AEGIS LAW FIRM, PC
KASHIF HAQUE, State Bar No. 218672
SAMUEL A. WONG, State Bar No. 217104
JESSICA L. CAMPBELL, State Bar No. 280626
JULIA M. TOSCANO, State Bar No. 326272
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251
Email: jtoscano@aegislawfirm.com

Attorneys for Plaintiff Chadd Hunter Elam, individually, and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CHADD HUNTER ELAM, individually and on behalf of all others similarly situated, Plaintiff, vs. JEROME'S FURNITURE WAREHOUSE; and DOES 2 through 20, inclusive, Defendants.	Case No. 37-2021-00043115-CU-OE-CTL Assigned for all purposes to: Hon. Mark T. Cumba, Dept. C-65 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT** Date: February 27, 2026 Time: 8:30 a.m. Dept: C-65

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Chadd Hunter Elam ("Plaintiff") seeks approval of a settlement of claims under the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq*. ("PAGA") against Defendant Jerome's Furniture Warehouse ("Defendant") in the amount of $307,000.00. The Settlement resolves claims for PAGA penalties for certain wage and hour violations allegedly suffered by approximately 319 aggrieved employees, defined as persons currently or formerly employed by Defendant in California as a non-exempt employee in a sales position, including Aggrieved Employees with job titles such as: "Sales Associate", "Sales Supervisor," "Bedding Specialist," and "Web Sales Associate," at any time during the PAGA Period of August 3, 2020 through September 30, 2024.

Under Labor Code § 2699(l)(2), the Court must review and approve any proposed PAGA settlement. Here, the proposed Settlement is sufficient to deter and punish future violations. The Settlement is attached to the Declaration of Julia M. Toscano ("Toscano Decl.") as **Exhibit 1**, and the proposed letter to be sent to the aggrieved employees is attached thereto as **Exhibit A**. Plaintiff now seeks this Court's approval of the Settlement terms.

II. FACTUAL AND PROCEDURAL BACKGROUND

On October 12, 2021 Plaintiff commenced this Action by filing a complaint alleging a single cause of action against Defendant for Violation of the California Labor Code Private Attorneys General Act Of 2004 (Cal. Lab. Code §§ 2698, et seq.). The Complaint is the operative complaint in the Action (the "Operative Complaint"). Toscano Decl. at ¶ 5.

On August 3, 2021, Plaintiff's counsel sent a letter to the California Labor & Workforce Development Agency ("LWDA") via online submission and to Defendant via certified mail regarding Defendant's alleged violations. *See* Toscano Decl., ¶ 3, Exhibit 2. The LWDA did not respond to this notice within 65 days, indicating it did not intend to investigate, thus allowing Plaintiff to add a claim for Enforcement of the Private Attorneys General Act ("PAGA") to the instant lawsuit pursuant to Labor Code Section 2699.3(a)(2)(A). Toscano Decl., ¶ 4.

The Parties agreed to attend private mediation. Toscano Decl., ¶ 8. In preparation for mediation, Defendant produced data and documents for Plaintiff to evaluate the PAGA claims and calculate the alleged exposure, including policy documents, a sample of time and payroll records, and a list of aggrieved employees with dates of employment to calculate the pay periods worked. *Id.* Plaintiff's Counsel engaged an expert to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each of the claims. *Id.*

The parties attended mediation on January 9, 2025, with Eve Wagner, a respected class action and PAGA action mediator. Campbell Decl., ¶ 8. After a full day of negotiating, the Parties agreed to a settlement amount and executed a Memorandum of Understanding with the material terms the parties had agreed to. *Id.* The Parties spent the next several months negotiating the terms of the Settlement, which was finalized on September 26, 2025. *Id.*

Plaintiff provided notice of the Settlement to the LWDA on November 20, 2025. Toscano Decl., ¶ 9, Exhibit 3.

III. PAGA REQUIREMENTS

Based on the California Supreme Court's opinions in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), and *Iskanian v. CLS Transportation Los Angeles, LLC,* 59 Cal. 4th 348 (2014), Plaintiffs can seek appropriate civil penalties as called for under PAGA on behalf of the State of California and other similarly aggrieved employees without seeking class certification or meeting the requirements of class certification (i.e. numerosity, typicality, commonality and adequacy). As such, the class action two-step preliminary and final approval process is not required.

PAGA was enacted to allow enforcement of the Labor Code and recovery of penalties by the State and by private individuals who have been aggrieved by their employers. The statute calls for 75% of any penalties recovered to be paid to California's LWDA and the remaining 25% to the aggrieved employees (Cal. Lab. Code § 2699(i) (2016)).

