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MELISSA PEREZ, and
Other Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MELISSA PEREZ, as an Individual, and
on Behalf of Herself and Other Aggrieved
Employees, and On Behalf of the General
Public as Private Attorneys General;

Plaintiff,

v.

SPARC GROUP LLC dba NAUTICA, a
California Corporation; and DOES 1
through 250, inclusive,

Defendants.

Case No.: 22STCV21083

*Assigned for All Purposes to the
Honorable Judge Teresa A. Beaudet*

Department: 50

**FURTHER AMENDED NOTICE OF
MOTION AND MOTION FOR
APPROVAL OF PRIVATE ATTORNEY
GENERAL ACT SETTLEMENT;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT;
DECLARATION OF RONALD L.
ZAMBRANO IN SUPPORT WITH
EXHIBITS**

Hearing Date: April 8, 2025

Time: 10:00 a.m.

Reservation Number: 366938963697

Action Filed: June 29, 2022

Trial Date: December 4, 2024 (Vacated)

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1 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR RESPECTIVE**
2 **ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that on April 8, 2025, at 10:00 a.m., or as soon thereafter as the
4 matter may be heard in Department 50, Courtroom of the Honorable Judge Teresa A. Beaudet,
5 Plaintiff MELISSA PEREZ (hereinafter referred to as “Plaintiff” or “Ms. Perez”) will, and hereby
6 does, move the Court for an Order granting approval of the settlement under the Private Attorneys
7 General Act (“PAGA”).

8 The purpose of this Motion is to seek the Court’s approval of the proposed settlement
9 agreement reached between the Plaintiff and Defendant SPARC GROUP LLC dba NAUTICA
10 (hereinafter referred to as “Defendant”) (hereinafter collectively referred to as “the Parties”), which
11 addresses the claims brought under PAGA. The motion will be based on this Notice of Motion,
12 Memorandum of Points and Authorities, the Declaration of Ronald L. Zambrano, as well as other
13 documents and records on file herein, and on such oral and documentary evidence as may be
14 produced at the hearing.

15
16 Dated: February 18, 2025

WEST COAST EMPLOYMENT LAWYERS, APLC

17
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19 BY: _____

Ronald L. Zambrano, Esq.
Crystal F. Mohsin, Esq.
Attorneys for Plaintiff,
MELISSA PEREZ and Aggrieved Employees

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I. INTRODUCTION

Plaintiff Melissa Perez (“Plaintiff”) submits this Memorandum of Points and Authorities in support of Plaintiff’s Further Amended Motion for Approval of the Private Attorneys General Act (“PAGA”) Settlement reached in this action against Defendant SPARC GROUP LLC dba “NAUTICA” (“Defendant”). Plaintiff and Defendant are collectively referred to as “the Parties.” The Parties have documented the proposed settlement in the Amended Settlement Agreement and Release of PAGA Claims¹, attached as **Exhibit A** to Declaration of Ronald L. Zambrano (“Zambrano Decl.” at ¶ 3.) Plaintiff is an Aggrieved Employee as she alleges, she suffered the claimed violations in the PAGA period. (*Id.*) The Total Settlement Payment is \$10,000.00 (Ten Thousand Dollars and Zero Cents) (the “Total Settlement Payment”). (Zambrano Decl. at ¶ 14.) After deduction of attorney’s fees, which are requested at twenty percent (20%) of the settlement, or \$2,000.00, (“Plaintiff’s Counsel Payment”) (Zambrano Decl. at ¶¶ 14-15, 21-23) and third-party administration expenses (of \$2,900.00) the remaining amount is the PAGA Payment of \$5,100.00 (Remaining “PAGA Net Fund”), to be allocated as detailed below. To summarize:

<u>Allocation</u>	<u>Amount</u>
Total Settlement Payment	\$10,000.00
Plaintiff’s Counsel Payment	\$2,000.00
Third-Party Administration Expenses (Simpluris)	\$2,900.00
Remaining PAGA Net Fund	\$5,100.00

II. PROCEDURAL HISTORY

On May 3, 2022, Plaintiff provided written notice to the LWDA and Defendant, as required

¹ Hereinafter “Settlement” or “Settlement Agreement.” Unless indicated otherwise, all capitalized terms have the same meaning as those defined by the Settlement Agreement.

