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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF LOS ANGELES**

10 CHRISTINA FRANCO,

11 Plaintiff,

12 vs.

13 M&B RESTAURANT GROUP; and DOES
14 1 to 25, inclusive,

15 Defendants.

Case No.: 23STCV06880

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

Action filed:
3/29/23

Date: 3/27/25
Time: 8:30am
Dept: 48

Reservation ID:
566511937492

Department: 48, Hon. Thomas D.
Long

Submitted Herewith Under Separate Cover:

1. Plaintiff's Notice of Unopposed Motion for Approval of PAGA Settlement; Memorandum of Points and Authorities in Support Thereof;
2. [Proposed] Order

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

I, HAROUT MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of Messrelian Law Inc. and the attorney of record for Plaintiff Christina Franco ("Plaintiff") in her lawsuit against Defendant M&B RESTAURANT GROUP (hereinafter "M&B" or "Defendant(s)").

2. I am experienced in handling employment law matters and specifically wage and hour representative and individual actions. My qualifications are as follows: I received my JD from Loyola Law School in 2010. I started my own law firm in 2011 – the Law Offices of Harout Messrelian. Since 2016, I have been the founder and principal attorney at Messrelian Law, Inc. Since 2011, I have filed and handled over 350 civil actions and/or claims involving representative actions under the Private Attorneys General Act ("PAGA") and/or wage and hour claims on behalf of my clients and have been appointed Class Counsel in three class action cases – *Zohrab Mekhitarian v. Triple Play Motors dba Bob Smith Toyota*, Los Angeles Superior Court Case No. 19STCV22411 (ADR Services, Inc., Case Number 20-2668-RWT), *Carina Camberos, on behalf of herself and others similarly situated, v. Great American Chicken Corp, Inc.*, Los Angeles Superior Court Case No. 21STCV32015, and *Robert Garcia, on behalf of himself and others similarly situated v. HD Supply Management Inc.*, San Bernardino Superior Court Case No. CIVSB2028067. I have a practice that encompasses cases in the Los Angeles Superior Courts, the Orange County Superior Courts, the Riverside County Superior Courts, the San Bernardino County Superior Courts, the Alameda County Superior Courts, Santa Clara County Superior Courts, San Mateo County Superior Courts, and the Monterey County Superior Courts.

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

Factual and Procedural Background

4. Defendant is in the business of operating "Jack In The Box" fast food chains and has multiple locations. Plaintiff was classified as an hourly, non-exempt employee and worked

1 for Defendant as a crew member from July 2021 through May 2022.

2 5. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit
3 under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq.
4 (“PAGA”). On January 10, 2023, Plaintiff Christina Franco on behalf of herself and Defendant’s
5 other California non-exempt employees (hereafter collectively the “Aggrieved Employees”)
6 gave written notice by electronic service to the California Labor and Workforce Development
7 Agency (“LWDA”) and via certified mail to Defendant of their claims against Defendant. In her
8 notice to the LWDA, Plaintiff asserted on behalf of herself and the Aggrieved Employees that
9 Defendant (1) failed to compensate for all hours worked and to pay minimum wages (Labor
10 Code Sections 1194, 1197, 1197.1); (2) failed to pay overtime compensation (Labor Code
11 Section 510); (3) failed to provide rest breaks (Labor Code Section 226.7); (4) failed to provide
12 meal breaks (Labor Code Sections 512, 226.7); (5) failed to timely pay wages due during
13 employment (Labor Code Section 204); (6) failed to provide accurate itemized wage statements
14 (Labor Code Section 226); (7) failed to keep accurate and complete payroll records (Labor Code
15 Section 1174/1174.5); (8) failed to pay wages at the end of employment (Labor Code section
16 203); (9) failed to reimbursement business expenses (Labor Code section 2802); and claims
17 under Industrial Welfare Commission Wage Orders 5-2001. Plaintiff filed her initial lawsuit on
18 March 29, 2023, in the Superior Court for the State of California, County of Los Angeles, Case
19 No. 23STCV06880, with one cause of action for PAGA penalties based on the theories as
20 outlined in the PAGA letter.