In order to enforce and seek penalties under PAGA in a civil action, an aggrieved employee must first provide written notice to the LWDA and the employer of the particular Labor Code violations the aggrieved employee alleges the employer has violated. *See* Cal. Labor Code§ 2699.3(a)(l)(A) (2016). Once the LWDA notifies the aggrieved employee that it does not intend to investigate the alleged violations, or if the LWDA does not respond within a certain time period, the aggrieved employee is then allowed to proceed in a civil action against the employer on behalf of the LWDA and all other similarly aggrieved employees. *See* Cal. Labor Code § 2699.3(a)(2)(A) (2016).

In 2009, the California Supreme Court considered the issue of whether an aggrieved employee who brings a PAGA representative claim needs to meet class certification requirements. *Arias,* 46 Cal. 4th at 976. After a substantial review of the legislative history of PAGA, the Court held that an aggrieved employee's representative action brought on behalf of other aggrieved employees against an employer for PAGA violations does not need to meet the requirements for class certification. *Id*. at 975, 980-88. As the Court held, a plaintiff bringing suit under PAGA does so as the proxy or agent of California's labor law enforcement agencies. *Id*. at 986. Because the employee's PAGA action functions as a substitute for an action brought by the government itself, a judgment in the PAGA action binds all those who would be bound by a judgment in an action brought by the government. *Id.*

Finally, in a settlement of a PAGA action brought by an aggrieved employee, the court need only "review and approve" the settlement. Cal. Lab. Code § 2699(1)(2) (2016). The Parties to this current PAGA action have reached such an agreement and now seek this Court's approval of the proposed settlement.

IV. THE SETTLEMENT TERMS AND DISTRIBUTION OF PENALTIES

The Parties have agreed that Defendant will pay a total settlement amount of $307,000.00 (the "Gross Settlement Amount"). *See* Settlement Agreement, § 3.1. From this amount, up to one-third (1/3) of the Gross Settlement Amount, or $102,333.33, is allocated to attorneys' fees and up to $55,000.00 to actual litigation costs. *Id.* at § 3.2.2. To date, Plaintiff's counsel has spent $43,217.17 in actual litigation costs and incurred $154,815.00 in attorneys' fees. *See* Toscano Decl., ¶¶ 28-29, Exhibit 4. The Settlement allocates up to $5,250.00 to payment for Phoenix Settlement Administrators' costs associated with administration of the Settlement. Settlement Agreement, § 3.2.3. For Plaintiff's efforts in assisting with the Lawsuit and in exchange for a general release of his individual claims, $15,000.00 is allocated to Plaintiff. *Id.* at § 3.2.1.

After deducting the above amounts for attorneys' fees and costs, Settlement Administrator's costs, and Plaintiff's individual settlement award, the remaining fund will constitute the "PAGA Penalties" in which 65% will be paid to the LWDA (the "LWDA PAGA Payment") and 35% will be paid to the Aggrieved Employees as their "Individual PAGA Payments". Settlement Agreement, § 3.2.4. The Aggrieved Employees are all current and former persons employed by Defendant in California as a non-exempt employee in a sales position at any time during the PAGA Period. *Id.* at § 1.4. The PAGA Period means the period from August 3, 2020 through September 30, 2024. *Id.* at § 1.19.

The Individual PAGA Payments will be calculated pro rata based on the number of pay periods working during the PAGA Period. Settlement Agreement, § 3.2.4.1. If the number of pay periods worked by Aggrieved Employees in the PAGA Period exceeds 18,350 by more than 5%, the Gross Settlement Amount will increase pro rata per additional PAGA Pay Period *Id.* at § 8. The Individual PAGA Payments shall be paid to the Aggrieved Employees by way of a single check which will be valid for 180 days. *Id.* at § 4.4.1. All funds not claimed within 180 days of mailing of payment shall be sent to the California State Controller's Office Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each PAGA Employee. *Id.* at § 4.4.3. The Individual PAGA Payments will be characterized as penalties for tax purposes and reported on IRS Form 1099. *Id.* at § 3.2.4.2.

Prior to this disbursement, the Settlement Administrator shall check the Aggrieved Employees' addresses provided by Defendant using the National Change of Address database. Settlement Agreement, § 4.4.1. For any returned payments without a forwarding address, the Settlement Administrator shall run a skip trace. *Id*. at § 4.4.2. Aggrieved Employees will receive a letter along with their Individual PAGA Payment explaining the reason for the payment, the content of which will be submitted to the Court for approval. *Id*. at § 4.4.1. The proposed letter is attached to the Settlement Agreement as Exhibit A.

