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

BRIANA SANDEZ, individually, and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General Act;

Plaintiff,

vs.

MINER'S ACE HARDWARE, INC., a
California Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 56-2022-00567741-CU-OE-VTA

Honorable Charmaine H. Buehner
Department 44

**PLAINTIFF'S SECOND
SUPPLEMENTAL BRIEF IN FURTHER
SUPPORT OF MOTION FOR
APPROVAL OF PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT
AGREEMENT**

Date: October 7, 2026
Time: 1:30 P.M.
Department: 44

Complaint Filed: July 6, 2022
FAC Filed: January 20, 2026
Trial Date: None Set

1 **I. INTRODUCTION**

2 Plaintiff Briana Sandez respectfully submits this second supplemental brief in response
3 to the Court’s August 26, 2026 order (the “8/26 Order”), which continued Plaintiff’s Motion for
4 Approval of Private Attorneys General Act Settlement Agreement (“M4PAGA”). The issues
5 identified in the 8/26 Order are addressed below.

6 Plaintiff respectfully submits that the analysis below and supporting materials address
7 the issues identified in the 8/26 Order, and further warrant approval of the now-revised
8 Settlement Agreement, for the following reasons.

9 ***1. Potential Exposure and Recovery Ranges for Additional Claims that Are***
10 ***Included in the Release***

11 While the 8/26 Order impliedly acknowledged that Plaintiff provided a claim-by-claim
12 analysis of the ranges of potential exposure and recovery for several of the claims that are being
13 released under the settlement (see, e.g., Plaintiff’s August 19, 2026 First Supplemental Brief at
14 pp. 1–5), it stated that Plaintiff’s analysis did “not address several claims asserted in the
15 operative First Amended Complaint and encompassed by the proposed release.” (8/26 Order).

16 Therefore, while Plaintiff estimated a total realistic, risk adjusted value of \$578,170.16
17 of the nine primary claims that were set forth in Plaintiff’s August 19, 2026 First Supplemental
18 Brief, this Second Supplemental Brief separately evaluates the total realistic value of the five
19 additional claims that are encompassed by the FAC and the Settlement Release, namely: (1) the
20 Wage-Notice Claim; (2) the Paid Sick Leave Claim; (3) the Vacation/PTO on Separation Claim;
21 (4) the Day-Of-Rest Claim; and (5) the Political Activity Restrictions/Coercion Claim.

22 As explained below, the total realistic, risk-adjusted value of those additional claims that
23 fall within the release is at most \$44,726.25.

24 Thus, the \$500,000 Gross Settlement Amount represents an 80.3% recovery of the risk-
25 adjusted \$622,896.41 total value of the released claims. This Gross Settlement Amount must
26 be assessed against that complete, risk-adjusted valuation, not against a theoretical maximum
27 that assumes Plaintiff prevails on every factual and legal issue and obtains unreduced, stacked
28 penalties. The analysis here, together with that contained in Plaintiff’s August 19, 2026 First

Supplemental Brief, demonstrates that the Settlement provides a meaningful recovery while avoiding the substantial cost, delay, and uncertainty of continued litigation. It also gives the Court the information necessary to assess the Settlement’s allocation and overall adequacy under *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 64–65, disapproved on another ground in *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 709.

a. Wage-Notice Claims (Labor Code § 2810.5)

First, the Settlement includes a release of claims for PAGA penalties arising from Defendant’s alleged failure to provide compliant wage notices under Labor Code section 2810.5.

Plaintiff assigned very little value to these claims because several federal district courts have held that Labor Code section 2699(k)(2) does not allow for the collection of penalties based on notice violations, such as those under Labor Code section 2810.5. (*See, e.g., Hernandez Martinez v. Little Beach House Malibu, LLC* (C.D. Cal., Jan. 24, 2022, No. CV 21-3787-DMG), 2022 WL 886447; *Segal v. Aquent LLC* (S.D. Cal., Sept. 24, 2018, No. 18cv346-LAB), 2018 WL 4599754). Thus, while Plaintiff is unaware of any California Court of Appeal decision that has squarely addressed this question, and accordingly, that it might be argued that a maximum exposure benchmark would assign a \$100 penalty to each of the estimated 1,181 Aggrieved Employees, resulting in a \$118,100.00 starting point (1,181 × \$100), here, under the same reasoning applied in *Taduran*, there was a real risk that even if this court chose to disregard the federal district court decisions, the Court would nonetheless drastically reduce penalty assessment based on the finding that this type of violation did not result in harm to the aggrieved employees. (*See, Taduran v. James R. Glidewell, Dental Ceramics, Inc.* (2026) 121 Cal.App.5th 197, modified at 121 Cal.App.5th 383 [“*Taduran*”], review granted Sept. 2, 2026, S297762 (citable for potentially persuasive value only while review is pending; Cal. Rules of Court, rule 8.1115(e)(1)) [reasoning that trial courts may apply PAGA penalties on a per-employee basis instead of a per-period-basis, and suggesting that the Court has broad discretion to drastically reduce PAGA penalties for technical violations]).

