval.

L. Withdrawal from Agreement. If the Court indicates, prior to the Approval Order, that the Settlement will not be approved unless certain changes are made, the Parties will attempt in good faith to reach an agreement as to any such changes prior to withdrawing from this Agreement. However, if no such agreement can be reached within thirty (30) calendar days after the Court indicates that the Settlement will not be approved unless certain changes are made, absent a written agreement among the Parties to continue discussions, then Plaintiff or Defendant may terminate and withdraw from this Agreement consistent with Paragraphs III(A)(d) and VIII(M) of this Agreement.

M. Extensions. Without further order of the Court, Plaintiff's Counsel and Defendant's Counsel may agree in writing to reasonable extensions of time to carry out any of the provisions of this Agreement or the Approval Order.

N. Headings. The headings and captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision thereof.

O. Notice. All notices or other communications given pursuant to this Agreement will be in writing and addressed to:

Plaintiff's Counsel:

Larry W. Lee (lwlee@diversitylaw.com)

Nicholas Rosenthal (nrosenthal@diversitylaw.com)

515 South Figueroa Street, Suite 1250

Los Angeles, CA 90071

Telephone: (213) 488-6555

Facsimile: (213) 488-6554

Defendant's Counsel:

Merrili Escue (mescue@rcllp.com)
Shirley Shu (sshu@rcllp.com)
Ricketts Case, LLP
162 S. Rancho Santa Fe Road, Suite B-60
Encinitas, CA 92024
Telephone: (858) 381-4890

P. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original, and this Agreement is effective upon execution of at least one counterpart by each party to this Agreement.

Q. No Admissions. If this Agreement does not become effective or is cancelled or terminated for any reason, it shall be deemed negotiations for settlement purposes only and will not be admissible in evidence or usable for any purposes whatsoever in the Action or any proceedings between the Parties. Defendant denies all of the claims, contentions, and each and every allegation made by Plaintiff in the Action and expressly disclaims that any action, omission, or alleged wrongdoing by it, including entering into this Agreement or Defendant paying the amounts provided for herein, constitutes, acknowledges, or supports the existence or finding of a violation of the California Labor Code or gives rise to the imposition of any civil or statutory penalties under PAGA or otherwise. Nothing in this Agreement may constitute, may be construed as, or may be used as an admission by Defendant of any fault, wrongdoing, or liability whatsoever.

R. No Tax Advice. Neither Plaintiff's Counsel nor Defendant's Counsel intend anything contained herein to constitute legal advice regarding the tax consequences of any amount paid hereunder, nor shall it be relied upon as such.

S. Terminology and Construction. All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders and the singular shall include the plural and vice versa.

T. Conflicts. In the event of a conflict between this Agreement and any other document prepared pursuant to the Settlement, the terms of this Agreement supersede and control.

U. Waiver. Any failure by any Party to insist upon the strict performance by any other Party of any provisions of this Agreement shall not be deemed a waiver of any provision of this Agreement and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

///
///

V. Agreement Drafted By All Parties. This Agreement has been, and shall be construed to have been, drafted by all the Parties to it, and the Parties agree that any rule which construes ambiguities against the drafter shall have no force or effect.

SOMACIS INC.

PLAINTIFF LORELEI CHAMBERS


By: Craig Barrett
Its: General Manager

APPROVED AS TO FORM:

RICKETTS CASE, LLP

DIVERSITY LAW GROUP, P.C.


Merrili Escue
Shirley Shu
Defendant's Counsel

Larry W. Lee
Nicholas Rosenthal
Plaintiff's Counsel

POLARIS LAW GROUP, LLP

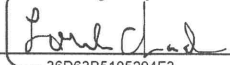
William L. Marder
Plaintiff's Counsel

V. Agreement Drafted By All Parties. This Agreement has been, and shall be construed to have been, drafted by all the Parties to it, and the Parties agree that any rule which construes ambiguities against the drafter shall have no force or effect.

SOMACIS INC.

PLAINTIFF LORELEI CHAMBERS

By: Craig Barrett
Its: General Manager

DocuSigned by:

36D63B5105294F3...

APPROVED AS TO FORM:

RICKETTS CASE, LLP

DIVERSITY LAW GROUP, P.C.

Merrili Escue
Shirley Shu
Defendant's Counsel



Larry W. Lee
Nicholas Rosenthal
Plaintiff's Counsel

POLARIS LAW GROUP, LLP



William L. Marder
Plaintiff's Counsel

EXHIBIT B

Chambers v. Somacis Inc.
Time and Task Chart for Nicholas Rosenthal

Hours	Description of Work
2.1	Draft Complaint.
.9	Draft LWDA letter.
6.1	Draft mediation brief.
7.3	Attend mediation.
7.8	Draft settlement agreement.
6.2	Draft approval motion.
30.4	TOTAL HOURS

EXHIBIT C

4/20/2022
12:51 PM

DIVERSITY LAW GROUP
Slip Listing

Page 1

Selection Criteria

Slip.Classification Open
Client (hand select) Include: Chambers, Lorelei v. SOMACIS
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
67660	EXP	Olympia	1	6.96	6.96
5/31/2021		Postage			
WIP		Chambers, Lorelei v. SOMAC			
Postage					
67404	EXP	Linda Lee	1	75.00	75.00
6/1/2021		Court fees			
WIP		Chambers, Lorelei v. SOMAC			
LWDA					
68299	EXP	Erika Mejia	1	1489.69	1489.69
8/6/2021		Court fees			
WIP		Chambers, Lorelei v. SOMAC			
One Legal - Complaint					
68890	EXP	Olympia	1	43.25	43.25
8/20/2021		Atty Service			
WIP		Chambers, Lorelei v. SOMAC			
Attorney Service - Complaint Service					
68641	EXP	Erika Mejia	1	12.35	12.35
8/27/2021		Court fees			
WIP		Chambers, Lorelei v. SOMAC			
One Legal - POS of Summons					
69634	EXP	Olympia	9	0.25	2.25
10/31/2021		Photocopies			
WIP		Chambers, Lorelei v. SOMAC			
Photocopies					
69635	EXP	Olympia	1	0.73	0.73
10/31/2021		Postage			
WIP		Chambers, Lorelei v. SOMAC			
Postage					
70080	EXP	Olympia	1	4450.00	4450.00
12/9/2021		Arbitrators			
WIP		Chambers, Lorelei v. SOMAC			
JAMS Mediation [5,000-550 refund]					

4/20/2022
12:51 PM

DIVERSITY LAW GROUP
Slip Listing

Page 2

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
71236	EXP	Kristen Agnew	1	51.60	51.60
1/19/2022		Meals			
WIP		Chambers, Lorelei v. SOMAC			
Meal					
Grand Total					
			Billable	0.00	6131.83
			Unbillable	0.00	0.00
			Total	0.00	6131.83