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15 Attorneys for Defendant MACERICH MANAGEMENT COMPANY
16

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
19

20 FRANCHETTE PALMER, on behalf of
herself and other aggrieved employees,

21 Plaintiff,

22 vs.

23 MACERICH MANAGEMENT COMPANY;
24 and DOES 1 through 100, inclusive,

25 Defendants.
26
27
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Case No. 22STCV32367

**JOINT STIPULATION REQUESTING
APPROVAL OF REPRESENTATIVE
PAGA SETTLEMENT; ~~PROPOSED~~
ORDER THEREON**

Assigned for All Purposes to:
Hon. Kevin C. Brazile, Dept. 20

Action Filed: October 3, 2022
Trial Date: None

FILED
Superior Court of California
County of Los Angeles
10/11/2024

David W. Slayton, Executive Officer / Clerk of Court
By: E. Perez Deputy

1 **JOINT STIPULATION REQUESTING APPROVAL OF SETTLEMENT**

2 WHEREAS, Franchette Palmer (“Plaintiff”) alleged certain violations of the California
3 Labor Code against Defendant Macerich Management Company (“Defendant”) (collectively, the
4 “Parties”) in a July 19, 2022 letter to the LWDA alleging failure to pay minimum wage for all hours
5 worked, failure to pay overtime, failure to provide meal breaks, failure to produce requested records,
6 failure to timely pay wages, failure to provide accurate wage statements, failure to pay all wages
7 due at termination and any and all other alleged Labor Code violations pursuant to *Huff v. Securitas*
8 *Security Services USA, Inc.* 25 Cal. App. 5th 754 (2018) (“LWDA Letter”).

9 WHEREAS, on July 19, 2022 Plaintiff filed a putative Class Action Complaint, individually
10 and on behalf of all others similarly situated, in the Superior Court for the State of California, for
11 the County of Los Angeles, Case No. 22STCV23239, alleging claims for: (1) Failure to Pay Wages
12 For All Hours Worked At Minimum Wage; (2) Failure to Pay Overtime; (3) Failure to Authorize or
13 Permit Meal Periods; (4) Failure to Produce Requested Employment Records; (5) Failure to Timely
14 Pay Wages; (6) Failure to Provide Accurate Wage Statements; (7) Failure to Timely Pay All Wages
15 At Termination; and (8) Unfair Business Practices. (“Class Action Complaint”).

16 WHEREAS, on October 3, 2022, Plaintiff filed a PAGA Complaint (the “Operative
17 Complaint”) against Defendant in the Superior Court of the State of California, County of Los
18 Angeles, Case No. 22STCV32367 (the “Action” or “Lawsuit”);

19 WHEREAS, the Action is a representative action under the Private Attorneys General Act
20 of 2004, as amended (“PAGA”), and the Operative Complaint asserts a sole cause of action for
21 PAGA penalties based on alleged failure to pay wages for all hours worked at minimum wage,
22 failure to pay overtime, failure to provide meal periods, failure to produce requested employment
23 records, failure to timely pay wages, failure to provide accurate wage statements and failure to pay
24 all wages at termination;

25 WHEREAS, on November 23, 2022, the Parties filed a Joint Stipulation in the class action
26 in which they requested dismissal of the putative class claims alleged in the Class Action Complaint
27 because Plaintiff had signed a valid and enforceable arbitration agreement containing an enforceable
28 class action waiver. On December 5, 2022, the Court granted the Parties’ stipulation.

1 WHEREAS, Defendant denies any liability or wrongdoing of any kind associated with the
2 claims alleged in the Lawsuit, and denies any liability or intentional wrongdoing whatsoever.
3 Defendant contends, among other things, that it has complied, at all times, with the California Labor
4 Code, the related California Industrial Wage Orders, and all other state and federal wage laws, and
5 further contends that the Lawsuit is without merit. Defendant has denied and continues to deny each
6 and every material factual allegation and alleged claim asserted against it in the Lawsuit. Defendant
7 further contends that the imposition of any penalties would be unjust, arbitrary, oppressive, and
8 confiscatory.

9 WHEREAS, counsel for both Parties conducted a thorough investigation of both the factual
10 and legal issues affecting the strengths and weaknesses of Plaintiff's claims and potential recovery.
11 In preparation for mediation, Defendant produced information about its policies and practices, the
12 number of potentially Aggrieved Employees, and the number of pay periods at issue. The Parties
13 also prepared briefing in preparation for mediation that addressed the core factual and legal issues
14 of the case. This allowed both Parties to reach a reasoned and information resolution of this matter;

15 WHEREAS, on February 22, 2024, the Parties participated in mediation with respected and
16 experienced mediator Todd Smith (the "Mediator"), and with the assistance of the Mediator, the
17 Parties reached the settlement of the PAGA claims of the "Aggrieved Employees," who are defined
18 as all individuals who were non-exempt employees of Defendant in California at any time during
19 the PAGA Period, which is the time period from July 19, 2021 through July 20, 2024;

20 WHEREAS, the Parties have documented the proposed settlement of the Action in a fully-
21 executed agreement entitled "*Joint Stipulation of Settlement*" attached hereto as **Exhibit 1** (the
22 "PAGA Settlement Agreement");

23 WHEREAS, the Parties recognize that, in accordance with Labor Code Section 2699(l),
24 court approval is required in the event of a settlement of a PAGA action on a representative basis;

25 WHEREAS, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969, 981 (2009), the Parties
26 are not obligated to follow the class action procedural rules in PAGA cases and therefore need not
27 obtain approval of a settlement thorough a motion for preliminary or final approval. *See also*
28 *Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074, 1080 (2017) ("PAGA authorizes a representative

1 action without the need for class certification.”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d
2 1117, 1123 (9th Cir. 2014) (“[A] PAGA suit is fundamentally different than a class action” in that
3 “PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees
4 opt out of a PAGA action.”); *Williams v. Superior Ct.*, 3 Cal. 5th 531, 546-47 (2017) (“PAGA does
5 not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not
6 impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff
7 or counsel to scrutiny with respect to the ability to represent a large class.”);

8 WHEREAS, the Parties seek to obtain the Court’s approval of the Stipulation of Settlement
9 (“PAGA Settlement Agreement”) executed by the Parties herein, and resolve this matter in the most
10 efficient manner possible;

11 WHEREAS, the “Released Claims” which were asserted in the Operative Complaint and/or
12 the LWDA Letter, and are settled between the Parties consist of any and all claims arising during
13 the PAGA Period, including claims that were or could have been alleged based on the facts and
14 theories pertaining to Plaintiff and the Aggrieved Employees for relief of any kind under PAGA
15 based on any of the following alleged violations of the California Labor Code and/or Industrial
16 Wage Orders: (1) failure to pay wages for all hours worked; (2) failure to pay for overtime hours at
17 the overtime rate of pay; (3) failure to provide breaks and/or pay premium pay at the correct rate in
18 lieu of providing breaks; (4) failure to produce requested employment records; (5) failure to timely
19 pay wages; (6) failure to provide complete and accurate wage statements; and (7) failure to pay all
20 wages at termination; and all claims arising under the listed Labor Code statutes and Industrial
21 Welfare Commission Wage Orders irrespective of the theory of recovery alleged. (*See* California
22 Labor Code sections 201-204, 210, 226, 226(a), 226(f), 226(e), 226.7, 510, 512, 558, 1174, 1194, 1197,
23 1197.1, 1198, 1198.5, and the applicable IWC Wage Order(s)). Aggrieved Employees will not have
24 the opportunity to opt out of, or object to, the Released PAGA Claims and, further, are bound by
25 the Released PAGA Claims regardless of whether they cash and/or otherwise negotiate their
26 Individual PAGA Payments.