21 6. Through informal discovery, Defendant produced records and represented that it
22 employed approximately 215 employees falling within Plaintiff’s Aggrieved Employees
23 definition for the period from January 23, 2022 (one year and 65 days before Plaintiff’s PAGA
24 complaint filing) through March 1, 2024, and that there are paychecks issued for a total of
25 approximately 3,800 pay periods worked for that same time period.

26 7. The Settlement Agreement covers PAGA Members, which are Aggrieved
27 Employees employed on or after January 23, 2022 through March 1, 2024.

28 8. Defendant denies any liability or wrongdoing of any kind whatsoever associated

1 with the lawsuit and the Representative PAGA Claim. It is the desire of the Parties to fully,
2 finally, and forever compromise, and discharge all claims known or unknown related to those
3 alleged in Plaintiff's lawsuit.

4 9. The Parties negotiated directly between counsel, and settled the matter. As part
5 of the process, the Parties engaged in informal discovery regarding Defendant's policies,
6 practices, operations, time and payroll information and other topics. Defendant produced
7 Plaintiff's personnel file and time and payroll data for Plaintiff, and time records and payroll
8 records for randomly selected aggrieved employees falling within Plaintiff's Aggrieved
9 Employees definition and during the applicable PAGA period. The latter data was sent to
10 Plaintiff's data expert for analysis and review. Through extensive arm's length negotiations, the
11 Parties agreed to settlement terms. Attached as **Exhibit 1** is a true and accurate copy of the
12 "Private Attorneys General Act Settlement Agreement and Release" (hereinafter "Settlement
13 Agreement") and the PAGA notice that will be sent to the PAGA Members covered by the
14 Settlement Agreement.

15 10. The Parties conducted investigation of the facts and law both before and after the
16 lawsuit was filed. Counsel for the Parties have further investigated the applicable law as applied
17 to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code
18 violations claimed by Plaintiff. Based on their own independent investigations and evaluations,
19 the Parties and their respective counsel are of the opinion that the Settlement for the
20 consideration and on the terms set forth in this Motion are fair, reasonable and adequate and are
21 in the best interests of Plaintiff, the PAGA Members, and Defendant in light of all known facts
22 and circumstances and the risks inherent in litigation, especially in this post-pandemic era when
23 most California businesses, and especially restaurants, are still struggling to remain afloat, much
24 less prosper and make a large profit.

25 11. The Parties further recognize that the issues presented in the Action are likely
26 only to be resolved with extensive and costly pretrial and trial proceedings, and that further
27 litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate
28 to the maximum potential benefits, especially in light of the post- pandemic era and the business

1 climate.

2 12. Plaintiff alleges that the strongest claims are that Plaintiff and other PAGA
3 Members were not provided meal and rest breaks under the law.

4 13. Plaintiff contends that the civil penalty statutes applicable to the Action arise
5 from violations of the California Labor Code, including, but not limited to, Labor Code §§ 512,
6 558, 1197, 1197.1, and 2699(f)(2). Under these civil penalty statutes, an employee who suffers
7 a Labor Code violation may be awarded a sum of money for each pay period in which he or she
8 was underpaid. However, under Labor Code § 2699(e)(2), the Court can reduce an award of
9 civil penalties if the award is unjust, arbitrary, oppressive, or confiscatory.

10 14. As it relates to Plaintiff's argument for meal break violations, Plaintiff's data
11 analysis revealed a shift violation rate of 5.4% for short, late, or no meal breaks for shifts over
12 5 hours long (which comprised 95.7% of the overall shifts in the sample). If you extrapolate the
13 5.4% shift violation rate, it amounts to 36.5% of pay periods having at least one meal period
14 violation. As such, the maximum exposure for meal period violations in the PAGA period would
15 be **\$66,350.00**, which is calculated as follows: 3,800 total pay periods x 95.7% equals 3636 pay
16 periods at issue as far as meal period violations are concerned. 3636 pay periods x 36.5% pay
17 period violation rate equals 1,327 affected pay periods; 1,327 pay periods x \$50/pay period (civil
18 penalty) amounts to \$66,350 in exposure. The latter exposure calculation does not take into
19 account the fact that Defendant had strong, written meal period policies and that the sampling
20 did have a meal period premium payment.