1 by California Labor Code §2699.3(a)(1), of her intent to pursue PAGA penalties and the basis of the
2 alleged violations. (Zambrano Decl. ¶ 4; **Exhibit B.**) On June 29, 2022, Plaintiff filed a Complaint
3 in this matter in the Superior Court of California, for the County of Los Angeles and a Second
4 Amended Complaint was filed August 1, 2023. On August 30, 2023, Defendant filed an Answer to
5 Plaintiff's Second Amended Complaint for Damages. Concurrently, the parties engaged in
6 discovery. (Zambrano Decl. ¶ 5).

7 Counsel for all Parties have thoroughly investigated the facts relating to the claims alleged in
8 the operative complaint and have made a thorough study of the legal principles applicable to the
9 claims asserted against Defendant. Based on their investigation and evaluation of this case, Plaintiff's
10 Counsel has concluded that the settlement is fair, reasonable, and adequate in light of all known facts
11 and circumstances, including the defenses asserted by Defendant, potential adverse findings
12 regarding liability, and numerous potential appellate issues. (Zambrano Decl. ¶ 5). Plaintiff's counsel
13 then analyzed these documents to value the PAGA claim. (*Id.*)

14 Through private negotiation for settlement, the Parties agreed to fully resolve the issues
15 between them, including a PAGA Release as to Plaintiff and Aggrieved Employees. (Zambrano Decl.
16 ¶ 6). The settlement is memorialized in a Settlement Agreement and General Release of Claims,
17 which the Parties executed concurrently with the Private Attorneys General Act Settlement
18 Agreement and Release, and which is contingent upon the court's approval of the same. (Zambrano
19 Decl. ¶ 3).

20 On November 22, 2024, Plaintiff provided notice of the Proposed Settlement of PAGA to the
21 LWDA. (Zambrano Decl. ¶ 7; **Exhibit C.**)

22 23 **III. PAGA CLAIMS, DEFENDANT'S ARGUMENTS AND RISKS ASSESSED**

24 Plaintiff alleged that she and Aggrieved Employees were denied their rest breaks and their
25 meal breaks in violation of *Brinker Rest. Corp. v. Sup. Ct.*, (2012) 53 Cal.4th 1004, 1036, 1049 and
26 California Labor Code Section 226.7. (These require a 30-minute uninterrupted meal period by the
27 end of the 5th hour worked, during which the employee is free from all duty). Plaintiff alleged that
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1 she and the other Aggrieved Employees were not provided with timely, uninterrupted 30-minute
2 meal periods. (Zambrano Decl. ¶ 8).

3 California Labor Code §510 provides that employees in California shall not be employed
4 more than eight hours in any workday or 40 hours in a workweek unless they receive additional
5 compensation beyond their regular wages in amounts specified by law. Further California Labor
6 Code §§ 1194 and 1198 provide that employees in California shall not be employed more than eight
7 hours in any workday unless they receive additional compensation beyond their regular wages in
8 amounts specified by law. Plaintiff alleged that she and Aggrieved Employees were not paid for all
9 overtime hours worked in excess of eight hours per day. (Zambrano Decl. ¶ 9).

10 Plaintiff also alleged that she and Aggrieved Employees were denied complete, accurate
11 wage statements in violation of Labor Code section 226(a). Because Plaintiff alleged, she and
12 Aggrieved Employees were routinely denied their rest breaks and their meal breaks and unpaid for
13 all overtime hours worked, Plaintiff alleges Defendant's timekeeping was inaccurate which resulted
14 in inaccurate wage statements for Plaintiff. (Zambrano Decl. ¶ 10).

15 Lastly, Plaintiff further alleged that she and Aggrieved Employees are entitled to additionally
16 accruing wages at the regular daily rate of pay, up to a maximum of thirty days, pursuant to California
17 Labor Code sections 200-204 for Defendant's alleged failure to pay Plaintiff's earned and unpaid
18 wages at the time of discharge, allegedly in violation of the aforementioned sections of the Labor
19 Code. (*Id.*)