27 WHEREAS, upon the entry of the final judgment in this case, each Aggrieved Employee
28 (including Plaintiff), shall, for the period July 19, 2021 until July 20, 2024, fully release and forever

1 discharge Defendant and all of its present and former parent companies, subsidiaries, affiliates and
2 joint ventures, and all of their officers, directors, employees, agents, servants, registered
3 representatives, attorneys, insurers, successors and assigns, and any other persons acting by through,
4 under or in concert with any of them (collectively, “Released Parties”) from the Released Claims
5 (provided, however, that if the actual pay periods for the PAGA Period, exceed 4,600 by more than
6 10%, the end date of the pertinent PAGA Period may be adjusted at Defendant’s option (i.e., moved
7 to an earlier date) such that the PAGA Period concludes on the date one day before the number of
8 pay periods exceeds 5,060 (i.e., 5,060 pay periods) in order that the number of pay periods for which
9 a release is provided does not exceed the projected figures by more than 10%, as specified in the
10 Joint Stipulation of Settlement (**Exhibit 1** hereto) at Paragraph 30);

11 WHEREAS, based on their own independent investigations and evaluations, including but
12 not limited to the fact that Defendant maintains it has facially compliant policies, Plaintiff and her
13 counsel are of the opinion that the settlement for the consideration and on the terms set forth in the
14 attached PAGA Settlement Agreement is fair, reasonable and adequate and is in the best interests
15 of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and
16 circumstances and the risks inherent in litigation, including the potential appellate issues. Plaintiff’s
17 Counsel believes that the settlement amount entered into is in the best interests of the Aggrieved
18 Employees and that the settlement for each Aggrieved Employee is fair, reasonable and adequate,
19 given the inherent risk of litigation. Plaintiff’s counsel also believes the settlement amount is in line
20 with comparable PAGA settlements recently approved by courts and at trial. *See e.g., Carrington*
21 *v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018) (holding that the plaintiff was only entitled to
22 collect the reduced penalty amount of \$5.00 for each pay period in which a meal period violation
23 occurred, or 5% of the PAGA penalties at issue);

24 WHEREAS, Plaintiff and her counsel recognize the risks inherent in PAGA actions,
25 including courts’ discretion to reduce the amount of civil penalties. *See Thurman v. Bayshore*
26 *Transit Mgmt., Inc.*, 203 Cal. App. 4th 1112, 1135 (2012) (“[U]nder section 2699, subdivision (e)(2)
27 a trial court may exercise its discretion *to award lesser* penalties based on the enumerated
28 considerations.”) (emphasis in original) (internal quotation marks and citations omitted).

1 Specifically, the trial court may reduce the civil penalty if declining to do so “would result in an
2 award that is unjust, arbitrary, oppressive, or confiscatory based on the facts and circumstances of
3 [the] case.” *Id.* Courts routinely exercise this discretion in the rare PAGA cases that proceed to
4 trial and obtain a successful verdict. *See, e.g., Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK
5 (OPx), 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011) (awarding PAGA penalties of
6 \$500,000.00 instead of maximum recovery of \$2.8 million); *cf. Aguirre v. Genesis Logistics*, No.
7 SACV 12-00687 JVS (ANx), 2013 WL 10936035, at *2-3 (C.D. Cal. Dec. 30, 2013) (after granting
8 summary judgment, awarding PAGA penalty of \$500,000.00 instead of maximum recovery of \$1.8
9 million);

10 WHEREAS, Plaintiff also recognized that PAGA penalties may not be awarded at all
11 because the Labor Commissioner has specifically stated recently that the main purpose for assessing
12 PAGA penalties by the Labor and Workforce Development Agency is to enforce California’s Labor
13 Code and obtain compliance. Specifically, with regard to assessing the adequacy of settlements, the
14 penalty amounts should “promote PAGA’s compliance and deterrence goals.” Amicus Curiae Brief
15 Submitted by the State Labor Commissioner, *Price v. Uber Technologies*, Case No. BC544512 June
16 16, 2017.

17 WHEREAS, Plaintiff’s evaluation of the risk and reasons for settlement are detailed in the
18 concurrently filed Declaration of Malcolm Clayton;

19 WHEREAS, the Parties provided notice of the proposed settlement to the LWDA as required
20 by PAGA. Attached hereto as **Exhibit 2** is a true and correct copy of the email confirmation
21 showing that the Parties submitted the proposed PAGA Settlement Agreement to the LWDA;

22 WHEREAS, prior to the submission of this Stipulation, the Parties met and conferred and
23 agreed upon a Proposed Order and Judgment. Concurrently filed herewith is a is a true and correct
24 copy of the Parties’ Proposed Order and Judgment;

25 WHEREAS, prior to the submission of this Stipulation, the Parties met and conferred and
26 agreed upon a letter that will be included in the mailing of each PAGA Group Members’ check and
27 is submitted concurrently to the Court for its review and approval. Attached hereto to **Exhibit 1** as
28

1 Exhibit A is a true and correct copy of the letter that the Parties wish to accompany the checks so
2 that the PAGA Group Members understand why they are receiving a check;

3 **IT IS HEREBY STIPULATED AND PROPOSED BY THE PARTIES HERETO AS**
4 **FOLLOWS:**

5 The Parties stipulate and jointly propose that the Court approve the following terms of the
6 fully executed PAGA Settlement Agreement, which includes the following key terms:¹

7 (1) As consideration for the settlement described herein and the release contained in the PAGA
8 Settlement Agreement, Defendant agrees to make a payment of \$142,500.00 in connection
9 with the PAGA Settlement (“Gross Fund Value”). The Settlement Payment will be allocated
10 as follows:

11 (a) PAGA Counsel’s attorneys’ fees up to the requested amount of one-third of the
12 Gross Fund Value (\$47,500.00);

13 (b) PAGA Counsel’s request for reimbursement of reasonable litigation costs not to
14 exceed \$16,500, subject to proof;

15 (c) PAGA Settlement Administration costs to be paid to the Settlement Administrator,
16 Simpluris, Inc., estimated to be \$2,900;

17 (d) An Enhancement Payment to Plaintiff not to exceed \$2,500;

18 (e) the remainder of the Settlement Payment after deducting the items (a), (b), (c) and
19 (d) herein shall be designated as PAGA Penalties (the “PAGA Fund”), which is
20 estimated to be \$73,100.00, and will be allocated between the LWDA and the PAGA
21 Group Members pursuant to Labor Code section 2699(i) with 75% (\$54,825.00)
22 paid to the LWDA and 25% (\$18,275.00) paid to the PAGA Group Members on a
23 pro-rata basis. All Individual Settlement Payments made to PAGA Group Members
24 will be reported via IRS Form 1099.