In exchange for the settlement payment, the State of California and the Aggrieved Employees will release the "Released Parties" meaning "means Defendant and its former and present directors, officers, shareholders, members, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates," from "from all claims for PAGA penalties arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice.." Settlement Agreement, §§ 1.26, 5.2.

V. THE SETTLEMENT IS FAIR AND REASONABLE

A. Standard for Approval

PAGA settlements must be "fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." *Moniz v. Adecco USA, Inc*., 72 Cal.App.5th 56, 77 (2021). The court must find that the plaintiff "has adequately represented the state's interests, and hence the public interest." *Id.* at 89. The LWDA must be notified of the settlement and be given an opportunity to object. The court may look to parallel class action guidelines to determine what is "fair, adequate and reasonable." *Kullar v. Foot Locker Retail,* 168 Cal.App.4th 116, 126 (2008). In that analysis, the court has "broad discretion in making this determination." *In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 723 (2006). Relevant factors may include "the strength of the plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, … the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant …." *Dunk v. Ford Motor Co*., 48 Cal.App.4th 1794, 1801 (1996).

B. The Settlement Meets the Standard for Approval

Here, the $307,000.00 Gross Settlement Amount is reasonable for a group of approximately 319 employees, which is equivalent to a penalty of about $962.00 per employee using the Gross Settlement Amount. This penalty is large enough to punish Defendant for alleged past violations and deter future violations. At the same time, the penalty amount is not so large as to be unjust, oppressive or confiscatory, considering the company's potential exposure explained below. Campbell Decl., ¶ 11. The Gross Settlement Amount is also reasonable in light of the facts of the foregoing action, the real risk that no PAGA penalties would be paid, and inherent risks and uncertainties associated with PAGA claims. *Id.* at ¶ 12.

Plaintiff calculated the potential exposure at the initial violation rate of $100.00 per pay period as follows: 18,350 x $100.00 per pay period is $1,835,000.00. If the Court stacked different types of penalties in each pay period, Plaintiff calculated the exposure as follows:

- 18,350 pay periods x $100 per pay period x 100% violation rate = $1,835,000.00 for rest break violations;
- 18,350 pay periods x $100 per pay period x 26% violation rate = $477,000.00 for meal period violations;
- 18,350 pay periods x $100 per pay period x 8% violation rate (for unpaid off-the-clock time worked) = $146,000.00 for unpaid wages;
- 18,350 pay periods x $250 per pay period x 100% violation rate =$458,750.00 for wage statement penalties and;
- 18,350 pay periods x $100 per pay period x 100% violate rate = $1,835,000.00 for unreimbursed business expenses.

Id. at 13. Defendant raised a number of arguments during settlement negotiations and provided evidence that could have defeated Plaintiff's claims. For example, Defendant argued that it maintained compliant written meal and rest break policies, and in practice, meal and rest breaks were provided and premiums were paid for any non-compliant meal or rest breaks. Plaintiff also alleged that Aggrieved Employees worked off-the-clock hours that were unpaid, however Defendant responded that Plaintiff had only identified testimony-dependent incidents isolated to Plaintiff, not a group-wide issue capable of a manageable trial. Plaintiff also alleged Defendant failed to reimburse necessary business expenses by requiring employees to use personal phones for work-related purposes. However, Defendant responded by providing facts showing that Aggrieved Employees were not required to use their personal cell phones for work due to the provision of equivalent technology on Defendants' premises available to and intended for Aggrieved Employees' use. *Id.* at 14.

Another crucial factor in evaluating the value of a PAGA-only case is that all PAGA awards are discretionary and can be reduced by the Court. Toscano Decl., ¶ 15. Under Labor Code § 2699(e)(2), the Court can reduce the PAGA penalties "if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." In other words, were this matter to go to trial, any award granted would be at the discretion of the Court. *Id.* In settling this case, Plaintiff recognizes that, although he believes there would be no persuasive grounds to reduce the penalties, the Court could determine otherwise and significantly reduce the PAGA penalties, especially with such a small employer. *Id.* The wide range of potential recovery and the additional delays and risks of trial justified settling for a reasonable amount of recovery. *Id.*

VI. CONCLUSION

For the foregoing reasons, Plaintiff requests the Court approve the proposed settlement pursuant to PAGA in this Action.

Dated: November 20, 2025

AEGIS LAW FIRM, PC

By ______________________

Julia M. Toscano
Attorneys for Plaintiff Chadd Hunter Elam