20 21 **IV. PAGA ACTIONS**

22 **A. The PAGA Statutory and Procedural Scheme**

23 PAGA creates a means of "deputizing" citizens as private attorney generals to enforce the
24 Labor Code on behalf of the LWDA. (*Brown v. Ralphs Grocery Co.* (2011) 197 Cal.App.4th 489).
25 Plaintiffs bring this claim "as the proxy or agent of the state's labor law enforcement agencies." (*Id.*
26 at 986; *see also Reyes v. Macy's, Inc.* (2011) 202 Cal.App.4th 1119, 1123-1124; *Iskanian v. CLS*
27 *Transp. Los Angeles, LLC* (2015) 59 Cal.4th 348, 380). In fact, when an aggrieved employee brings
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1 a PAGA claim, “the government is always the real party in interest.” (*Securitas Sec. Servs. USA, Inc.*
2 *v. Sup. Ct. of San Diego Cnty.* (2015) 234 Cal.App.4th 1109, 1119; *Montano v. The Wet Seal Retail,*
3 *Inc.* (2015) 232 Cal.App.4th 1214, 1222 (“[A] PAGA action is a dispute between an employer and
4 the State agency.”)). Thus, a plaintiff that brings a PAGA claim represents “the same legal right and
5 interest as state labor law enforcement agencies,” in that he/she seeks to recover civil penalties that
6 otherwise would have been assessed and collected by the LWDA. (*California Labor Code § 2699*
7 *(a) & (f); Securitas, supra*, 234 Cal.App.4th at 1119; *see also Medina v. Vander Poel* (E.D. Cal.
8 2015) 523 B.R. 820, 825 (holding “PAGA plaintiffs do not have property rights in their cases.”)).
9 This is made clear by the fact that 75% of the penalties recovered are sent to the LWDA, showing
10 that penalties are principally for the state and secondarily for aggrieved employees.

11 Accordingly, SPARC Group LLC DBA Nautica violates the following provisions under
12 California Labor Code §§ 2699.5: §§ 226.7 and 512 (Meal and Rest Periods), Labor Code § 226
13 (Wage Statement Accuracy), Labor Code §§ 510-515 (Unpaid Overtime) and Labor Code §§ 201-
14 204 (Waiting Time Penalties), Labor Code § 98.6 (Workplace Retaliation), and Labor Code § 1102.5
15 (Whistleblower Protection). Plaintiff intends to enforce these claims against all owners, directors,
16 officers, and managing agents of SPARC Group LLC DBA Nautica, under section 558.1 of the Labor
17 Code.

18 In order to enforce and seek penalties under PAGA in a civil action, an aggrieved employee
19 must first provide written notice to the LWDA, and the employer of the California Labor Code
20 sections alleged to be violated. (*California Labor Code §2699.3(a)(1)*). Once the LWDA notifies
21 the aggrieved employee that it does not intend to investigate, or the LWDA does not respond within
22 60 days, the aggrieved employee may then file a lawsuit against the employer on behalf of the LWDA
23 and all other similarly situated aggrieved employees after 65 days have passed. (*California Labor*
24 *Code §2699.3(a)(2)(A)*.) As explained above, Plaintiff has complied with the notice requirements.

25 Additionally, consistent with the fact that unnamed employees have no property interest in a
26 PAGA claim, “[u]nnamed employees need not be given *notice* of the PAGA claim, nor do they have
27 the ability to opt-out of the representative PAGA claim.” (*Ochoa-Hernandez v. Cjaders Foods, Inc.*,
28

(N.D. Cal. Apr. 2, 2010) 2010 WL 1340777 at *5. This renders the approval process distinct from those in a class action settlement, as there is no need for the Court to employ the "two-step approval process" required under Rule 3.769 of the California Rules of Court.

Lastly, in a PAGA settlement, the court shall "review and approve any settlement of any civil action filed pursuant to this part." (*California Labor Code* § 2699(1)(2)). The Parties have reached such a settlement and now seek this Court's approval of the settlement, which has been submitted to the LWDA under *California Labor Code* § 2699(1)(2).

B. The Court Has Discretion to Reduce PAGA Penalties.

"PAGA penalties...are mandatory, not discretionary" and must be awarded upon a showing that Defendant violated the Labor Code. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal. App. 4th 1157, 1213; *Moreno v. Autozone, Inc.* (N.D. Cal. June 5, 2007) No. C05-04432 MJJ, 2007 WL 1650942, at *3). However, PAGA provides the Court with discretion when it awards these penalties. California Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part 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." This has been done many times, including recently in *Carrington v. Starbucks Corp.*, (2018) 30 Cal. App. 5th 504. There, the plaintiff requested PAGA penalties of about \$70 million but the Court instead awarded only \$150,000 (0.21% of the maximum penalty). It came to this amount by using a \$50/pay period penalty (instead of \$100), and its discretion to reduce this to \$5 (a 90% reduction).

Some of the factor's courts have considered in reducing the amount of civil penalties include whether (1) the violation arises from an unsettled legal obligation (*Cotter v. Lyft, Inc.*, (N.D. Cal. 2016) 193 F.Supp.3d 1030, 1037); and (2) the employer's willingness to fix the violation. (*Fleming v. Covidien*, (CD. Cal. 2011) 2011 US. Dist. LEXIS 154590, *8-9). In *Cotter*, the Court found that a \$1 million PAGA settlement was fair and reasonable in light of the unsettled nature of the law (which awarded \$2.52 per pay period for 397,110 pay periods, resulting in a 97.5% reduction from the maximum penalty). Defendant specifically denies that it has engaged in any unlawful or wrongful

1 conduct against Plaintiff or the PAGA Settlement Members.

