

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE §§ 2698 ET SEQ.)
SETTLEMENT AGREEMENT & RELEASE

Virgilio Mendiola v. National Presort LP
Alameda County Superior Court
Case Number: 22CV014885

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of the above-listed action with respect to various claims brought in a representative capacity pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2698, *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement (“PAGA Settlement” or “Agreement”).

This Agreement is made by and between Defendant National Presort, LLC (“NPI” or “Defendant”), on the one hand, and Plaintiff Virgilio Mendiola (“Mendiola” or “Plaintiff”), on the other hand, for himself, the Aggrieved Employees (defined below), and on behalf of the State of California. Defendant and Plaintiff, as defined herein, are sometimes together referred to as the “Parties.” This Agreement shall be effective upon the last date upon which it is signed and exchanged between the Parties.

The Parties agree that all representative PAGA claims brought, or that could have been brought, based upon the facts alleged in Alameda County Superior Court Case No. 22CV014885 (the “Action”) in which Plaintiff alleges Defendant, inter alia, (1) failed to pay Plaintiff and Aggrieved Employees all wages owed, including minimum and overtime wages; (2) failed to provide Plaintiff and Aggrieved Employees compliant meal and rest periods or pay meal and rest period premiums in lieu thereof; (3) failed to issue Plaintiff and Aggrieved Employees accurate itemized wage statements and/or maintain accurate records; (4) failed to timely pay all wages owed during and upon separation of employment; and (5) failed to provide reimbursement for necessary business expenses, shall be, and hereby are, fully, completely, and forever ended, settled, compromised, resolved, and concluded in exchange for and by agreement of Defendant to pay the gross sum of Thirty Thousand Dollars and Zero Cents (\$30,000.00) (hereinafter referred to as the “PAGA Settlement Sum”), subject to the payment provisions described herein, in full and final settlement of all PAGA civil penalties sought in the Action, the amount of which shall be inclusive of any and all attorney fees and costs for Plaintiff’s Counsel, in connection with this Agreement and releases by Plaintiff and the Aggrieved Employees.

Article I.

Definitions

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “Action” means *Virgilio Mendiola v. National Presort LP*, Alameda County Superior Court Case No. 22CV014885.
- (b) “Aggrieved Employees” means all individuals who are, or previously were, employed by NPI in California and classified as a non-exempt employee during the PAGA Period.
- (c) “Complaint” means the operative complaint in the Action, which was filed by Plaintiff on July 22, 2022 in Alameda County Superior Court, inclusive of the PAGA notice submitted to the California Labor and Workforce Development Agency (“LWDA”) by Plaintiff on or around May 17, 2022, the filing of which was a procedural prerequisite for Plaintiff to pursue recovery of civil penalties under PAGA.
- (d) “Court” means the Superior Court for the State of California, County of Alameda.
- (e) “Defendant’s Counsel” or “Counsel for Defendant” are:
 - Catherine M. Lee, Esq.
 - Geoff D. La Val, Esq.
 - Atkinson, Andelson, Loya, Ruud & Romo
 - 3 Harbor Drive, Suite 200,
 - Sausalito, California 94965
- (f) “Effective Date” means the latter of:
 - i. if no objections to the motion to approve this Agreement are made in writing or at the hearing for Court approval, the latter of: (1) the date the Court enters an order granting approval of the Parties’ PAGA Settlement; and (2) the date Defendant’s Counsel is served with a copy of the Court’s order granting approval of the Parties’ PAGA Settlement;
 - ii. if objection is made in writing or at the hearing on the motion to approve the PAGA Settlement and overruled, and no appeal is taken of the Order granting approval or no motion to intervene or motion to vacate judgment is filed, then the Effective Date shall be three (3) calendar days after the deadline to file an appeal of the Order granting approval; or
 - iii. if one or more appeals are taken from the Court’s overruling any objection to the PAGA Settlement in addition to an appeal of an order denying either intervention

or a motion to vacate judgment, then the Effective Date shall be three (3) calendar days after any appeal is dismissed or the Order granting approval of the PAGA Settlement is affirmed after an appeal, and the Order granting approval is not subject to further review and becomes final.