21 15. As it relates to Plaintiff's argument for rest break violations, since there was no
22 actual clock-in and clock-out records for rest breaks, Plaintiff extrapolated the 36.5% pay period
23 violation rate for rest breaks. The number of pay periods at issue for the rest break claim would
24 be 3,754 pay periods since 98.8% of the shifts were over 3.5 hours long. As such, the maximum
25 exposure for rest period violations in the PAGA period would be \$137,000, which is calculated
26 as follows: 3,754 pay periods x 36.5% pay period violation rate equals 1,370 affected pay
27 periods; 1,370 pay periods x \$100/pay period (civil penalty) amounts to \$137,000 in exposure.
28 The latter exposure calculation does not take into account the fact that Defendant had strong,

1 written rest period policies.

2 16. As it relates to Plaintiff's other claims, and unlike the arguments for meal/rest
3 period violations, there would be issues with proof. The sampling did not reveal any rounding
4 as hours were paid to the second decimal point. There would be no regular rate issue, since there
5 were no bonus payments seen in the sample. As it relates to any overtime issues, the data showed
6 the average work day was 7.3 hours, which means that overtime pay was not a major issue,
7 however, when employees worked over 8.0 hours, they were paid 1.5 times their regular rate.
8 Moreover, Defendant provided overall strong written policies as it related to wage and hour
9 practices and showed that Plaintiff acknowledged the policies. As it relates to Plaintiff's claim
10 of business expense reimbursement, Defendant had a strong "no cell phone use" policy at the
11 workplace and did not require Plaintiff and others to use their phones for work purposes. As it
12 relates to uniforms, portions of the uniform were provided by Defendant and any other articles
13 of clothing that were worn by aggrieved employees were not of a specific or distinctive design
14 and could be worn outside of work as well. Plaintiff's other claims for violations of Labor Code
15 sections 203, 204, and 226 (for not being paid all wages owed every pay period or at the end of
16 employment as well as not receiving accurate, itemized wage statements) would not be triggered
17 since they are derivative claims, and no rounding/overtime issues were identified.

18 17. Based on the above calculations, Plaintiff's aggregate exposure for the strongest
19 disputed claims would be **\$203,350**. Assuming that Plaintiff's calculations and analysis are
20 accurate, the maximum exposure presumes that the Court will not reduce the penalty award as
21 unjust, arbitrary, oppressive, or confiscatory. Based on the above analysis, a gross settlement in
22 the amount of \$120,000, which represents 59% of the maximum penalty calculation, is a very
23 strong result, especially in light of the risk factors as discussed above.

24 18. Moreover, Plaintiff is aware of no California state courts awarding Plaintiff
25 multiple PAGA penalties for the same violation for the same pay period under different Labor
26 Code provisions. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack"
27 civil penalties arising under the various Labor Code statutes. Furthermore, judges have awarded
28 extremely small sums to PAGA claimants in the past. Defendant also adamantly disputes all of

1 Plaintiff's allegations in the operative Complaint.

2 19. PAGA states a court has discretion to award a lesser amount than the maximum
3 penalty. *See Lab. Code* § 2699(e)(2) (“...a court may award a lesser amount than the maximum
4 civil penalty amount specified by this part if, based on the facts and circumstances of the
5 particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive,
6 or confiscatory.”); *see also Thurman v. Bayshore Transit Management, Inc.* (2012) 203
7 Cal.App.4th 1112, 1135 (reducing PAGA award). There is a substantial risk that the Court could
8 reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff’s evidence of
9 willful and intentional conduct. *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504
10 (“*Carrington*”) illustrates this. In that case, the Court of Appeal affirmed a trial court’s heavily
11 discounted award of only \$5 per violation because it was within the Court’s discretion to
12 significantly reduce PAGA penalties even when there is a finding that a violation of the
13 California Labor Code occurred. The plaintiff in *Carrington* had requested penalties in excess of
14 \$70 million and was successful in proving the PAGA claim during a bench trial. However, the
15 trial court reduced the total award after trial to only \$150,000 (30,000 violations x \$5) and stated
16 that this reduction was warranted because imposing the maximum penalty would be “unjust,
17 arbitrary, and oppressive”, based on Starbucks’s “good faith attempts” to comply with meal break
18 obligations and because the Court found the violations were minimal. Applying the same formula
19 here and assuming there was one violation during each pay period, the award of civil penalties
20 could not exceed \$19,000 in PAGA penalties (3,800 violations x \$5). As such, this Settlement is
21 a great result based solely on the risk the Court chooses to apply the *Carrington* formula.
22 Defendant has also posed formidable defenses to the Labor Code claims underlying Plaintiff’s
23 allegations. Thus, the chance of Plaintiff recovering a higher amount than the Gross Settlement
24 Amount is uncertain.