25 (2) Should Plaintiff request or be ordered to receive a lesser Enhancement Payment and/or
26 should Plaintiff’s counsel request a lesser amount for attorneys’ fees and costs and/or the
27

28 ¹ All defined terms have the meaning set forth in the PAGA Settlement Agreement.

1 Court approve a lesser amount, the difference shall be allocated to the PAGA Fund and
2 distributed accordingly. Any attorneys' fees and costs awarded to Plaintiff's Counsel,
3 hereinafter referred to as "Attorneys Fees & Costs," shall fully compensate and reimburse
4 Plaintiff's Counsel for any and all of the work already performed in connection with the
5 Action and all work remaining to be performed in fully and finally resolving the Action and
6 implementing the PAGA Settlement Agreement, including but not limited to securing Court
7 approval of the settlement, attending any Court hearings, making sure that the settlement is
8 fairly and properly administered, defending the settlement in any appeal or other post-
9 approval matter, all other work that Plaintiff's Counsel has performed or will perform, and
10 all costs that PAGA Counsel has incurred or will incur.

11 (3) All PAGA Group Members including Plaintiff will release all Released Claims against all
12 Releasees, as set forth in the Agreement.

13 (4) Within seven (7) business days after the Court's Order approving the Settlement, Defendant
14 will compile a PAGA Group Member list containing the following as to each PAGA Group
15 Member: (1) name; (2) last known home address and telephone number; (3) number of
16 Qualifying Pay Periods; and (4) social security number.

17 (5) Defendant shall fund the Gross Fund Value within fourteen (14) days after the Effective
18 Date. The Settlement Administrator shall distribute all payments due under the Joint
19 Stipulation of Settlement within fourteen (14) calendar days after funding.

20 (6) The payment checks for each Individual PAGA Payment shall be sent to each PAGA Group
21 Member by U.S. First Class mail to the PAGA Group Member's last known home address
22 (updated by the Settlement Administrator as appropriate using measures such as the National
23 Change of Address Database maintained by the United States Postal Service) with directions
24 to the Postmaster to forward the payment checks and return all undeliverable payment checks
25 to the Settlement Administrator. This payment will be sent with a letter approved by the
26 Parties explaining this Settlement, and is submitted concurrently to the Court for its review
27 and approval.

- 1 (7) The Settlement Administrator shall ensure that 75% of the PAGA Fund is paid to the Labor
2 and Workforce Development Agency (“LWDA”).
- 3 (8) Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar
4 days from the date of their issuance. If a check has not been cashed within ninety (90) days
5 of issuance, the Settlement Administrator shall send the PAGA Group Member a letter or
6 postcard reminder about the deadline for cashing the check and information on how to
7 request a replacement check. Funds represented by settlement checks returned as
8 undeliverable and those settlement checks remaining un-cashed for more than 180 days after
9 issuance will be tendered to the State Controller’s Office, Unclaimed Property Division, in
10 the name of the affected PAGA Group Member.
- 11 (9) The Parties as part of this Joint Stipulation Requesting Approval of PAGA Representative
12 Settlement are submitting a proposed order and judgment seeking Court approval of the
13 PAGA Settlement Agreement and permanently barring all PAGA Group Members from
14 prosecuting any of the Released Claims released in this Settlement against Defendant and
15 the Releasees.
- 16 (10) If there is a conflict between the language of this Stipulation and the language of the PAGA
17 Settlement Agreement attached hereto as **Exhibit 1**, the language of the PAGA Settlement
18 Agreement shall control.

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20 **IT IS SO STIPULATED AND AGREED.**
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DATED: September 10, 2024

LAVI & EBRAHIMIAN LLP

By: /s/ Malcolm Clayton
JOSEPH LAVI
VINCENT GRANBERRY
ELIZABETH HARRIER
MALCOLM CLAYTON
Attorneys for Plaintiff FRANCHETTE PALMER

DATED: September 10, 2024

SEYFARTH SHAW LLP

By: /s/ Elizabeth M. Levy
ELIZABETH M. LEVY
Attorneys for Defendant MACERICH
MANAGEMENT COMPANY

1 **PROPOSED ORDER AND JUDGMENT**

2 Pursuant to Stipulation by the parties and good cause appearing:

3 Having considered the Parties' submissions, and all legal authorities and documents
4 submitted in support thereof, including the PAGA Settlement and Release Agreement ("PAGA
5 Settlement Agreement" or "Settlement"), attached hereto as **Exhibit 1**, and good cause appearing,
6 IT IS HEREBY ORDERED that the Parties' request is GRANTED, subject to the following findings
7 and orders:

- 8 a) All defined terms used herein shall have the same meaning as defined in the PAGA
9 Settlement Agreement attached hereto as **Exhibit 1**.
- 10 b) The Court hereby approves the terms set forth in the Agreement and finds that the
11 Agreement is, in all respects, fair, adequate, and reasonable and directs the Parties to
12 effectuate the Agreement according to its terms. The Court finds that the Agreement
13 has been reached as a result of informed and non-collusive arm's-length negotiations.
14 The Court further finds that the Parties had sufficient information to evaluate their
15 respective positions. The Court also finds that settlement now will avoid additional
16 and potentially substantial litigation costs, as well as delay and risks if the Parties
17 were to continue to litigate the case. The Court has reviewed the monetary recovery
18 being provided as part of the Settlement and recognizes the value accorded to the
19 State of California and the PAGA Group Members.
- 20 c) The Agreement is not an admission by Defendant or by any other Releasee, nor is
21 this Order a finding of the validity of any allegations or of any wrongdoing by
22 Defendant. Neither this Order, the Agreement, nor any document referred to herein,
23 nor any action taken to carry out the Agreement, may be construed as, or may be
24 used as, an admission of any fault, wrongdoing, omission, concession, or liability
25 whatsoever by or against Defendant or any of the other Releasees.
- 26 d) Defendant shall pay the PAGA Group Members pursuant to the procedure described
27 in the Agreement attached hereto as **Exhibit 1**.
- 28