- (g) “PAGA Settlement Sum” means the total, maximum, all-in settlement amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) to be paid by Defendant in full satisfaction of all PAGA claims arising from the Action.
- (h) “Pay Periods” means any pay period in which an Aggrieved Employee performed work for Defendant in California during the PAGA Period.
- (i) “Plaintiff’s Counsel” are:

Marco A. Palau
Joseph D. Sutton
Eric S. Trabucco
ADVOCATES FOR WORKER RIGHTS LLP
212 9th Street, Suite 314
Oakland, California 94607

- (j) “PAGA Period” or “Release Period” means the time period of May 18, 2021 through the date the Court grants approval of the PAGA Settlement.
- (k) “Settlement Administrator” means Phoenix Class Action Administration Solutions (“Phoenix”).

Article II.

Background.

Section 2.01 Procedural Background.

- (a) On May 17, 2022, counsel for Mendiola submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) and NPI, which described Mendiola’s intent to pursue recovery of civil penalties on behalf of the State of California against NPI for claims arising under Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802 and the provisions of the applicable IWC Wage Order (the “PAGA Notice”).
- (b) On July 22, 2022, Mendiola filed an individual and PAGA representative action complaint in Alameda County Superior Court entitled *Virgilio Mendiola v. National Presort LP*, Case No. 22CV014885, which seeks recovery of damages for Plaintiff and civil penalties on behalf of putative aggrieved employees for the following causes of action: (1) Failure to Compensate for All Hours Worked; (2) Violation of the Minimum Wage; (3) Failure to Pay Overtime Hours; (4) Failure to Provide Rest Breaks or Pay Premium Wages in Lieu

Thereof; (5) Failure to Provide Meal Periods or Pay Wage in Lieu Thereof; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Reimburse Business Expenses; (8) Waiting Time Penalties; and (9) Violation of UCL for claims arising under, *inter alia*, California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 6310 and 6400, and the provisions of the applicable IWC Wage Order.

- (c) During the course of the Action, the Parties engaged in informal discovery and investigation into Plaintiff's claims. The Parties reached this PAGA Settlement only after such discovery and investigation was performed, and after the Parties engaged in an arm's-length mediation before Hon. Kevin J. Murphy (Ret.), an experienced wage and hour mediator.
- (d) In connection with this PAGA Settlement, Plaintiff's representative PAGA claims that were, or could have been brought based on the facts alleged in the operative complaint, under California Labor Code, including sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 6310 and 6400, and the provisions of the applicable IWC Wage Order be dismissed with prejudice through the entry of the Order granting approval of the Parties' PAGA Settlement in the Action.
- (e) This PAGA Settlement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA penalties sought in the Action and dismissal of the Action with prejudice.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Court Approval of the PAGA Settlement; Mutual Cooperation.

Subject to Defendant's Counsel's review and approval prior to filing, Plaintiff's Counsel shall be responsible for preparing and filing a Motion for Approval of the PAGA Settlement ("Motion"). The Parties will cooperate in obtaining, through such motion, an Order from the Court approving the payment of the PAGA Settlement Sum as described in this Agreement at the earliest possible date.

Concurrently with the submission of this Agreement to the Court, Plaintiff shall submit it to the LWDA, as required by PAGA. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement approval documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed in order to effectuate the approval and implementation of the PAGA Settlement and shall take all steps that may be requested by the Court relating to or that are otherwise necessary to obtain such approval, as described in this Agreement.

The Court's approval of the payment of the PAGA Settlement Sum as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA by Plaintiff promptly upon entry, as required by PAGA. Should the Court not grant approval of the payment of the PAGA Settlement Sum as described in this Agreement or decline to dismiss the Action with prejudice, as agreed by the Parties, Plaintiff shall be permitted to file a successive Stipulation and/or Motion for Court Approval altering the allocation of the Settlement Sum funds; however, the PAGA Settlement Sum of \$30,000 will never be increased. Should the Court not grant approval with prejudice of payment of the PAGA Settlement Sum and as to the material terms of the PAGA Settlement on a successive Motion for Court Approval, this Agreement shall be null and void and have no further effect. The Parties shall be returned to their prior positions, with any and all rights and arguments intact and undisturbed.