25 20. The Parties further recognize that the issues presented in the Action are likely
26 only to be resolved with extensive and costly pretrial and trial proceedings, and that further
27 litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate
28 to the maximum potential benefits to the PAGA Members and Plaintiff from continued

1 litigation.

2 21. The settlement of the Action involves monetary relief to all PAGA Members,
3 Plaintiff, her attorneys, and the State of California.

4 22. Furthermore, Plaintiff recognizes that continued litigation presents significant
5 risks that support a significant downward departure from Plaintiff's estimated civil penalties
6 amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable
7 compromise amount for these claims and is in the best interest of Plaintiff and PAGA Members
8 and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir.
9 June 3, 2014) 2014 WL 2465049, * 3. The PAGA settlement and its terms are fair, just,
10 reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of
11 the current economic climate, and are the product of good faith, and informed arms-length
12 negotiations between the Parties consistent with public policy and fully comply with applicable
13 provisions of law.

14 23. As such, the settlement of PAGA penalties in the gross sum of \$120,000.00, of
15 which 75% of the net amount after attorney's fees [\$40,000.00], attorney costs [\$1,301.00], and
16 settlement administrator fees [\$4,500.00], which is \$55,649.25 will be paid to the LWDA, and
17 25%, which equates to \$18,549.75, will be distributed to the PAGA Members, is reasonable and
18 appropriate under the circumstances.

19 ***Plaintiff's Individual Settlement***

20 24. Plaintiff did have individual claims for individual labor code violations. The
21 Parties agreed that the consideration Plaintiff received pursuant to an individual settlement
22 agreement was to settle her individual claims. As part of this confidential agreement, Plaintiff
23 also provided Defendant with a general release of all claims, whether known or unknown,
24 including unknown claims covered by Civil Code Section 1542. Plaintiff has no conflict of
25 interest with the absent Aggrieved Employees and is adequate to represent the Aggrieved
26 Employees.

27 ///

28 ///

1 *Attorneys' Fees and Costs*

2 25. I represent Plaintiff on a straight contingency basis. My firm's request for
3 \$40,000.00 in attorney fees and \$1,301.00 in litigation costs is fair and reasonable. To date, I
4 have investigated and prosecuted this matter vigorously, including drafting the initial PAGA
5 notice as well as the original complaint; drafting informal discovery questions, reviewing
6 Defendant's informal data and document production, including wage and hour policies; sending
7 and receiving emails on the case with defense counsel; sending the PAGA data to Plaintiff's
8 expert for review/analysis and reviewing the expert's findings/conclusions; engaging in direct
9 settlement negotiations with defense counsel; and drafting this PAGA approval motion. I also
10 expect to perform additional work on this case if the Court grants final approval of the
11 Settlement, including supervision of the Settlement Administrator's disbursement of the
12 settlement funds to the Aggrieved Employees. "Empirical studies show that, regardless of
13 whether the percentage method or the lodestar method is used, fee awards in class actions
14 average around one-third of the recovery. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 47
15 fn. 11 (quoting *Shaw v. Toshiba America Information Systems, Inc.* (E.D. Tex. 2000) 91
16 F.Supp.2d 942, 972; *See also Lafitte v. Robert Half Int'l Inc.* (Cal. Aug. 11, 2016) 1 Cal.5th 480,
17 503, 376 P.3d 672, 686 (holding that courts can use the percentage method for the calculation
18 of attorneys' fees). This is also consistent with my experience in cases involving PAGA claims.
19 This award is justified here because I achieved a strong result for the PAGA Members and the
20 State while bearing the substantial burdens of contingency representation.

21 26. My previous experience in litigating wage and hour actions also supports the
22 reasonableness of the fee request, as does the caliber of opposing counsel. My previous
23 experience in similar matters was integral in evaluating the strengths and weaknesses of the
24 case against Defendant and the reasonableness of the Settlement. Because it is reasonable to
25 compensate me commensurate with my skill, reputation, and experience, attorney's fees of
26 approximately one-third of the Gross Settlement Amount is reasonable. Likewise, the caliber
27 and experience of opposing counsel in labor and employment litigation supports the fairness and
28 reasonableness of the requested fee award.