- 1 e) After reviewing the proposed Agreement, the Declaration of Malcolm Clayton In
2 Support of Joint Stipulation For Approval of Representative PAGA Settlement, and
3 this Joint Stipulation and the Exhibits attached thereto, the Court finds that the
4 Settlement is fair and reasonable.
- 5 f) ~~The~~ Court hereby confirms Joseph ~~Lee~~ and Malcolm Clayton of Lavi & Ebrahimian, LLP as Plaintiff's Counsel. Fn
- 6
- 7 g) The Court hereby awards to Plaintiff's Counsel attorneys' fees in the amount of one-
8 third of the total Settlement Payment, which is \$47,500.00, and \$14,939.60 in costs
9 as documented by the Declaration of Malcolm Clayton. The Court finds that the
10 attorneys' fees and costs requested were reasonable in light of the amount recovered
11 and the relevant factors under California law. The payment of fees and costs to
12 Plaintiff's Counsel shall be made in accordance with the terms of the Settlement.
- 13 h) The Court appoints Simpluris, Inc. as the Settlement Administrator and directs that
14 the Gross Fund Value be distributed by Simpluris, Inc. as set forth in the PAGA
15 Settlement Agreement, Joint Stipulation, and this Order. The Court approves
16 Simpluris, Inc.'s settlement administration fee by cni □ \$ f' fcnh and t
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1 from all claims under the California Private Attorneys General Act of 2004
2 (“PAGA”) alleged in the LWDA Letter and/or the Operative Complaint or claims
3 that could have been alleged based on the facts and theories pertaining to Plaintiff
4 and the PAGA Group Members, arising during the PAGA Period. This includes, but
5 is not limited to PAGA claims for (1) failure to pay wages for all hours worked; (2)
6 failure to pay for overtime hours at the overtime rate of pay; (3) failure to provide
7 breaks and/or pay premium pay at the correct rate in lieu of providing breaks; (4)
8 failure to produce requested employment records; (5) failure to timely pay wages;
9 (6) failure to provide complete and accurate wage statements; and (7) failure to pay
10 all wages at termination; and all claims arising under the listed Labor Code statutes
11 and Industrial Welfare Commission Wage Orders irrespective of the theory of
12 recovery alleged. (See California Labor Code sections 201-204, 210, 226, 226(a),
13 226(f), 226(e), 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1198.5, and the
14 applicable IWC Wage Order(s)).

15 k) Plaintiff shall submit a copy of this Order and Judgment to the LWDA within ten
16 calendar days after entry of the Order and Judgment.

17 l) The Court shall have and retain continuing jurisdiction pursuant to Civ. Proc. Code
18 section 664.6 over this action and the Parties and the State of California as real party
19 in interest for the PAGA Group Members including after the entry of this Order and
20 Judgment, to the fullest extent necessary, to interpret, enforce and effectuate the
21 terms and intent of the Agreement and this Order.

22
23 **IT IS HEREBY ORDERED, DECREED AND ADJUDGED.**

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25 DATED: 10/11/2024



Kevin C. Brazile
Hon. Kevin C. Brazile
JUDGE OF THE SUPERIOR COURT
Kevin C. Brazile / Judge

“EXHIBIT 1”

JOINT STIPULATION OF SETTLEMENT AND RELEASE

dismissal of the putative class claims alleged in her Class Action Complaint because she had signed a

4. On November 23, 2022, the Parties filed a Joint Stipulation in which Plaintiff requested

wage statements and failure to pay all wages at termi

failure to produce requested employment records, failure to timely pay wages, failure to provide accurate

pay wages for an hours worked at minimum wage, failure to pay overtime, failure to provide meal periods,

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valid and enforceable arbitration agreement containing an enforceable class action waiver. As a result of the stipulation, only Plaintiff's individual claims asserted in the Class Action Complaint ("Individual Claims") remained and were to be heard in arbitration proceedings. On December 5, 2022, the Court granted the Parties' stipulation dismissing all of Plaintiff's claims asserted in her Class Action Complaint with the exception of her Individual Claims, which were subject to arbitration. In lieu of commencing arbitration, the Parties agreed to focus efforts on mediation.

5. On March 7, 2023, Defendant moved to compel Plaintiff to arbitrate her individual PAGA claim and dismiss her representative PAGA claims pursuant to *Viking River Cruises, Inc. v. Moriana*, 142 S. Ct. 1906 (2022) ("Motion to Compel"). On March 30, 2023, the Court denied Defendant's Motion to Compel. On May 26, 2023, Defendant filed a Notice of Appeal of the denial of its Motion to Compel, Case No. B329504 ("Appeal").

6. Plaintiff's Counsel in the Action diligently investigated the claims of the proposed PAGA Group Members (defined below) against Defendant, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents, and review of numerous corporate policies and practices.

7. On February 22, 2024, the Parties participated in mediation with Todd Smith (the "Mediator"), a respected mediator of complex wage and hour actions, and with the assistance of the Mediator, reached the settlement that is memorialized herein. At all times, the settlement discussions were conducted at arm's-length. Based on the documents produced, as well as Plaintiff's Counsel's own independent investigation and evaluation, Plaintiff's Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Agreement is fair, reasonable, and adequate, and is in the best interest of the PAGA Group Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

8. The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

1 **DEFINITIONS**

2 9. The following definitions are applicable to this Agreement. Definitions contained
3 elsewhere in this Agreement will also be effective:

4 a. "Action" or "PAGA Action" refers to the lawsuit entitled *Palmer v. Macerich*
5 *Management Company*, pending in the Superior Court for the State of California, County of Los
6 Angeles, Case No. 22STCV32367 and the related appeal in the California Court of Appeal, Second
7 Appellate District, Case No. B329504. The Parties agree to jointly request that the Court of Appeal
8 continue its stay for the purpose of allowing the trial court to approve this Settlement. In the event the
9 Court of Appeal issues a decision notwithstanding the Settlement, the Parties agree that any decision
10 will not impact the terms of the Settlement, which shall remain enforceable. Within ten business days
11 after the Settlement is approved by the trial court, Defendant will move to dismiss the appellate
12 proceedings.

13 b. "Agreement" or "Settlement" means the settlement and resolution of the Released
14 Claims.

15 c. "Approval Order" means the approval order issued and entered by the Court
16 following a Motion or Stipulation for approval of this Agreement.

17 d. "Attorneys' Fees and Costs" means attorneys' fees approved by the Court for
18 Plaintiff's Counsel's litigation and resolution of the Action, and all actual costs incurred and to be
19 incurred by Plaintiff's Counsel in the Action, as set forth in Paragraph 13 below.

20 e. "Court" means the Superior Court of the State of California for the County of Los
21 Angeles.