2 Here there are unsettled issues of law regarding whether “computing time statute”, *Code of*
3 *Civil Procedure § 12(a)*, applies to employees who are paid twice a month pursuant to the Labor
4 Code Section 204(a). A recent case in California held that the “computing time” statute” applies to
5 the Labor Code Section 204(d). (*See Parsons v. Estenson Logistics, LLC.* (2022) 86 Cal.App.5th
6 1260). In *Parsons*, the “computing time” statute providing that, if last day for performance of any
7 act provided or required by law to performed within specified time period is Saturday, Sunday, or
8 holiday, then that period is extended to the next day that is not Saturday, Sunday, or holiday applies
9 to labor law requiring that payment of wages be performed within specified period of time, i.e., not
10 more than seven calendar days following close of payroll period. (*Id* at 1266-1267.) *Parsons*,
11 however, did not address the issue of whether the computing time statute applies equally to the *Labor*
12 *Code Section § 204(a)* where employees are paid twice a month on days designed in advance by the
13 employers as the regular paydays.

14 Another issue pertaining to the violation of Section 204 is whether the subsequent violation
15 rate only applies after notice of the alleged violation occurs. The penalties for violating section 204
16 are set forth in *Labor Code section 210(a)*. (*Singer v. Becton, Dickinson & Co., Med-Safe Sys.*, (S.D.
17 Cal., July 25, 2008) 2010 WL 2899825, at *3) (“[E]very person who fails to pay the wages of each
18 employee as provided in Sections . . . 204 . . . shall be subject to a civil penalty as mandated by the
19 Section 210(a).). Courts have found that the subsequent violation rate only applies after notice of the
20 alleged violation occurs (but it is unclear what that will mean). (*Amaral v. Cintas Corp. No. 2, supra*,
21 163 Cal.App.4th at 1209; *accord Garnett v. ADT LLC* (E.D. Cal. 2015) 74 F. Supp.3d 1332, 1335-
22 36). As such, Defendant would argue that it did not have any notice of the alleged violation after its
23 initial violation, thus not subject to two hundred dollars (\$200) for each subsequent violation.

24 The above items regarding the court’s discretion, computing time statute, and whether
25 subsequent penalty rates apply were considered in evaluating the potential settlement. Based on
26 those, plus the risks associated with the claims as addressed in this motion, Plaintiff’s counsel found
27 the settlement to be fair and reasonable and respectfully requests the Court approve it.

V. THE PROPOSED SETTLEMENT

The Total Settlement Payment is \$10,000.00 for this action. Pursuant to the PAGA Settlement Agreement, the PAGA Net Fund is what remains after deducting the following: 20% as attorney's fees of the Total Settlement Payment (\$10,000.00), or \$2,000.00 ("Plaintiff's Counsel Payment"), and third-party administration expenses up to \$2,900.00. After deducting the above, the PAGA Net Fund is \$5,100.00. (Zambrano Decl. ¶¶ 14-15.) To summarize:

<u>Allocation</u>	<u>Amount</u>
Total Settlement Payment	\$10,000.00
Plaintiff's Counsel Payment	\$2,000.00
Third-Party Administration Expenses (Simpluris)	\$2,900.00
Remaining PAGA Net Fund	\$5,100.00

The PAGA Net Fund of \$5,100.00 ("PAGA Net Fund") is allocated to PAGA penalties, which is split between 75% (or \$3,825) to the LWDA and 25% (or \$1,275.00) to the Aggrieved Employees. (Zambrano Decl. ¶ 14-15.) Seventy-five percent (75%) of the PAGA Fund in the amount of \$3,825.00 will be sent to the LWDA and twenty-five percent (25%) of the PAGA Net Fund in the amount of \$1,275.00 will be allocated among the PAGA Settlement Members, based on each member's proportionate share of the weeks worked during the PAGA Period, and they will be issued an IRS Form 1099. (*Id.*) Defendant represents that there are approximately 63 PAGA Settlement Members through March 8, 2024. (*Id.*) Plaintiff has no evidence to dispute this assertion. (*Id.*)