On those expressly conditional assumptions, the risk-adjusted value for the wage-notice claim was 1% of the feasible maximum penalty amount, on a per-employee basis, which would

1 be \$1 per employee, i.e., \$1,181.00 in aggregate.

2 **b. Paid Sick Leave Claims (Labor Code §§ 245 and 246)**

3 Second, the Settlement includes a release of claims for PAGA penalties arising from
4 Defendant's alleged underpayment of paid sick leave under Labor Code sections 245 and 246,
5 based on the theory that Defendant failed to pay sick leave at the regular rate of pay.

6 First, as a deliberately expansive, stacked starting point, applying an assumed \$100
7 initial PAGA penalty to all 42,087 estimated Compensable Pay Periods yields \$4,208,700.00
8 ($42,087 \times \$100$). Even using a deliberately expansive starting point, the paid-sick-leave theory
9 should not be valued as a fully independent, additive source of PAGA exposure. Plaintiff's
10 theory is that Defendant paid sick leave at an incorrect regular rate because it allegedly failed to
11 include nondiscretionary bonuses and/or shift differentials. Thus, the sick-leave theory depends
12 on proving the same asserted regular-rate error that underlies the primary wage claim, and it
13 reaches only the subset of pay periods in which an employee both received sick pay and the
14 asserted regular-rate components were implicated. On Plaintiff's assumed 5% incidence rate,
15 the starting point is \$210,435.00 ($2,104.35$ estimated affected pay periods $\times$ \$100), not
16 \$4,208,700.00. Even that figure is a deliberately conservative ceiling because it treats every
17 assumed affected period as a separately penalizable violation and does not account for the
18 overlapping, derivative nature of the claim.

19 Moreover, *Taduran* supports a substantial risk adjustment from that theoretical figure. It
20 confirms that, after calculating the statutory maximum, the Court may use any reasonable
21 method, including a percentage reduction or a per-employee reduction, to award a lesser penalty
22 when the particular facts and circumstances show that the maximum would be unjust, arbitrary,
23 oppressive, or confiscatory. (*Taduran v. James R. Glidewell, Dental Ceramics, Inc.* (2026) 121
24 Cal.App.5th 197, modified at 121 Cal.App.5th 383, review granted Sept. 2, 2026, S297762
25 (citable for potentially persuasive value only while review is pending; Cal. Rules of Court, rule
26 8.1115(e)(1)). In affirming sharp reductions, *Taduran* considered the narrow character of the
27 violations, the modest actual underpayments, the employer's remedial conduct, and the resulting
28 disproportionality between a pay-period calculation and the conduct proved. Those

1 considerations apply with particular force here: the Paid Sick Leave Claim does not allege a
2 separate pay practice, but rather an asserted downstream consequence of the same alleged
3 regular-rate omission.

4 Thus, a 50% merits-and-overlap discount was applied to reflect the need to prove the
5 predicate regular-rate violation, the limited frequency of sick leave taken during otherwise
6 affected periods, and the substantial risk that separately stacking PAGA penalties would
7 overstate the claim's realistic value. Finally, a 75% discretionary-reduction discount under
8 Tadiran was applied, followed by the separate 30% discount for the asserted *Taylor* Action
9 release and standing risk.

10 On those expressly conditional assumptions, the risk-adjusted value for the paid sick
11 leave claims is \$18,413.06.

12 **c. Vacation/PTO Claims (Labor Code §§ 221, 223, and 227.3)**

13 Third, the Settlement includes a release of claims for PAGA penalties arising from
14 Defendant's alleged failure to pay accrued vacation/PTO to aggrieved employees upon
15 separation in violation of Labor Code sections 221, 223, and 227.3.