1 27. The litigation costs expended to aid in the representation of the PAGA Members
2 include the following: lawsuit filing fee of \$454.22; PAGA initial filing fees of \$75.00; expert
3 data analysis fee of \$750.00; and miscellaneous filing fees of \$21.78 for a total of \$1,301.00.
4 All of these costs are documented and reasonably incurred.

5 ***Settlement Administration Costs***

6 28. With regard to the settlement administration costs provision, it is reasonable.
7 Before agreeing to Phoenix Settlement Administrators (“Phoenix”), the Parties sought and
8 reviewed bids from other reputable third-party administrators, including ILYM Group and CPT,
9 and Phoenix’s bid was comparable. Phoenix’s bid has been attached as **Exhibit 2** to this
10 declaration.

11 ***Notice of Settlement to the LWDA***

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

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

20 Executed on March 4, 2025, at Glendale, California.

21
22
23 
24 _____
25 HAROUT MESSRELIAN,
26 Declarant
27
28

EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release ("Agreement" or "Settlement") is made by and between Plaintiff Christina Franco ("Plaintiff"), individually, and on behalf of all other aggrieved employees (the "Aggrieved Employees" or "PAGA Group" as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the California Private Attorneys General Act ("PAGA") on the one hand, and Defendant M&B Restaurant Group, Inc. ("M&B") ("Defendant"), on the other hand. Plaintiff and Defendant are collectively referred to herein as "the Parties."

This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the Aggrieved Employees she represents, and Defendant, subject to the approval of the Court.

WHEREAS, on March 29, 2023, Plaintiff filed a representative action complaint ("Complaint") pursuant to the California Private Attorneys General Act ("PAGA") in the Superior Court of California, Los Angeles County entitled *Franco v. M&B Restaurant Group*, Case No. 23STCV06880 (the "Lawsuit"). The Settlement between the Parties has been reached regarding the representative PAGA claims for civil penalties payable to Plaintiff, other Aggrieved Employees, and the State of California pursuant to PAGA, based on allegations that Defendant failed to: (1) pay minimum wages; (2) pay overtime wages; (3) provide compliant meal periods or premium pay in lieu thereof; (4) provide compliant rest breaks or premium pay in lieu thereof; (5) pay wages owed on designated pay dates during employment; (6) provide accurate itemized wage statements; (7) maintain accurate payroll records; (8) pay final wages upon separation; and (9) reimburse necessary work-related expenses incurred. Specifically, the PAGA Claims are claims asserted or which could have been asserted in the Lawsuit and Plaintiff's Complaint and/or PAGA Notice filed with the LWDA, including all PAGA claims stated expressly or by implication in the Notice filed with the LWDA or that could have been alleged based on the facts and circumstances set forth therein. The applicable PAGA Notice related to the Lawsuit is attached hereto as **Exhibit A** (all of the foregoing is collectively referred to as Plaintiff's "PAGA Claims").

WHEREAS, during the pendency of the Lawsuit, the Parties conducted significant investigation of the facts and law and engaged in an informal discovery exchange prior to scheduled mediation. In response to Plaintiff's Counsel's informal discovery requests, Defendant provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and the Aggrieved Employees, and the claims in the Lawsuit, including a 10% sampling of the time punch and payroll data, to provide Plaintiff the opportunity to investigate Plaintiff's allegations and the PAGA Claims.

WHEREAS, through protracted negotiations and informal exchange of information, the Parties agreed to settle Plaintiff's representative PAGA Claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiff's claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the "Aggrieved Employees" are defined as: All non-exempt current and former individuals employed by Defendant during the PAGA Period.

WHEREAS, for purposes of this Settlement, "PAGA Period" is defined as the period from

January 23, 2022 to March 1, 2024.