The Aggrieved Employees (of which there are 63) are all persons employed by Defendant as non-exempt employees in California at any time during the PAGA Period. (Zambrano Decl. ¶ 16.) "PAGA Period" shall mean May 3, 2021, through the date of entry of an order by the Court in this Action approving this Settlement. (*Id.*) This is a non-reversionary, cash settlement. (*Id.*) A third-party administrator, which counsel proposes to be Simpluris, will be retained for the mailing of

1 notices and payments as detailed below. (Zambrano Decl. ¶ 16; **Exh. A.**)

2 **A. The Release**

3 The California Supreme Court has explained that a judgment in a PAGA representative action
4 “...is binding not only on the named employee Plaintiffs but also on government agencies and any
5 aggrieved employee not a party to the proceeding.” (*Arias, supra*, 46 Cal. 4th at 985-986). Here, the
6 Settlement Agreement and Notice to Aggrieved Employees make clear that the release only applies
7 to PAGA civil penalties as they state they are releasing the Released Parties from “all PAGA claims”.

8 **B. Funding, Payment and Notice of the Settlement to Aggrieved Employees**

9 Within 7 days after the Court enters an order approving the settlement, Defendant shall
10 provide the Settlement Administrator with a list of the names and addresses of the PAGA Settlement
11 Members. Based upon this data, the Settlement Administrator will determine the amounts it will pay
12 each of the Aggrieved Employees. At that time the Settlement Administrator is also authorized to
13 disperse to itself the amount of court-approved Settlement Administration fees. (Zambrano Decl. ¶
14 17.)

15 Within seven (7) days after the receipt of necessary funding, the Settlement Administrator
16 shall pay to the LWDA an amount equivalent to the court-approved seventy-five percent (75%) of
17 the PAGA Fund. Also, within seven (7) days after the receipt of necessary funding, the Settlement
18 Administrator shall distribute to PAGA Settlement Members their court-approved individual portion
19 of the PAGA Fund (the “Individual Payment” - *the amount paid to PAGA Settlement Members for*
20 *their court-approved individual portion of the “PAGA Fund”*), or as otherwise directed by the Court.
21 Also, within seven (7) days after the receipt of necessary funding, the Settlement Administrator shall
22 distribute to the Plaintiff’s Counsel their court-approved attorneys’ fees, either via wire transfer
23 payment or check, as specified by Plaintiff’s Counsel. The Settlement Administrator will send the
24 Individual Payment to the PAGA Settlement Members by postmarked First Class U.S. Mail.
25 (Zambrano Decl. ¶ 18.)

26 To provide the best notice and delivery of Individual Payments practicable, any Individual
27 Payment returned to the Settlement Administrator as non-delivered shall be sent by post-marked First
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1 Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is
2 provided for an Individual Payment that is returned as non-deliverable, the Settlement Administrator
3 shall use the best available technology accessible (e.g. skip tracing, address verification, etc.) to the
4 Settlement Administrator or other mutually agreeable method to locate PAGA Settlement Members
5 and will then mail the Individual Payment to the address identified by the best available technology
6 accessible to the Settlement Administrator or other mutually agreeable method. (Zambrano Decl. ¶
7 18.)

8 The Settlement Administrator shall maintain a list of the postmark date for the original
9 mailing of the Individual Payment to the PAGA Settlement Members, the postmark date of any
10 subsequent mailing to any PAGA Settlement Members, and a list of PAGA Settlement Members
11 who did not receive the Individual Payment due to the inability to locate a valid address using the
12 procedures described herein or who otherwise could not be located within two attempts at mailing.
13 (Zambrano Decl. ¶ 19.)

14 All settlement checks will remain valid and negotiable for 180 days from the date of their
15 mailing by the Settlement Administrator. After 180 days from the date of their mailing by the
16 Settlement Administrator, any uncashed checks will be void and escheat to the Legal Aid Foundation
17 of Los Angeles (<https://lafla.org/>). No, later than January 31 of the year following payment of their
18 individual portion of the PAGA Fund, the Settlement Administrator will prepare and issue an IRS
19 Form 1099 to PAGA Settlement Members who received a payment. (Zambrano Decl. ¶ 20.)
20

21 **VI. THE PROPOSED SETTLEMENT SHOULD BE APPROVED**

22 **A. The Settlement is Fair, Reasonable, and Adequate.**

23 To be approved, a settlement must be "fair, reasonable and adequate to all concerned." (*Reed*
24 *v. United Teachers Los Angeles*, (2012) 208 Cal. App.4th 322,337). The Court's role in evaluating a
25 proposed settlement is limited to ensuring that the agreement taken as a whole is fair and is not the
26 product of fraud or collusion between the negotiating parties. (*See Hanlon v. Chrysler Corp.*, (9th
27 Cir. 1998) 150 F.3d 1011, 1026, 1027). To begin with, there is a presumption of fairness when the
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1 settlement agreement was negotiated at arm's length by experienced counsel and based on sufficient
2 discovery and investigation to allow counsel and the court to act intelligently. (*See, e.g., Kullar v.*
3 *Foot Locker Retail, Inc.*, (2008) 168 Cal.App.4th 116,130.; *Dunk v. Ford Motor Co.*, (1996) 48
4 Cal.App.4th 1794,1802).

