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7 Attorneys for Plaintiff

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 CALYNDRA DAVIS,

11 *Plaintiff,*

12 vs.

13 KAM Enterprises LLC dba Farmer Boys;
14 Leeza Jayne Brazier; and DOES 1 to 25,
15 inclusive,

16 *Defendant(s).*

Case No.: 22STCV17280

**SUPPLEMENTAL DECLARATION OF
HAROUT MESSRELIAN IN SUPPORT OF
UNOPPOSED SUPPLEMENTAL MOTION
FOR APPROVAL OF PAGA SETTLEMENT**

Action filed: 5/25/22

Date: 12/29/23

Time: 8:30am

Dept: 34

Reservation ID:
341812301108

Department: 34, Hon. Michael
Linfield

Submitted Herewith Under Separate Cover:

1. Plaintiff's Notice of Unopposed Supplemental Motion for Approval of PAGA Settlement; Memorandum of Points and Authorities in Support Thereof;

SUPPLEMENTAL DECLARATION OF HAROUT MESSRELIAN IN SUPPORT OF
SUPPLEMENTAL MOTION FOR APPROVAL OF PAGA SETTLEMENT AND
RELEASE

I, HAROUT MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of Messrelian Law Inc. and the attorney of record for Plaintiff Calyndra Davis ("Plaintiff") in her lawsuit against Defendants KAM Enterprises LLC dba Farmer Boys and Leeza Jayne Brazier (collectively "KAM" or "Defendant(s)").

2. I am experienced in handling employment law matters and specifically wage and hour cases, including PAGA claims. I have been practicing law since 2010. In my representation of employees, I have handled hundreds of individual and representative cases on behalf of employees with claims of minimum wages, overtime violations, as well as other wage claims, including meal breaks and rest breaks.

3. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

Court Complaint Submission to the LWDA

4. After reading the Court's tentative ruling on the original PAGA approval motion in this matter and after realizing that the original complaint in this matter had not been filed with the LWDA, I filed a copy of the complaint with the LWDA on November 13, 2023. True and correct copies of this complaint submission with the LWDA and the confirmation email are collectively attached as **Exhibit 1** to this declaration.

Attorney's Fees and Costs

5. The attorney's fees are reasonable in this case based on the percentage of recovery method and as cross-referenced against the Lodestar. In fact, there is a negative multiplier in this case, as Plaintiff's requested attorney's fees are less than the attorney's fees that were incurred in prosecuting this case. I have personally spent approximately 22.5 hours, inclusive of this supplemental motion, in prosecuting this case. At \$550/hour (for a 12th and 13th year attorney), that equates to \$12,375.00 in attorney's fees, which is a decent amount greater than

1 the requested attorney's fees.

2 6. In terms of the requested reimbursement of Court costs in the amount of
3 \$1,641.25, they are also reasonable and related to this litigation. The lawsuit filing fee in this
4 matter was \$462.27; the initial PAGA notice filing fee was \$75.00; the expert data analyst cost
5 was \$1,000; the original motion filing fee was \$61.54, and there were miscellaneous court
6 filing fees of \$42.33. These costs are directly related to this case and were reasonably incurred.
7 Furthermore, I have not included the new filing fees associated with the filing of these
8 supplemental papers in the above calculation.

9 Revised PAGA Notice

10 7. I revised the PAGA notice in this case and included the exact language
11 requested
12 by the Court in the tentative ruling on the original motion for PAGA approval. True and correct
13 copy of this revised PAGA notice is attached as **Exhibit 2** to this declaration.

14 Fairness of the Settlement

15 8. Since the two main claims in this PAGA action are for rest break violations and
16 meal break violations, the total maximum penalties based on a 100% violation rate would have
17 been \$166,300. The latter is broken down as \$55,450 for meal break penalties (1109 pay
18 periods x \$50/pay period) and \$110,900 for rest break penalties (1109 pay periods x \$100/pay
19 period). The \$166,300 exposure would be at a 100% violation rate, meaning that each and
20 every aggrieved employee suffered a meal and rest break violation in each and every pay period
21 they worked throughout the entire PAGA period. The latter is not in line with reality. In fact,
22 based on Plaintiff's own expert data analysis, which Defendant vehemently disputes, there was
23 in fact a 36.2% violation rate for either late, short, or interrupted meal periods for shifts over 6
24 hours.

25 9. Since the total number of pay periods in the PAGA period was 1,109 and since
26 only 51.7% of the shifts were over 6 hours, the total number of pay periods to consider for
27 potential meal break violations was 573 (51.7% x 1109 pay periods). As such, with the 36.2%
28 violation rate, the maximum exposure would be \$10,350.00, which is calculated as \$50 penalty
multiplied by 207 pay periods (36.2% of the 573 pay periods). Plaintiff extrapolated the same
36.2% rate for rest break violations, which would equate to a maximum exposure of \$40,100.00

1 (\$100 penalty per pay period multiplied by 401 pay periods, which is 36.2% x 1109 pay
2 periods). As such, the aggregate maximum exposure for meal and rest break claims would be
3 \$50,450.00. As such, the proposed settlement of \$25,000 would be approximately 50% of the
4 maximum exposure.