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA Settlement constitutes a compromise of Plaintiff's PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiff and the Aggrieved Employees have or may have against Defendant and all of their current and former officers, directors, employees and agents, successors entities, predecessors or affiliates (collectively, the "Released Parties"). The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant or the Released Parties of any wrongdoing or liability. Specifically, Defendant and the Released Parties deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and the PAGA Notice. Defendant and the Released Parties, among other things, contend that they have complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, California Labor Code § 2699(1)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiff and their respective counsel are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff and the Aggrieved Employees, Messrelan Law Inc., believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, (2) have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, and (3) have arrived at the settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, the Parties recognize that in accordance with Labor Code section 2699(1), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) ("PAGA authorizes a representative action without the need for class certification"); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) ("a PAGA suit is fundamentally different than a class action" in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531, 546-47 (2017) ("PAGA does not make other potentially aggrieved employees parties or clients of plaintiff's counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class").

Therefore, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

1. **Effective Date.** The effective date ("Effective Date") of this Agreement shall mean the date of entry of the order of the court approving this Agreement and the PAGA Settlement.

2. **PAGA Released Claims/Effect of Judgment on Aggrieved Employees and LWDA.**

The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this Settlement will bind all those who would be bound by a judgment if the Lawsuit had been brought by the LWDA, including Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against the Released Parties. It is expressly understood and agreed that this Settlement only includes a full release of the PAGA Claims ("Released PAGA Claims"). With the exception of Plaintiff, who will execute an individual settlement that includes a general release of all claims, this Settlement shall not impact Aggrieved Employees' ability to assert claims (claims for wages and other damages) other than the PAGA claims being released by this Settlement. Plaintiff does not release any Aggrieved Employee's claims for wages or damages.

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(1)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time that the Parties submit it to the Court for approval.

4. **No Right to Opt Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude themselves from the Settlement.

5. **Gross Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of One Hundred, Twenty Thousand Dollars (\$120,000.00) as the non-reversionary gross settlement amount (the "Gross Settlement Amount") in full settlement of the Lawsuit. The Gross Settlement Amount, which represents the total amount payable under this Settlement by Defendant (subject to the Escalator Clause described below), will be allocated as follows:

- a. PAGA Counsel's attorneys' fees and costs request of up to 33 1/3% of the Gross Settlement Amount (or \$40,000.00) ("PAGA Counsel's Fees") and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter ("PAGA Counsel's Costs") not to exceed Five Thousand Dollars (\$5,000.00). Defendant will not oppose these requests. To the extent that the Court approves less than the amount of attorneys' fees and costs that PAGA Counsel requests, any reduced amount shall revert to the PAGA Fund.
- b. Administration costs are estimated not to exceed Ten Thousand Dollars (\$10,000.00) to be paid to the Settlement Administrator ("Administration Costs"), which is a good faith estimate. If the Parties' estimated administration fees are too little, it can be adjusted and shall be paid from

the Gross Settlement Amount. If the actual administration fee is less than the Parties' estimated administration fees, the difference between the actual and estimated administration fees will revert to the PAGA Fund; and

- c. The remainder of the Gross Settlement Amount (the "PAGA Fund") after deducting items (a) and (b) shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% paid to the LWDA (the "LWDA PAGA Portion") and 25% paid to the Aggrieved Employees (the "Aggrieved Employees' PAGA Portion") on a pro-rata basis as set forth in Paragraph 6 below.

6. **Allocation Adjustment.** The Parties agree that should the Court deny approval of the Gross Settlement Amount and/or the Net PAGA Fund the Parties agree to renegotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

7. **Allocation and Calculation of the PAGA Penalties.** Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, Defendant will use the following formula: $\text{Settlement Payment} = \text{Aggrieved Employees' PAGA Portion} \times [\text{Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period} \div \text{Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period}]$.

8. **Escalator Clause:** Defendant's best estimate for the number of pay periods at issue for the PAGA Group for the PAGA Period is approximately 3,800 pay periods. Should the number of pay periods during the PAGA period increase by more than 10%, the Gross Settlement Amount will increase proportionately over the 10% grace (i.e., meaning if the pay periods increase by 11% the Gross Settlement Amount will increase by 1%). However, if the escalator clause is triggered, Defendant may alternatively choose to end the PAGA Period on the date that the increase would otherwise be triggered.

9. **Tax Treatment of Settlement Amounts.** With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, its counsel and Plaintiff's and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments.