5 Furthermore, “In the context of a settlement agreement, the test is not the maximum amount
6 Plaintiff might have obtained at trial on the complaint, but rather whether the settlement is reasonable
7 under all of the circumstances.” (*Wershba v. Apple Computer, Inc.*, (2001) 91 Cal.App.4th 224, 250).
8 A trial court has broad powers to decide if the settlement is fair under the circumstances of the case.
9 (*Mallick v. Superior Court*, (1979) 89 Cal.App.3d 434, 438). The overriding concern is to ensure
10 the proposed settlement is "fair, adequate, and reasonable" and factors to consider include, but are
11 not limited to:

12 [T]he strength of Plaintiffs' case, the risk, expense, complexity and likely duration of
13 further litigation, the risk of maintaining class action status through trial, the amount offered
14 in settlement, the extent of discovery completed and the stage of the proceedings, the
15 experience and views of counsel, the presence of a governmental participant, and the reaction
16 of the class members to the proposed settlement. (*Dunk, supra*, 48 Cal.App.4th at 1801.)
17

18 As noted above, since this is a PAGA case the risk of maintaining class action status and
19 reaction of class members to settlement are inapplicable. The above factors require balancing and
20 are non-exhaustive. Risks and strengths of the claims, as well as discovery, investigation and
21 maximum exposure are addressed above, and the experience of Plaintiff’s counsel is included in the
22 Declaration of Ronald L. Zambrano.

23 In regard to the discovery conducted, courts look to this information to aid in assessing
24 whether the parties sufficiently developed the claims and their supporting factual basis before
25 reaching settlement. (*Kullar, supra*, 168 Cal.App.4th at 129-31). Information is sufficient where it
26 allows the parties and the court to form “an understanding of the amount in controversy and the
27 realistic range of outcomes of the litigation.” (*Clark, supra*, 175 Cal.App.4th at 801). This
28

1 requirement exists so that the parties can provide the court with “a meaningful and substantiated
2 explanation of the manner in which the factual and legal issues have been evaluated.” (*Kullar, supra*,
3 168 Cal.App.4th at 132). As made clear by this motion, Plaintiff’s counsel was provided with
4 sufficient information through the discovery process to form a realistic range of outcomes and
5 confirm for the Court that the Settlement is reasonable. (Zambrano Decl. at ¶ 5).

6 In the PAGA context, the Court should keep in mind that “[u]nlike a class action seeking
7 damages or injunctive relief for injured employees, the purpose of PAGA is to incentivize private
8 parties to recover civil penalties for the government that otherwise may not have been assessed and
9 collected by overburdened state enforcement agencies.” (*Ochoa-Hernandez v. Cjaders Foods*,
10 *supra*, 2010 WL 1340777 at *4.) The legislative history makes little mention of the court approval
11 requirement. This was added in the 2014 amendments. Instead, PAGA actions “...directly enforce
12 the state's interest in penalizing and deterring employers who violate California's labor laws.”
13 (*Iskanian v. CLS Transp. Los Angeles, LLC, supra*, 59 Cal. 4th at 387.) As such, the focus is on the
14 effect the penalties may have on the employer, rather the LWDA or aggrieved employees who will
15 receive the penalties, unlike in class actions where the focus is typically on the amount received by
16 the class compared to the reasonable range of potential outcomes (*Kullar, supra*, 168 Cal.App.4th at
17 130.).

18 **B. The Penalties Should Be Approved.**

19 The penalties are appropriate when considered in light of the principles of PAGA. As noted
20 above, for a PAGA settlement, the Parties are not obligated to follow the class action procedural
21 rules (including for preliminary approval, claims, opt outs, and final approval). Nonetheless, to
22 comply with the requirements of Labor Code §2699, the Parties submit the instant Motion and the
23 Settlement Agreement for Court approval and respectfully request that the Court deem the Settlement
24 Agreement fair and acceptable and enter an Order and Judgment in accordance with it.