22 f. "Defendant" means Macerich Management Company and its parents, subsidiaries,
23 joint venturers, and affiliated companies.

24 g. "Defendant's Counsel" means Brian Ashe and Elizabeth Levy of Seyfarth Shaw
25 LLP.

26 h. "Effective Date" means the date the Court enters an Approval Order and Judgment
27 and the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on
28 appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with

1 the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a
2 petition for review filed, the date of denial of the petition, or the date the Court's Judgment is affirmed
3 pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing
4 any appeal of the Court's Judgment. Provided, however, if the LWDA has commenced an investigation
5 or issued a citation prior to the Effective Date, as determined under the foregoing definition, the Effective
6 Date will be extended to the date that the LWDA concludes its investigation or resolves the citation
7 (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to
8 the Settlement is resolved and no longer appealable.

9 i. "Enhancement Payment" means the amount to be paid to Plaintiff in recognition
10 of her effort and work in prosecuting the Action on behalf of PAGA Group Members as set forth in
11 Paragraph 14 below.

12 j. "Gross Fund Value" means the amount of One Hundred Forty Two Thousand Five
13 Hundred Dollars and Zero Cents (\$142,500.00) that Defendant will pay under the Settlement Agreement.
14 The Gross Fund Value shall include all payments to PAGA Group Members, the LWDA, Settlement
15 Administrator Costs, Attorneys' Fees and Costs, and the Enhancement Payment for Plaintiff. The PAGA
16 Fund (defined below) shall all come out of the Gross Fund Value. In no event shall Defendant have to
17 contribute monies in excess of the Gross Fund Value except as pursuant to the Escalator Clause in
18 Paragraph 30.

19 k. "Individual PAGA Payment" means the amount payable to each PAGA Group
20 Member from the 25% portion of the PAGA Fund that is allocated to PAGA Group Members as provided
21 in Paragraph 18.

22 l. "LWDA Payment" means the amount that the Parties have agreed to pay to the
23 California Labor and Workforce Development Agency ("LWDA") as set forth in Paragraph 17.

24 m. "Operative Complaint" means the Complaint in the PAGA Action filed in the
25 Superior Court of California for the County of Los Angeles.

26 n. "PAGA Fund" means the amount, as approved by the Court, after Attorneys' Fees
27 and Costs, Plaintiff's Enhancement Payment, and Settlement Administration Fees are subtracted from
28 the Gross Fund Value. Plaintiff's Counsel shall request that the Court approve a payment to the LWDA

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Claims.

r. “Parties” means Plaintiff a

Plaintiff or Defendant.

s. “Plaintiff” means Franchette Palmer.

t. “Plaintiff’s Counsel” means Lavi & Ebrahm

u. “Qualifying Pay Periods” means any pay period

by PAGA Group Members. Partial Pay Periods will be co

Released PAGA Claims. Further, the PAGA Group Members are bound by the Released PAGA Claims regardless of whether they cash and/or otherwise negotiate their Individual PAGA Payments.

w. “Released Parties” means Defendant and all of its present and former parent companies, subsidiaries, affiliates and joint ventures, and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

x. “Settlement Administrator” means Simpluris, Inc., mutually selected by the Parties, that will administer this settlement, and will issue forms 1099 (for penalties and interest) for all other amounts paid under this settlement.

y. “Settlement Administration Costs” means the costs payable from the Gross Fund Value, subject to Court approval, to the Settlement Administrator for administering this settlement, as set forth in Paragraph 15 below.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree, subject to the Court’s approval, as follows:

10. Plaintiff’s Responsibilities. Plaintiff’s Counsel will:

a. Prepare and deliver to Defendant’s Counsel documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (l)(2) including: (i) a draft proposed Order Approving the Settlement; and (ii) a signed declaration from Plaintiff’s Counsel’s firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (l)(1)), and this Agreement (Lab. Code, § 2699, subd. (l)(2)).

b. Finalize and file the application or motion for approval of this Settlement and obtain a prompt hearing date for the motion and appear in Court to advocate in favor of the motion. Plaintiff’s Counsel is responsible for delivering the Court’s Order approving the Settlement to the Settlement Administrator.

c. Take any and all steps necessary to effectuate the dismissal of the Appeal. This includes, but is not limited to submitting a joint notice of settlement and motion for a limited remand

1 for the purpose of the trial court approving the Settlement and continuing to stay the Appeal.

2 11. Funding of the Gross Fund Value. Defendant shall fully fund the Gross Fund Value by
3 transmitting the funds to the Settlement Administrator no later than Fourteen (14) days after the
4 Effective Date. The Settlement Administrator shall distribute the settlement payments, including the
5 Individual PAGA Payments, the LWDA Payment, and all other Court-ordered distributions within
6 Fourteen (14) days after Defendant funds the Gross Fund Value, or as otherwise directed by the Court.

7 12. Administration of the Settlement. Simpluris, Inc. shall serve as the Settlement
8 Administrator (herein referred to as "Settlement Administrator"). The Settlement Administrator will
9 administer this Settlement, and will issue to PAGA Group Members forms 1099 (for penalties and interest)
10 for all amounts paid under this Settlement consistent with the terms specified herein. The Settlement
11 Administrator shall furnish its own Employer ID Number and calculate all settlement checks based on
12 information that will be confidentially furnished by Defendant. The Settlement Administrator also will
13 establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for the
14 purpose of administering the Settlement. To the extent required by law, the Settlement Administrator will
15 report payments made under Settlement Agreement to the appropriate tax authorities. The Settlement
16 Administrator will also issue a Court-approved payment to itself for services performed in connection
17 with the Settlement.

18 13. Attorneys' Fees and Costs. Plaintiff's Counsel will request, and Defendant will not
19 oppose, that the Court approve an award of attorneys' fees in an amount not to exceed one-third of the
20 Gross Fund Value (i.e., \$47,500.00), and an award of attorneys' costs in an amount not to exceed
21 \$16,500, which will be paid from the Gross Fund Value subject to Court approval. These amounts will
22 cover any and all work performed and any and all costs incurred by Plaintiff's Counsel in connection
23 with the litigation of the Action, including without limitation all work performed and costs incurred to
24 date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's
25 approval of this Agreement, including any appeals. Plaintiff's Counsel shall be solely and legally
26 responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on
27 the amounts received. Any portion of the Attorneys' Fees and Costs not awarded to Plaintiff's Counsel
28 shall be a part of the PAGA Fund.

1 The Court's approval of fees and costs requested by Plaintiff's Counsel is not a material term of
2 the Settlement. If the Court does not approve or approves only a lesser amount than that requested by
3 Plaintiff's Counsel for attorneys' fees or costs, the other terms of the Settlement shall still apply. The
4 Court's refusal to approve the attorneys' fees or costs award requested by Plaintiff's Counsel does not
5 give Plaintiff or Plaintiff's Counsel any basis to abrogate the Settlement.