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

11. PAGA Settlement Payment Procedures.

- a. Within thirty (30) calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator. Within thirty (30) calendar days of the Effective Date, Defendant shall also provide the Settlement Administrator with a list of all Aggrieved Employees with each listed employee's full name, last known mailing address, last known telephone number, social security number, the actual number of compensable pay periods worked by them during the PAGA Period. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information and shall skip trace and re-mail all returned, undelivered mail within ten (10) days of receiving notice that a notice was undeliverable.
- b. Within fifteen (15) calendar days from the date the Gross Settlement Amount has been deposited with the Settlement Administrator as well as the information provided in Paragraph 11 (a), the Settlement Administrator shall:
 - i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit A**). Aggrieved Employees shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail

to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) days of the original mailing. All uncashed settlement checks shall be sent to the California Controller's Unclaimed Property Fund to be held in the name of the alleged aggrieved employee. .

- ii. Distribute a total of Seventy-Five percent (75%) of the PAGA Fund to the LWDA.
 - iii. Distribute PAGA Counsel's fees and costs, as approved by the Court.
 - iv. Distribute payment to itself for services as Settlement Administrator, as approved by the Court.
- c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) days from the date they are mailed by the Settlement Administrator. All money represented by uncashed settlement checks shall be redistributed to the LWDA and those Aggrieved Employees who have already cashed their checks based on their pro rata share of the PAGA penalties calculated in accordance with Section 7. The Settlement Administrator shall deduct costs of redistribution of those checks prior to calculating the pro rata share of the LWDA and the Aggrieved Employees receiving the second check.
- d. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

12. Settlement Administrator. The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use Phoenix Settlement Administrators as the Settlement Administrator.

13. Duties of the Parties Related to Approval. Promptly upon execution of this Agreement, Plaintiff shall file his motion for approval of the proposed Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(l). The approval motion will request Court approval of the following: (1) the terms of this Agreement, (2) PAGA Counsel's Fees and PAGA Counsel's Costs, (3) payments to Aggrieved Employees and the LWDA, (4) payment to the Settlement Administrator, and (5) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court.

14. **Interim Stay of Proceedings.** The Parties agree to refrain from further litigation of this matter, except such proceedings necessary to implement and obtain Final Judgment.

15. **Invalid without Court Approval.** In the event this Agreement is not approved by the Court, it shall be deemed null and void, of no force and effect, and of no probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any purpose whatsoever. In the event that the Agreement does not become final for any reason, this Agreement shall be null and void and any order entered by the Court in furtherance thereof shall be treated as void ab initio. In such a case, the Parties shall return to the status quo as if they had not entered into this Agreement. The Settlement Administrator will be paid by Defendant for its costs through the date it is notified that the Settlement will not proceed.

16. **Non-Admission of Wrongdoing.** The Parties agree that this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant or the Released Parties.

17. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

18. **Covenants and Representations.** Plaintiff represents and warrants she has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim, right, liability, demand, obligation, expense, action, or causes, or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiff acknowledges she has read this Settlement, fully understands her rights, privileges, and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges she had the opportunity to consult with her attorney to explain the terms of this Settlement and the consequences of signing this Settlement.

19. **Termination of Settlement.** If the Court does not approve the Settlement or does not enter judgment as provided for in this Settlement or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

20. **Enforcement.** The Parties agree that following entry of the Final Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over all Parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code

of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

21. Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Lawsuit and Plaintiff's claims, except as otherwise set forth specifically herein.

22. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. Any representation, promise or agreement not specifically included in this Agreement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

23. Severability. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

24. Confidentiality. Plaintiff and Plaintiff's counsel agree that they have not and will not publish the Settlement. In response to any inquiries, Plaintiff will state that "the case was resolved, and it was resolved confidentially." Plaintiff's counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the PAGA Group or the Settlement on its website, and shall not contact any reporters or media regarding the Settlement. Despite this provision, Plaintiff's counsel can discuss the Settlement with Plaintiff, the PAGA Group, and in any filings with the Court and LWDA.

25. No Construction Against the Drafter. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

26. Choice of Law. This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

27. Counterparts. This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

28. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

29. **Electronic Signature.** Each Party specifically agrees that an electronic signature shall have the same force and effect as a signed original of the Agreement, and that the Parties may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7.