16 This is a separation-based theory, not a stand-alone violation occurring in every
17 compensable pay period. Maximum penalties for this claim are premised on a deliberately
18 conservative proxy drawn from the sample data provided before mediation. Applying an
19 assumed \$100 initial PAGA penalty on a per-employee basis to roughly 394 aggrieved
20 employees produces a \$39,400.00 starting point ($394 \times \$100$). A separate 25% proof discount
21 is justified by the challenges of establishing whether the affected employees had vested and
22 accrued vacation/PTO, the amount of any unpaid balance, and whether a distinct PTO violation
23 occurred. A 50% merits-and-overlap discount was applied to account for the need to prove both
24 the predicate primary violation and the distinct separation-related facts, as well as the substantial
25 risk of double counting penalties for the same underlying conduct. A 75% discretionary-
26 reduction discount under Tadiran is also justified because, even if a technical violation were
27 shown, there is a substantial risk that the Court would reduce a maximum penalty that is
28 disproportionate to the actual unpaid PTO and the conduct proved. Finally, a separate 30%

discount was applied for the asserted Taylor Action release and standing risk.

Applied sequentially, and on these expressly conditional assumptions, the risk-adjusted value of the Vacation/PTO Claims is \$2,585.63.

d. Day-of-Rest Claims (Labor Code §§ 551 and 552)

Fourth, the Settlement includes a release of claims for PAGA penalties arising from Defendant's alleged day-of-rest violations under Labor Code sections 551 and 552.

A day-of-rest violation is not established merely because an employee worked seven consecutive calendar days. Under Labor Code sections 551 and 552, as construed in *Mendoza v. Nordstrom, Inc.* (2017) 2 Cal.5th 1074, Plaintiff would need to prove that an employee worked all seven days in Defendant's fixed, regularly recurring workweek; that the employee did not fall within an applicable exception; and that Defendant caused the employee to forgo the day of rest. Applying an assumed \$100 initial PAGA penalty to an assumed 5% violation rate within the 42,087 estimated Compensable Pay Periods produces a \$210,435.00 possible-exposure starting point ($42,087 \times 5\% = 2,104.35$ estimated potentially affected pay periods; $2,104.35 \times \$100$). This is a deliberately conditional benchmark, not a substantiated statutory maximum: it does not establish Defendant's fixed workweek for every potentially affected employee, whether an employee worked seven days within that same workweek, whether the section 556 part-time exception or another exception applied, or whether Defendant induced the employee to forgo a rest day rather than allowing an informed, voluntary choice.

Here, a 50% merits-and-proof discount was applied to reflect the evidentiary burden of establishing each of the *Mendoza* predicates from the sample of time and wage records, including employer causation of seventh-day work. A 75% discretionary-reduction discount under *Taduran* is justified because, even if technical violations were shown, there is a substantial risk that the Court would reduce a penalty disproportionate to the number of proven violations and the conduct proved. Finally, a 30% discount for the asserted *Taylor* Action release and standing risk was applied.

Applied sequentially, and on these expressly conditional assumptions, the risk-adjusted value of the Day-of-Rest Claim is \$18,413.06.

e. **Political Activity Restrictions/Coercion Claims (Labor Code §§ 1101 and 1102)**

Fifth and finally, the Settlement includes a release of claims for PAGA penalties arising from Defendant's alleged violation of Labor Code sections 1101 and 1102, based on a written policy restricting on-the-clock political conversations.

Because this theory turns on the existence, scope, and enforcement of an alleged policy – *not a recurring wage-calculation or timekeeping error* – the realistic possible-exposure starting point is an assumed \$100 initial PAGA penalty on a per-aggrieved-employee basis. Applying that rate to the estimated 1,181 Aggrieved Employees produces a \$118,100.00 starting point ($1,181 \times \$100$). A per-pay-period calculation would likely overstate the realistic exposure. To impose a separate penalty for each pay period, Plaintiff would face substantial proof issues concerning whether, during that particular period, an employee wished to engage in protected political activity, was subject to the challenged policy, and was actually restricted, coerced, or influenced by the policy in a manner prohibited by sections 1101 or 1102.

While Plaintiff believed that there was evidence of a written policy that violated sections 1101 and 1102, Plaintiff recognized that that alone does not itself establish that each employee suffered a distinct violation in every pay period.

Thus, a 75% merits-and-proof discount was applied to reflect the substantial risk of proving that the policy was unlawful, applied to the affected employees, and had the requisite coercive or restrictive effect. An 80% discretionary-reduction discount under *Taduran* is also justified because there was a substantial risk that the Court would reduce a maximum penalty disproportionate to the actual harm and the conduct proved. Finally, a separate 30% discount was applied for the asserted Taylor Action release and standing risk.

Applied sequentially, and on these expressly conditional assumptions, the risk-adjusted value of the Political Activity Restrictions/Coercion Claim is \$4,133.50 ($\$118,100.00 \times 25\% \times 20\% \times 70\%$).