6 14. Enhancement Payment. In recognition of her efforts and work in prosecuting the Action,
7 Defendant agrees not to oppose or impede any application or motion for Enhancement Payment in an
8 amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) to Plaintiff. The Enhancement
9 Payment, which will be paid from the Gross Fund Value, subject to Court approval, will be in addition
10 to Plaintiff's Individual PAGA Payment paid pursuant to the settlement. The Parties agree that, for
11 purposes of this settlement, 100% of the Enhancement Payment will be allocated to 1099 income. The
12 Settlement Administrator will issue an IRS Form 1099 to Plaintiff for her individual Enhancement
13 Payment, and Plaintiff shall be solely and legally responsible for correctly characterizing this
14 compensation for tax purposes and for paying any taxes on the amounts received. Plaintiff agrees to
15 indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising
16 as a result of an Enhancement Payment. Should the Court approve an Enhancement Payment to the
17 Plaintiff in an amount that is less than that set forth above, the difference between the lesser amounts
18 approved by the Court and the amounts allocated toward the Enhancement Payment will be part of the
19 Net Settlement Fund for the benefit of the Plaintiff.

20 The Court's approval of an Enhancement Payment is not a material term of the Settlement. If the
21 Court does not approve or approves only a lesser amount than that requested by Plaintiff for an
22 Enhancement Payment, the other terms of the Settlement shall still apply. The Court's refusal to approve
23 the Enhancement Payment requested by Plaintiff does not give any basis to abrogate the Settlement.

24 15. Settlement Administration Costs. Defendant shall give the Settlement Administrator the
25 PAGA Group Member list (including names, last known addresses, and social security numbers), along
26 with the number of Qualifying Pay Periods for each PAGA Group Member, within 7 days of the Court's
27 Order approving the Settlement. The Settlement Administrator shall not share this information with any
28 third party or Plaintiff's Counsel, and shall take all necessary precautions to maintain the confidentiality

of this information. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Two Thousand Nine Hundred Dollars and Zero Cents (\$2,900.00). These costs, which will be paid from the Gross Fund Value, subject to Court approval, will include, *inter alia*, calculating and distributing payments due under the Settlement, running skip traces on addresses of PAGA Group Members, mailing of the explanatory letter in conjunction with the payments, issuing of 1099 Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Gross Fund Value, subject to approval by the Court. Any portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not in fact required to fulfill payment to the Settlement Administrator to undertake the requirement settlement administration duties will become part of the PAGA Fund.

16. Explanatory Letter. The Settlement Administrator will include copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as Exhibit A, in English, along with Individual PAGA Payments to all PAGA Group Members via regular First Class U.S. Mail.

17. Labor and Workforce Development Agency Payment. Subject to approval by the Court, the Parties agree that any funds remaining in the Gross Fund Value after subtracting amounts for Attorneys' Fees and Costs, Plaintiff's Enhancement Payment, and Settlement Administration Fees (which is estimated not to exceed Two Thousand Nine Hundred Dollars and Zero Cents (\$2,900.00)) will constitute the PAGA Fund. The PAGA Fund will be an estimated \$73,100.00. Seventy-five percent (75%) of the PAGA Fund, or an estimated \$54,825.00, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%), or an estimated \$18,275.00 ("PAGA Settlement Fund"), will be distributed to PAGA Group Members.

18. Individual PAGA Payment Calculations. PAGA Group Members shall not be required to submit a claim in order to receive a share of the PAGA Settlement Fund. Individual PAGA Payment will be calculated and apportioned as follows:

a. Individual PAGA Payment: The *pro rata* portion of the PAGA Settlement Fund

shall be determined by dividing the total number of Qualifying Pay Periods worked during the PAGA Settlement Period into the PAGA Settlement Fund to arrive at a value per Qualifying Pay Period for each eligible PAGA Group Member. The value per Qualifying Pay Period shall be multiplied by the number of Qualifying Pay Periods worked by each PAGA Group Member during the PAGA Settlement Period. Partial Qualifying Pay Periods will be counted as full Qualifying Pay Periods.

19. Settlement Awards Do Not Trigger Additional Benefits. The payments made pursuant to this settlement shall not have any effect on the eligibility or calculation of any employee benefits provided by Defendant or any benefits plan. The Parties agree these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy. These payments also will not be considered wages, compensation, or annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan, employee welfare benefit plan or other program or policy.

20. Distribution of the PAGA Fund. The Settlement Administrator will be responsible for required tax reporting and issuing the Individual PAGA Payments in accordance with this Agreement. To effectuate the best notice possible, for any Individual PAGA Payments returned as undeliverable, the Settlement Administrator shall be sent via First-Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding address is provided for an Individual Settlement Payment, the Settlement Administrator shall conduct a National Change of Address Database ("NCOAD") as well as an Accurint®, or substantially similar, skip trace, and will then mail the Individual Payment to the address identified. If no current address is located, the Individual PAGA Payment for that individual will be deemed undeliverable. If any PAGA Group Members cannot be located within two attempts at mailings by the Settlement Administrator, the Individual PAGA Payment for that individual will be deemed undeliverable and the Settlement Administrator need not take further steps to deliver checks to the PAGA Group Member whose re-mailed checks are deemed undeliverable. The Settlement Administrator shall promptly send a replacement check to any PAGA Group Member whose original check was lost or misplaced, requested by the PAGA Group Member prior to the void date.

All settlement checks mailed out will expire after one hundred eighty (180) days. However, ninety

(90) days after first distributing settlement checks, the Settlement Administrator shall distribute reminder postcards via U.S. Mail to all PAGA Group Members, who have yet to deposit or otherwise negotiate their settlement checks, reminding them of the deadline to do so.

The sum value of all expired checks will be tallied by the Settlement Administrator. All such uncollected funds associated with PAGA Group Members' checks will escheat to the State of California's Controller, to be held in the name of each expired check payee, pursuant to applicable unclaimed property laws. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation of any Individual PAGA Payment checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code section 384.

21. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

22. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, PAGA Group Members, and Plaintiff's Counsel any 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator will also be responsible for forwarding all payroll taxes, contributions, and withholdings (if applicable) to the appropriate government authorities.

23. Tax Liability. No opinion regarding the tax consequences of this Settlement to Plaintiff or PAGA Group Members is being given, or will be given, by Defendant, counsel for Defendant, or any other Releasee. These individuals must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Defendant, the Releasees, counsel for Defendant, and Plaintiff's Counsel shall have no liability or responsibility whatsoever for any tax consequences resulting from payments made pursuant to the Settlement.

24. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND

1 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
2 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
3 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH
4 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
5 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
6 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
7 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
8 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
9 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
10 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
11 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
12 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
13 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
14 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
15 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
16 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
17 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
18 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
19 BY THIS AGREEMENT.

20 25. No Prior Assignments. The Parties represent, covenant, and warrant that they have not
21 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
22 any person or entity any portion of any liability, claim, demand, action, cause of action or right herein
23 released and discharged.

24 26. Release of Claims by PAGA Group Members. Upon the date Defendant fully funds the
25 entire Gross Fund Value, Plaintiff and all PAGA Group Members will be deemed to have fully, finally
26 and forever released, settled, compromised, relinquished, and discharged the Released Parties of all
27 Released PAGA Claims during the PAGA Period, except as to the right to enforce the terms and
28 conditions of this settlement.

1 27. Duties of the Parties with Respect to Obtaining Approval of the Settlement. Upon
2 execution of this Agreement, Plaintiff shall promptly draft a Motion for Approval of the Settlement,
3 which Plaintiff and Plaintiff's Counsel will be responsible for drafting, and Plaintiff will submit this
4 Agreement to the Court in support of said motion. Plaintiff shall secure a hearing date for the Motion
5 for Approval as soon as practicable. Defendant agrees not to oppose the Motion for Approval of the
6 Settlement consistent with this Agreement. Said motion shall apply to the Court for the entry of an order
7 ("Approval Order") and Judgment, which shall be mutually agreed upon by the Parties., which will
8 provide for, in substantial part, the following:

- 9 a. Approval of the Settlement and directing consummation of its terms and
10 provisions;
- 11 b. Approval of the application for Attorneys' Fees and Costs to Plaintiff's Counsel;
- 12 c. Approval of the application for Enhancement Payment to Plaintiff;
- 13 d. Directing Defendant to fund all amounts due under the Agreement and ordered by
14 the Court; and
- 15 e. Entering judgment in the Action barring and enjoining Plaintiff from prosecuting
16 the Released PAGA Claims against any of the Released Parties, while maintaining continuing
17 jurisdiction to ensure the continuing implementation of the provisions of this Settlement.

18 28. Termination or Revocation of Settlement.

- 19 a. If the Court finds the Gross Fund Value to be insufficient to warrant Approval of
20 the Settlement, Defendant may, at its election, rescind the Agreement and all actions taken in furtherance
21 of it will thereby be null and void.

22 29. Effect of Termination of the Settlement. Termination of the Agreement shall have the
23 following effects:

- 24 a. The Agreement shall be void and shall have no force or effect, and no Party shall
25 be bound by any of its terms;
- 26 b. In the event the Agreement is terminated, Defendant shall have no obligation to
27 make any payments to any Party, PAGA Group Member, or attorney, except that the terminating Party
28 shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator

1 is notified that the Settlement has been terminated;

2 c. The Agreement and all negotiations, statements and proceedings relating thereto
3 shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective
4 positions in the Actions prior to the execution of the Agreement;

5 d. Neither this Agreement, nor any ancillary documents, actions, statements or filings
6 in furtherance of the Settlement, nor any matters associated with the mediation, shall be admissible or
7 offered into evidence in the Actions or any other action for any purpose whatsoever; and

8 e. Any documents generated to bring the Settlement into effect, will be null and
9 void, and any order or judgment entered by the Court in furtherance of this Agreement will likewise be
10 treated as void from the beginning.

11 30. Escalator Clause. Defendant represents that from July 19, 2021 through February 22,
12 2024, PAGA Group Members worked approximately 4,200 pay periods. If the number of pay periods
13 at issue for the PAGA Group Members during the PAGA Period exceeds 4,600 pay periods by ten
14 percent (10%) (i.e., 5,060) or more at the time of court approval, then the Gross Fund Value shall be
15 increased proportionally by the number of pay periods in excess of 5,060 pay periods. For example, if
16 the amount of pay periods exceeds 4,600 by 11% then an additional 1% (or \$14,250.00) would be added
17 to the Gross Fund Value. In the alternative, Defendant may exercise its discretion to shorten the end
18 date of the PAGA Period to the pay period before the number of Qualified Pay Periods exceeds 4,600
19 pay periods by 10% (i.e., 5,060) so that it does not exceed 4,600 Qualified Pay Periods by more than
20 10% (i.e., 5,060). Defendant represents that as of the pay period ending July 20, 2024, there are 5,025
21 Qualified Pay Periods. Pursuant to this clause, Defendant elects to shorten the PAGA Period to end on
22 July 20, 2024.

23 31. Continued Jurisdiction. After entry of judgment pursuant to the Settlement, the Court will
24 have continuing jurisdiction pursuant to Section 664.6 of the California Code of Civil Procedure, for
25 purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b)
26 settlement administration matters, and (c) such post-judgment matters as may be appropriate under court
27 rules or as set forth in this Agreement.

28 32. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set

1 forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein.
2 Any exhibits to this Agreement are an integral part of the Settlement.

3 33. No Undue Publicity. None of the Parties shall publicize, or cause to be publicized, directly
4 or indirectly, the discussions resulting in or the existence of this Settlement or its terms, in any type of
5 mass media, including, but not limited to, speeches, press conferences, press releases, interviews,
6 television or radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter, TikTok, or any
7 other social media, the Parties' counsels' or any other website. The Parties shall instruct their respective
8 counsel not to publicize, or cause to be publicized, directly or indirectly, the discussions resulting in or
9 the existence of this Settlement or its terms, in any type of mass media, including, but not limited to,
10 speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers,
11 messages on the Internet, Facebook, Twitter, TikTok, or any other social media, the Parties' counsels' or
12 any other website. Breach of this provision by Plaintiff shall entitle Defendant, in the exercise of its sole
13 discretion, to nullify the Settlement at any time before approval by the Court. Should Plaintiff at any time
14 breach this provision, she shall forfeit to Defendant the full amount of her personal Enhancement Payment.
15 Without limitation by the foregoing, Defendant also may enforce this provision through an action for
16 injunctive relief. Plaintiff waives any obligation by Defendant to file a bond in connection with any such
17 action. Breach of this provision by Defendant shall sever this Paragraph rendering this Paragraph null and
18 void, while the rest of this Settlement shall survive and remain in full force and effect. Nothing in this
19 Paragraph shall prohibit Plaintiff's Counsel from referring to this litigation and this Settlement in court
20 filings. Likewise, nothing in this Paragraph shall prohibit Plaintiff's Counsel from speaking with Plaintiff
21 and PAGA Group Members about this Settlement in performing their ethical obligations as Plaintiff's
22 Counsel.