Section 3.02 Settlement Payment Procedures.

(a) Payment of PAGA Settlement Sum.

- (1) Defendant agrees to pay the total, all in, maximum amount of Thirty Thousand Dollars and Zero Cents (\$30,000.00) to fully and finally settle and compromise the PAGA claims in the Action. The PAGA Settlement Sum shall be paid as described in Section 3.02(a)(2) below, shall cover, resolve, and fully and completely satisfy any and all amounts owed to the State of California and Aggrieved Employees in the Action, including all amounts allocated to Plaintiff's attorney fees and costs, and in settlement of all of Plaintiff's claims pursuant to PAGA for all claims arising under, *inter alia*, California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 6310 and 6400, and the provisions of the applicable IWC Wage Order and all related or associated claims which were asserted, or which could have been asserted based upon the facts alleged, in the Complaint. In the event this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur, or the PAGA Settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the PAGA Settlement Sum. The Parties agree there are no circumstances that would require Defendant to pay any amount greater than the PAGA Settlement Sum in connection with this Agreement.
- (2) Defendant's funding of the PAGA Settlement Sum is conditioned upon the Court's approval of the PAGA Settlement and dismissal of the Action, with prejudice, after which Defendant shall deposit the total amount of the PAGA Settlement Sum with the Settlement Administrator no later than thirty (30) calendar days after the Effective Date. Defendant's deposit of the PAGA Settlement Sum shall be performed either by mailing a check to the Settlement Administrator's designated address, or by wire transfer to the Settlement Administrator's designated account. The date Defendant mails or wires the PAGA Settlement Sum to the Settlement Administrator shall be considered the date of payment.

- (3) Within thirty (30) calendar days of the Effective Date, Defendant will send a list to the Settlement Administrator which will contain each Aggrieved Employee's: (1) full name; (2) full social security number; (3) last-known address; and (4) number of Pay Periods worked during the PAGA Period.
- (4) The "Net Settlement Fund" or "Net PAGA Penalties" shall be calculated by deducting from the PAGA Settlement Sum the following: (1) up to, but not exceeding \$10,000.00 for the payment of Plaintiff's Counsel's attorney fees; (2) up to, but not exceeding, \$3,372.50 for the payment of Plaintiff's Counsel's costs; and (3) up to, but not exceeding, \$1,975 for the payment of the Parties' chosen and approved Settlement Administrator. The Net PAGA Penalties are currently estimated to total approximately \$14,652.50. The Net PAGA Penalties will be allocated and distributed pursuant to Labor Code section 2699(i) with 75% (i.e. \$10,989.38) paid to the LWDA and 25% (i.e. \$3,663.12) paid to the Aggrieved Employees on a pro-rata basis according to the number of Pay Periods they worked in the PAGA Period. If the Court does not approve the full amount of any of the items in this paragraph, such amount(s) not approved shall be re-allocated into the Net PAGA Penalties for distribution to the LWDA and the Aggrieved Employees consistent with PAGA.

(b) Distribution of the PAGA Settlement Sum.

- (1) Distribution of the PAGA Settlement Sum shall be conditioned upon the Effective Date first occurring, then it will proceed as follows:
 - a) The Settlement Administrator shall distribute the amounts described in paragraph 3.02(a)(4) within fifteen (15) calendar days of Defendant's payment of the PAGA Settlement Sum.
 - i) The 25% portion of the Net PAGA Penalties to be distributed to the Aggrieved Employees will be divided pro-rata among and paid to all Aggrieved Employees according to the total number of Pay Periods that each Aggrieved Employee worked during the PAGA Period.
 - ii) All interest accrued on the PAGA Settlement Sum shall be distributed 75% to the LWDA and 25% to the Aggrieved Employees. The Settlement Administrator shall transmit the settlement checks to the Aggrieved Employees, with no claims process required, by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to return all undeliverable settlement checks.
- (2) For each settlement check that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. Any settlement checks that remain uncashed more than 180 calendar days after issuance shall be paid to the California State Controller, with the identity of the Aggrieved Employee(s) to whom the funds belong, to be held for the Aggrieved Employee(s) per the California Unclaimed Property Law, in the

interest of justice. The money paid to the State Controller will remain each of the Aggrieved Employee's property to the extent permitted by law.