5 10. As such, the settlement of PAGA penalties in the gross sum of \$25,000.00, of
6 which 75% of the net amount after attorney's fees [\$8,333.33], attorney costs [\$1,641.25], and
7 settlement administrator fees [\$2,773.00], which is \$9,189.31 will be paid to the LWDA and
8 25%, which equates to \$3,063.11, will be distributed to the PAGA Members, is fair,
9 reasonable, adequate, and appropriate under the circumstances.

10 Notice to the LWDA

11 11. Pursuant to Lab. Code § 2699(1)(2), I submitted a copy of this Supplemental
12 Declaration along with the Supplemental Motion to the LWDA at the same time the
13 supplemental motion was being filed with the Court. True and correct copies of this
14 submission with the LWDA and the confirmation email are collectively attached as **Exhibit 3**
15 to this declaration. My firm will further provide a copy of the Court's Order and Judgment to
16 the LWDA within ten (10) calendar days after entry of said judgment or order as required by
17 Labor Code sections 2699(1)(2)-(3).

18 I declare under the penalty of perjury of the laws of the State of California that the
19 foregoing is true and correct to the best of my knowledge.

20 Executed on 12/6/2023, at Glendale, California.

21
22
23
24 HAROUT MESSRELIAN,
Declarant

EXHIBIT 1



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Court Complaint

PAGA Number (LWDA-CM-): * 852987-21

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".
Search for PAGA Case number

Your Information (Person Who is Filing)

Your First Name *

Harout

Your Last Name *

Messrelian

Your Email Address *

hm@messrelianlaw.com

Your Street Name, Number and Suite/Apt *

500 N Central Ave Suite 84

Your Mobile Phone Number

Your City *

Glendale

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

91203

Court Case Details

Court Type

California Superior Courts

Case Name *

Calyndra Davis v. KAM Ent

Case Number *

22STCV17280

Date Complaint Filed

Name of Court *

Los Angeles County Superior Court

Court Complaint and Other Documents

☒ I understand that this form is to be used only for submitting civil complaints that include a PAGA cause of action.

Court Complaint (must be a .pdf) *

Complaint.pdf

Other Attachment (if any)

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)

[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case



Harout Messrelian <hm@messrelianlaw.com>

Thank you for your Court Complaint Submission.

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>

Mon, Nov 13, 2023 at 9:48 PM

To: hm@messrelianlaw.com

11/13/2023 09:48:13 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Court Complaint

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 2

Mailing Date

NOTICE OF SETTLEMENT UNDER THE CALIFORNIA PRIVATE ATTORNEYS GENERAL ACT

Name

Address

Dear NAME:

[case name],

Los Angeles County Superior Court Case No. _____

You are receiving the enclosed check in settlement of a lawsuit entitled [case name] Case No. _____. In the lawsuit, _____ (“Plaintiff”) pursued various claims against _____ (“Defendants”) under Labor Code § 2699 *et seq.*, the California Private Attorneys General Act of 2004 (“PAGA”). Defendants deny all of the allegations and liability for any claims in this case. The Court has approved the Settlement on behalf of the following employees (“Aggrieved Employees”): all current and former non-exempt employees of Defendants in California during the time period from _____ to _____ (the “PAGA Period”).

The enclosed check for \$_____ is your share of the Settlement. Your settlement amount represents penalties and will be reported on an IRS Form 1099. Your check is valid for 180 days from the date of mailing. Funds attributable to any uncashed check will be sent to the State Controller’s Office Unclaimed Property Fund in the name of the Aggrieved Employee.

As a result of the Settlement, all Aggrieved Employees and the California Labor and Workforce Development Agency (“LWDA”) have released Defendants and their present, former, or future parents, owners, subsidiaries, and any affiliated or related persons or entities and each of its officers, directors, employees, partners, shareholders, attorneys and agents, and any other predecessors, successors, assigns, or legal representatives from the following Released Claims: all claims and/or causes of action under PAGA which are based upon the factual allegations set forth in the operative complaint and/or Plaintiff’s PAGA notice to the LWDA and arising at any time during the PAGA Period, including but not limited to claims for PAGA penalties for violations of Labor Code sections 201, 202, 203, 204, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2800, 2802, and 2699 *et seq.* The Aggrieved Employees’ Released Claims are limited to claims for civil penalties under PAGA.

BY CASHING THE CHECK, YOU ARE NOT GIVING UP ANY RIGHT TO SUE FOR ANY ALLEGED GRIEVANCES THAT YOU HAVE AGAINST KAM ENTERPRISES, LLC (d.b.a. FARMER BOYS)

EXHIBIT 3