23 34. Disputes. Any disputes arising out of or relating to this Settlement will be submitted first
24 to the Mediator for mediation. The Parties will split the costs of the mediator and all Parties will bear their
25 own attorneys' fees and other costs incurred. However, to the extent the Parties are unable to resolve their
26 disputes via mediation, the aggrieved party may seek Court intervention. In such an event, the prevailing
27 party shall be entitled to an award of their reasonable attorneys' fees and costs from the non-prevailing
28 party.

1 35. Entire Agreement. This Agreement and any attached exhibits constitute the entirety of
2 the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be
3 deemed binding on the Parties. The Parties expressly recognize California Civil Code § 1625 and
4 California Code of Civil Procedure § 1856(a), which provide that a written agreement is to be construed
5 according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree
6 that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms
7 of this Agreement.

8 36. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the
9 Action (including with respect to California Code of Civil Procedure section 583.310), except such
10 proceedings necessary to implement and complete the Agreement, pending the Approval Hearing to be
11 conducted by the Court.

12 37. Waiver and Amendment. The Parties may not waive, amend, or modify any provision of
13 this Agreement except by written agreement signed by counsel for all Parties, and subject to any
14 necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute
15 a waiver of any other provision.

16 38. Authorization to Enter into Agreement. The Parties warrant and represent that they have
17 expressly authorized their respective counsel to negotiate this Agreement and to take all appropriate
18 actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
19 terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties
20 warrant that they understand and have full authority to enter into this Agreement, and further intend that
21 this Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible
22 and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation
23 confidentiality provisions that otherwise might apply under state or federal law.

24 39. Binding on Successors and Assigns. This Agreement will be binding upon, and inure to
25 the benefit of, the successors or assigns of the Parties hereto, as previously defined.

26 40. California Law Governs. All terms of this Agreement and attached exhibits hereto will
27 be governed by and interpreted according to the laws of the State of California.

28 41. Execution and Counterparts. This Agreement is subject only to the execution of all

Parties. However, the Agreement may be executed in one or more counterparts, including via electronic means. All executed counterparts and each of them, including facsimile, electronic, and scanned copies of the signature page, will be deemed to be one and the same instrument.

42. Acknowledgment that the Settlement is Fair and Reasonable. The Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. 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 Agreement.

43. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

44. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that it has violated any state, federal, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with state, federal, local or other applicable law.

45. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

46. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one party than another 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 equally to the preparation of this Agreement.

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

48. All Terms Subject to Final Court Approval. All amounts and procedures described in this Agreement herein will be subject to final Court approval.

49. Notices. All notices, demands, and other communications to be provided concerning this Agreement shall be in writing and delivered by overnight mail at the addresses set for below, or such other addresses as either Party may designate in writing from time to time:

To Plaintiff and Plaintiff's Counsel:

Joseph Lavi
Vincent Granberry
Malcolm Clayton
Lavi & Ebrahimian, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, CA 90211

To Defendant:

Brian Ashe
SEYFARTH SHAW LLP
560 Mission St., #3100
San Francisco, California 94105

Elizabeth Levy
SEYFARTH SHAW LLP
2029 Century Park East, Suite 3500
Los Angeles, California 90067

50. Judgment. The Parties shall provide the Settlement Administrator with a copy of the Judgment once it is entered by the Court.

51. Cooperation and Execution of Necessary Documents. The Parties will, and shall direct their respective counsel to, cooperate with each other in good faith and use their best efforts to implement the settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the

1 form or content of any document needed to implement the Agreement, or on any supplemental
2 provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek
3 the assistance of the Mediator and then the Court to resolve such disagreement.

4 52. Integration Clause. This Agreement contains the entire agreement between the Parties
5 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous
6 agreements, understandings, representations, and statements, whether oral or written and whether by a
7 Party or such Party's legal counsel, are merged herein. Upon execution and entry of the Approval Order
8 and Judgment, all prior writings are null and void. No rights hereunder may be waived except in writing.

9 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this Joint
10 Stipulation of Settlement between Plaintiff and Defendant:

11
12 **IT IS SO AGREED.**

13 **PLAINTIFF FRANCHETTE PALMER**

14 *Franchette Palmer*

15 Dated: September 9, 2024

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Franchette Palmer

**DEFENDANT MACERICH MANAGEMENT
COMPANY**

Dated: _____, 2024

Full Name: Katherine Smart

Title: VP Risk Management & People

1 form or content of any document needed to implement the Agreement, or on any supplemental
2 provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek
3 the assistance of the Mediator and then the Court to resolve such disagreement.

4 52. Integration Clause. This Agreement contains the entire agreement between the Parties
5 relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous
6 agreements, understandings, representations, and statements, whether oral or written and whether by a
7 Party or such Party's legal counsel, are merged herein. Upon execution and entry of the Approval Order
8 and Judgment, all prior writings are null and void. No rights hereunder may be waived except in writing.

9 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this Joint
10 Stipulation of Settlement between Plaintiff and Defendant:

11
12 **IT IS SO AGREED.**

13 **PLAINTIFF FRANCHETTE PALMER**

14 Dated: _____, 2024

Franchette Palmer

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20 **DEFENDANT MACERICH MANAGEMENT
COMPANY**

21 Dated: ^{9/9/2024}_____, 2024

Katherine Smart

22
23 Full Name: Katherine Smart

24 Title: VP Risk Management & People
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28

1 **APPROVED AS TO FORM ONLY:**

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4 Dated: 09/09/2024, 2024

LAVI & EBRAHIMIAN

Joseph Lavi

Joseph Lavi

Vincent Granberry

Malcolm Clayton

Attorneys for Plaintiff Franchette Palmer

SEYFARTH SHAW LLP

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9 Dated: 9/10/2024, 2024

Elizabeth Levy

Brian Ashe

Elizabeth Levy

Attorneys for Defendant Macerich Management Company

1
2 **Exhibit A**

3 Dear [NAME]

4 This check is issued pursuant to the terms of the settlement in Case No. 22STCV32367 in Los Angeles
5 County Superior Court, which involved claims brought under the California Labor Code. There was no
6 finding of any wrongdoing in this matter. The parties reached a settlement to avoid continued litigation.

7 Please be advised that you have 180 days from the date of issue to deposit, cash, or otherwise convert this
8 check. If you do not deposit, cash, or otherwise convert your check within 180 days, it will become void
9 and escheat to the State of California.

10 If you need to request re-issuance of your check, please write "VOID" on this check and mail it with a letter
11 providing your name update or correction to: Palmer v. Macerich, c/o [ADDRESS] or call [NUMBER].

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Regards,
Office of the Settlement Administrator

“Exhibit 2”

Alondra Iglesias

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Tuesday, September 10, 2024 5:17 PM
To: Alondra Iglesias
Subject: Thank you for your Proposed Settlement Submission

09/10/2024 05:16:38 PM

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

Item submitted: Proposed Settlement

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