- (3) The entire amount of the PAGA Settlement Sum is considered penalties or attorney fees/costs and will not be subject to local, state, or federal tax withholdings. All recipients of payments under this PAGA Settlement shall have their payments reported on an IRS Form 1099 via the Settlement Administrator if required.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement, and compliance with this Agreement, shall not be construed as an admission by Defendant of any liability whatsoever, or as an admission by Defendant of any violations of Plaintiff's or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff or any other allegedly Aggrieved Employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract. Defendant further denies, for any purpose other than settling this matter, that this action is appropriate for representative treatment.

Section 4.02 No Use; Non-Evidentiary Use.

Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be publicized, marketed, or advertised by Plaintiff or Plaintiff's Counsel, nor offered or used as evidence by any of the Parties or their respective counsel in the Action or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties (defined below in Section 5.01) or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Defendant and the Released Parties may also use this Agreement as an affirmative defense and bar, in whole or in part, to any future or subsequent claims or suits by the Aggrieved Employees, or others, in whole or in part, to the extent applicable. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any allegedly Aggrieved Employees.

Section 4.03 Nullification.

Invalidation of any material provision of this Agreement shall invalidate this Agreement in its entirety unless the Parties subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims; Non-Disparagement.

Section 5.01 Release of Claims by Aggrieved Employees.

Upon approval of the PAGA Settlement by the Court, Plaintiff, on behalf of himself and his heirs, executors, and assigns, and the State of California, fully release and discharge Defendant, and each of its present and former parent companies, subsidiaries, divisions, affiliates, successors, predecessors, and assigns, and each of its respective past and present owners, officers, directors, operators, managing agents, members, shareholders, partners, employees, agents, franchisors, franchisees, attorneys, insurers, successors, assigns, representatives, accountants, payroll providers, benefits providers, and all persons acting jointly, under, by, through, or in concert with any of them (collectively, the “Released Parties”) from any and all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based upon the facts stated in the Complaint and the PAGA notice submitted by Plaintiff, which occurred during the PAGA Period, including but not limited to those claims arising under California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226, 226.3, 226.7, 226.8, 246, 246.5, 247, 247.5, 248.5, 256, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 6310 and 6400, and the provisions of the applicable IWC Wage Order (the “Released Claims”).

As a result of this release, the State of California and the Aggrieved Employees will be unable to bring or recover a claim against any of the Released Parties under the California Private Attorneys General Act, California Labor Code section 2698 et seq., for any violations of the Released Claims that took place during the Release Period. Defendant and the Released Parties shall have no liability for payment of civil penalties arising out of the Released Claims in this Action except as set forth in this Agreement.

Section 5.02 Non-Disparagement by Plaintiff.

Plaintiff agrees he will not, orally or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which criticizes, is adverse to, brings disrepute in the eyes of the public, defames, derogates or disparages Defendant or the Released Parties in any manner, nor shall Plaintiff authorize any agent or representative to make or express any such comment, view or opinion.

Likewise, Defendant agrees that it will not, orally or in writing, publicly or privately, post, publish, make or express any comment, view or opinion which criticizes, is adverse to, brings disrepute in the eyes of the public, defames, derogates or disparages Defendant in any manner, nor shall Plaintiff authorize any agent or representative to make or express any such comment, view or opinion.

Article VI.

Miscellaneous Provisions.

Section 5.03 Drafting.

The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

Section 5.04 No Impact on Benefit Plans.

Neither the Settlement Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee thereunder will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plans, policy, or bonus program. Defendant retains the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

Section 5.05 Acknowledgement that the Settlement is Fair and Reasonable.