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1 **2. The Revised Settlement Agreement and Cover Letter Resolve the Disposition**
2 **of Uncashed Checks**

3 The original Settlement Agreement provided that, after cancellation of any uncashed
4 Individual Settlement Share checks, the associated funds would be transmitted to the State
5 Controller's Office Unclaimed Property Division in the name of the respective Aggrieved
6 Employee(s).

7 At the July 8, 2026 hearing on Plaintiff's Motion for Approval, the Court adopted its
8 written tentative ruling as its ruling and continued the motion. (July 8, 2026 Minute Order at pp.
9 1–3.) In that written Minute Order, the Court directed the Parties to address whether the
10 settlement provided for a *cy pres* distribution and, if so, to submit a declaration demonstrating
11 the propriety of the recipient and distribution under Code of Civil Procedure section 384. (*Id.* at
12 p. 3.) The Court explained that, when settlement checks remain uncashed, it routinely approves
13 and strongly prefers the unclaimed funds go to an appropriate *cy pres* organization. (*Ibid.*) The
14 Court identified payment to the State Controller's Unclaimed Property Fund as an alternative
15 that may be appropriate only when no suitable charity is available. (*Ibid.*) The Court further
16 directed the Parties to explain why a *cy pres* distribution fulfills the purposes of the action or is
17 otherwise appropriate, citing *State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460,
18 472, and *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 722, and to disclose any interest
19 in or connection with the proposed recipient. (*Ibid.*)

20 Following this directive, the Parties have amended the Settlement Agreement by
21 agreeing to designate the Greg E. Knoll Justice Gap Fund as the *cy pres* recipient for unclaimed
22 Individual Settlement Share funds, in place of the State Controller's Office Unclaimed Property
23 Division. The amendment does not alter the other terms of the Settlement Agreement; it changes
24 only the disposition of funds associated with checks that remain uncashed after cancellation,
25 thereby supplying the court-reviewable *cy pres* mechanism the July 8 Minute Order required.

26 The Court's written August 26, 2026 tentative ruling, issued in connection with the
27 continued approval hearing, identified a separate problem: although Plaintiff proposed the *cy*
28 *pres* change in the supplemental materials, the then-executed Settlement Agreement and

1 proposed employee Cover Letter still reflected the prior unclaimed-property disposition. (Aug.
2 26, 2026 Tentative Ruling at p. 1.) The Court accordingly found that “the proposed change in
3 the disposition of uncashed checks remains unresolved and inconsistent with both the executed
4 Settlement Agreement and the proposed employee Cover Letter.” (*Ibid.*)

5 That inconsistency has now been cured through the Revised Settlement Agreement,
6 which was fully executed on September 21, 2026, and which includes a revised Cover Letter.
7 The Revised Settlement Agreement, attached as “**Exhibit 1**” to the concurrently-filed
8 declaration of Charles T. Sweeny, amends Section 8(c)(4) to provide that Individual Settlement
9 Share checks remain valid for 90 calendar days, after which uncashed checks will be canceled
10 and the associated funds transmitted to the Greg E. Knoll Justice Gap Fund. The Cover Letter
11 to Aggrieved Employees, attached as Exhibit A to Exhibit 1, states the same 90-day check period
12 and the same disposition of canceled, uncashed-check funds. The operative settlement
13 agreement, the employee-facing notice, and the requested approval order now use the same *cy*
14 *pres* mechanism.

15 **3. Plaintiff Has Submitted the Fully Executed Revised Settlement Agreement**
16 **to the LWDA**

17 The 8/26 Order found that the “record does not establish submission to the LWDA of
18 the settlement in its presently revised form.” Plaintiff has now addressed that issue by uploading
19 Revised Settlement Agreement to the LWDA through the required online system. Plaintiff also
20 submitted a copy of this Second Supplemental Brief and supporting declaration of Charles T.
21 Sweeny alongside the Revised Settlement Agreement.

22 Confirmation of the September 28, 2026 LWDA submission is attached as **Exhibit 2** to
23 the Declaration of Charles T. Sweeny, thereby addressing the 8/26 Order and satisfying Labor
24 Code section 2699(1)(2).

25 **II. CONCLUSION**

26 The foregoing analysis and supporting materials address the issues identified in the 8/26
27 Order. Accordingly, Plaintiff respectfully requests that the Court grant this motion and approve
28 the Revised Settlement Agreement.

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Dated: September 28, 2026

SWEENEY LAW, PC

By: 
Charles T. Sweeny
Attorneys for Plaintiff