25 Although PAGA and its legislative history do not require a comparison with the “value” of
26 the claims, the penalties in the proposed Settlement and the Settlement in general are reasonable
27 when considered in that context as well. To begin with, the Settlement does not release Aggrieved
28

Employee's non-PAGA claims for alleged violations of the Labor Code. The discovery provided, analysis undertaken, factors to address, risk evaluation and discount taken were included above in addressing the maximum recovery. Additionally, it is important to keep in mind there is a case before the California Supreme Court (Naranjo) that can affect the potential recovery. Plaintiff's Counsel had to assess the risks of moving forward to trial and what this Court would do in exercising its discretion in awarding penalties if Plaintiff prevailed, which can be greatly reduced to 10% of the maximum penalties or lower. If the Court were persuaded by Defendant's arguments that it would be unjust or confiscatory to award a large amount, it could find Defendants liable, but award almost nothing per violation.

C. Plaintiff's Counsel's Request Attorney's Fees and Costs.

Plaintiff's Counsel is also entitled to reimbursement of its reasonable attorney's fees and litigation costs under California Labor Code § 2699(g)(1)). As of the date of the filing of this Motion, Plaintiff's Counsel has spent approximate 75 hours at a rate of \$700 an hour for an attorney of my experience of over 15 years, for a total of \$52,500.00. (Zambrano Decl. ¶¶ 21-22.) Here, the requested attorney's fees are reasonable and appropriate compromise, and consistent with the prevailing California practice of awarding attorneys' fees in the amount of one-quarter of the common fund; here a value of \$5,000.00. (See, e.g., *Laffitte v. Robert Half Internat. Inc.*, (2014) 231 Cal. App. 4th 860, 878 ("trial court's use of a percentage of 33 1/3 percent of the common fund is consistent with [] awards in other class action lawsuits"); *Chavez v. Netflix, Inc.*, (2008) 162 Cal. App. 4th 43, 66 n.11 ("Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery.")). Here, Plaintiff seeks reasonable attorney's fees in the amount of twenty percent (20%), which is \$2,000 of the Total Settlement Payment ("Plaintiff's Counsel Payment") (Zambrano Decl. ¶ 23.) Providing one quarter of the recovery in attorney's fees based on the common fund doctrine is applicable where, as here, attorneys have been instrumental in creating a settlement fund that benefits all class members (or in PAGA, the State and Aggrieved Employees). (*Laffitte*, supra, 231 Cal. App. 4th at 878.).

1
2 **VII. THE SETTLEMENT ADMINISTRATION COSTS SHOULD BE APPROVED**

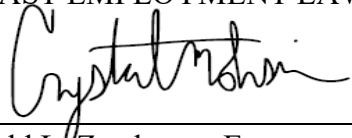
3 The proposed Settlement Administration Costs of \$2,900.00 are reasonable in light of the
4 number of employees and efforts necessary.
5

6 **VIII. CONCLUSION**

7 Based on the foregoing, the Parties request the Court approve the Settlement, sign the
8 concurrently filed [Proposed] Order and Judgement instructing the Settlement Administrator to issue
9 payments from the PAGA Settlement Amount and set a Hearing re Final Status Report and
10 Accounting.
11

12 Dated: February 18, 2025

WEST COAST EMPLOYMENT LAWYERS, APLC

13
14 BY:  _____

Ronald L. Zambrano, Esq.

Crystal F. Mohsin, Esq.

Attorneys for Plaintiff,

MELISSA PEREZ and Aggrieved Employees
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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 eighteen and not a party to the within action. My business address is 1147 South Hope Street, Los Angeles, California 90015.

4 On February 18, 2025, I served the foregoing documents described as: **PLAINTIFF**
5 **MELISSA PEREZ'S FURTHER AMENDED MOTION FOR APPROVAL OF PRIVATE**
6 **ATTORNEY GENERAL ACT SETTLEMENT** on the interested parties in this action by placing
a true copy or original thereof enclosed in a sealed envelope, addressed as follows:

7 Stacey McKee Knight, Esq.

8 *Stacey.knight@katten.com*

9 Janella T. Gholian, Esq.

10 *Janella.gholian@katten.com*

11 KATTEN MUCHIN ROSENMAN LLP

12 2029 Century Park East, Suite 2600

13 Los Angeles, CA 90067-3012

Attorneys for Defendant,

SPARC GROUP LLC dba NAUTICA

14 ☐ **BY MAIL (CCP §1013(a) and CCP §2015.5):** I am readily familiar with the firm's practice
15 of collection and processing documents for mailing. Under that practice it would be deposited
16 with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles,
17 California, in the ordinary course of business. I am aware that on motion of the party served,
18 service is presumed invalid if postal cancellation date or postage meter date is more than one
19 day after date of deposit for mailing in affidavit.