The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

Section 5.06 Mutual Preparation.

The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties; it being recognized that, because of the arm's length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

Section 5.07 Representation By Counsel.

The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

Section 5.08 Waiver of Right to Appeal.

Provided that the Court's Order granting approval of this PAGA Settlement is consistent with the terms and conditions of the Settlement Agreement, Plaintiff, Aggrieved Employees, the LWDA, and Defendant, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Court's Order, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Order will become final and non-appealable at the time it is entered. This provision does not in any way impact Plaintiff's, Defendant's, nor Plaintiff's Counsel's right to appeal any adverse rulings entered as a result of any objections and/or other collateral attacks.

Section 5.09 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of, or on behalf of, any of the Parties, or of any other person, firm or other entity.

Section 5.10 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both: (a) signed by the Plaintiff and Defendant; and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 5.11 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 5.12 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 5.13 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto with respect to the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action.

Section 5.14 Waiver of Compliance.

Any failure of any Party hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 5.15 Counterparts.

The Parties hereby acknowledge that this Agreement may be executed in counterpart originals with like effect as if executed in a single original document. The Parties also agree that a facsimile, scanned, or electronically signed copy (provided it complies with California Civil Code sections 1633.1, *et seq.* and the party provides appropriate verification) of the signed Agreement shall have the same force and effect as an original signed Agreement.

Section 5.16 Attorney Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover, or seek to recover, any amounts for fees, costs, or disbursements from the Released Parties or the PAGA Settlement Sum except as expressly provided herein. Defendant shall bear its own attorney fees and costs, and neither Plaintiff's Counsel, the Aggrieved Employees, or Plaintiff shall be responsible for Defendant's attorney fees and costs. The Court shall retain jurisdiction to enforce this Agreement pursuant to Code of Civil Procedure section 664.6; if any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorney fees and costs incurred to enforce this Agreement.

Section 5.17 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties shall submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorney fees and costs.

Section 5.18 No Other Claims or Actions; Defendant's Right to Cancel If Plaintiff's Counsel Files Action Against Released Parties

Plaintiff represents that he has not filed any complaints, claims, or actions against Defendant or the Released Parties with any court or administrative agency other than the Action, and the related notice(s) filed with the LWDA. If any agency or court has or assumes jurisdiction

of any complaint, claim, or action against Defendant or the Released Parties on behalf of Plaintiff, Plaintiff will request that agency or court to withdraw from or dismiss the matter. Plaintiff and Plaintiff's Counsel agree to fully defend this Agreement and this Settlement in the event that a third party objects to, undermines, attacks, or attempts to otherwise intervene or interfere with the process and approval of this settlement or this Agreement.

Section 5.19 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 5.20 Default, Notice and Cure; Time is of the Essence.

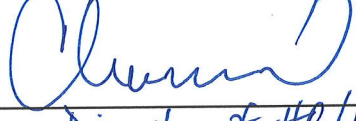
If Defendant fails to timely make any payment required herein, it shall be in default. Plaintiff shall give Counsel for Defendant notice of the default by e-mail and Defendant shall have fifteen (15) business days thereafter to cure the default. The Parties agree that time is of the essence with respect to all provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: 02/12/2024

NATIONAL PRESORT LLC

By 
Title Director of HR/Legal

02/10/2024

Dated:

VIRGILIO B. MENDIOLA JR.


Plaintiff Virgilio B. Mendiola, Jr.

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: 13/02/2024

13/02/2024

**ADVOCATES FOR WORKER RIGHTS
LLP**

Joseph D. Sutton
Joseph D. Sutton (Feb 13, 2024 10:47 PST)

Marco A. Palau
Joseph D. Sutton
Eric S. Trabucco

Attorney for Plaintiff

Dated: February 12, 2024

**ATKINSON, ANDELSON, LOYA, RUUD &
ROMO LLP**

By Geoffrey D. La Val
Catherine M. Lee
Geoffrey D. La Val

Attorney for National Presort LLC