20 ☐ **BY FACSIMILE TRANSMISSION (CCP §1013(e)(f) and CCP §2015.5):** I caused such
21 documents to be delivered via facsimile transmittal to the office of the addressee. The
22 transmission(s) reported as complete and without error.

23 ☒ **BY ELECTRONIC MAIL (CCP §1010.6; CCP §1013(g) and CCP §2015.5):** I caused such
24 documents to be to be sent from the e-mail address marlyn@westcoasttriallawyers.com to the
25 persons at the e-mail address(es) listed in the mailing list. I did not receive, within a
26 reasonable time after the transmission, any electronic message or other indication that the
27 transmission was unsuccessful.

28 ☐ **BY OVERNIGHT DELIVERY (CCP §1013(c)(d) and CCP §2015.5):** I caused such
documents to be delivered via express service carrier to the office of the addressee.

☐ **BY PERSONAL SERVICE (CCP §1011 and CCP §2015.5):** I caused such documents to be
hand-delivered to the office of the addressee.

☒ State ☐ Federal

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

Executed on February 18, 2025, at Los Angeles, California.



Marlyn Cortez

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 eighteen and not a party to the within action. My business address is 1147 South Hope Street, Los
4 Angeles, CA 90015.

5 On February 18, 2025, I served the foregoing document **FURTHER AMENDED**
6 **NOTICE OF MOTION AND MOTION FOR APPROVAL OF PRIVATE ATTORNEY**
7 **GENERAL ACT SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN**
8 **SUPPORT; DECLARATION OF RONALD L. ZAMBRANO IN SUPPORT WITH**
9 **EXHIBITS** on the interested parties in this action by placing a true copy or original thereof
10 enclosed in a sealed envelope, addressed as follows:

11 California Labor & Workforce Development Agency
12 LWDA
13 800 Capitoll Mall, Suite 5000
14 Sacramento, California 95814
15 *email@labor.ca.gov*

16 X **BY MAIL (CCP §1013(a) and CCP §2015.5):** I am readily familiar with the firm's practice
17 of collection and processing documents for mailing. Under that practice it would be deposited
18 with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles,
19 California, in the ordinary course of business. I am aware that on motion of the party served,
20 service is presumed invalid if postal cancellation date or postage meter date is more than one
21 day after date of deposit for mailing in affidavit.

22 X **BY ELECTRONIC MAIL (CCP §1010.6; CCP §1013(g) and CCP §2015.5):** I caused the
23 document(s) to be sent from e-mail address *marlyn@westcoasttriallawyers.com* to the
24 persons at the electronic notification address listed in the service list. I did not receive, within
25 a reasonable time after the transmission, any electronic message or other indication that the
26 transmission was not successful.

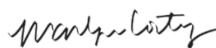
27 ☐ **BY OVERNIGHT DELIVERY (CCP §1013(c)(d) and CCP §2015.5):** I caused such
28 documents to be delivered via express service carrier to the office of the addressee.

☐ **BY PERSONAL SERVICE (CCP §1011 and CCP §2015.5):** I caused such documents to be
hand-delivered to the office of the addressee.

21 X State ☐ Federal

22 I declare under penalty of perjury pursuant to the laws of the State of California that the
23 foregoing is true and correct.

24 Executed February 18, 2025, at Los Angeles, California.

25 

26

Marlyn Cortez



Make a Reservation

MELISSA PEREZ vs SPARC GROUP LLC

Case Number: 22STCV21083 Case Type: Civil Unlimited Category: Other Employment Complaint Case
Date Filed: 2022-06-29 Location: Stanley Mosk Courthouse - Department 50

Reservation

Case Name: MELISSA PEREZ vs SPARC GROUP LLC	Case Number: 22STCV21083
Type: Motion re: (Approval of Private Attorney General Act Settlement)	Status: RESERVED
Filing Party: Melissa Perez (Plaintiff)	Location: Stanley Mosk Courthouse - Department 50
Date/Time: 04/08/2025 10:00 AM	Number of Motions: 1
Reservation ID: 366938963697	Confirmation Code: CR-SMJSSC2QXGQIKVSFG

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
TOTAL			\$0.00

Payment

Amount: \$0.00	Type: NOFEE
Account Number: n/a	Authorization: n/a
Payment Date: n/a	

[Print Receipt](#)[+ Reserve Another Hearing](#)[View My Reservations](#)