Dated: 07/23/24


Christina Franco (Aug 11, 2024 10:30 PDT)
Plaintiff Christina Franco

Dated: _____

Defendant M&B Restaurant Group, Inc

By: _____
Its: _____

APPROVED AS TO FORM AND CONTENT:

Dated: 7/24/24

Messrelian Law Inc

By: 
Harout Messrelian
Attorneys for Plaintiff Christina Franco,
and Aggrieved Employees

28. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

29. **Electronic Signature.** Each Party specifically agrees that an electronic signature shall have the same force and effect as a signed original of the Agreement, and that the Parties may use DocuSign, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7.

Dated: _____

Plaintiff Christina Franco

Dated: 7/8/24

Gregory Gribble
Defendant M&B Restaurant Group, Inc

By: Gregory B. Gribble
Its: owner

APPROVED AS TO FORM AND CONTENT:

Dated: _____

Messrelian Law Inc

By: _____
Harout Messrelian
Attorneys for Plaintiff Christina Franco,
and Aggrieved Employees

NOTICE OF PAGA ACTION SETTLEMENT

*Christina Franco v. M&B Restaurant Group, Los Angeles County Superior Court
Case No. 23STCV06880*

This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE EMPLOYED AS A NON-EXEMPT EMPLOYEE BY DEFENDANT M&B RESTAURANT GROUP ("DEFENDANT") IN CALIFORNIA DURING THE PAGA PERIOD (JANUARY 23, 2022 through MARCH 1, 2024), THIS PAGA SETTLEMENT AFFECTS YOUR RIGHTS.

A settlement (the "Settlement") has been reached in the lawsuit entitled *Christina Franco v. M&B Restaurant Group* (the "Action"), asserting claims under the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* ("PAGA"). The purpose of this Notice is to advise you as to why you have received a portion of the Settlement proceeds. The Settlement resolves the Action.

Who is affected by this proposed Settlement?

The Court has designated, for settlement purposes only, the following persons as "Aggrieved Employees" or "PAGA Group Members":

All non-exempt employees employed by Defendant in California at any time during the PAGA Period (the "PAGA Period" refers to the period of January 23, 2022 to March 1, 2024).

According to Defendant's records, you are one of the Aggrieved Employees or PAGA Group members.

What is this case about?

In the Action, Plaintiff asserted claims that Defendant violated provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004 ("PAGA") [Lab. Code § 2699, *et seq.*].

Defendant denied all liability and was confident that it had strong legal and factual defenses to these claims, but Defendant recognized the risks, distractions, and costs associated with continued litigation.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendant.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses but did approve the Settlement. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or PAGA Group Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests PAGA Group Members. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable.

What are the Settlement terms?

By operation of the Settlement's terms, upon the approval of this Settlement by the Court and full funding of the Gross Settlement Amount, all Aggrieved Employees will release Defendant and all of their current and former officers, directors, employees and agents (collectively, the "Released Parties") from the PAGA claims for civil penalties based on alleged violations of California Labor Code and Industrial Welfare Commission ("IWC") Wage Orders. The Settlement includes a release of PAGA claims that could have been sought by the State of California Labor Commissioner for the violations identified in Plaintiff's pre-filing notice letter filed with the LWDA (the "Released Claims").

All settlement checks mailed to Aggrieved Employees will remain valid and negotiable for one hundred eighty (180) calendar days from the date of the checks' issuance and shall thereafter automatically be void if not cashed within that time. After 180 calendar days, all uncashed checks shall be sent to the California Controller's Unclaimed Property Fund to be held in the name of the alleged aggrieved employee. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement. Individual PAGA Payments are being mailed to PAGA Group Members at the address that is on file with the Settlement Administrator. If the address

to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.

What is the Settlement Formula and My Calculated Settlement Share?

You are receiving a portion of the PAGA Penalties on a pro-rata basis. Defendant has calculated: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, the following formula was used: Settlement Payment = Aggrieved Employees' PAGA Portion $\times$ [Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period $\div$ Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period].

The Settlement Payments to Aggrieved Employees are classified as other miscellaneous income and will be allocated as 100% penalties, which will be reported on IRS Form 1099-MISC, if required¹. Your share was calculated based on the number of pay periods you worked for Defendant during the PAGA Period.

Under the terms of the Settlement, your Individual PAGA Payment is \$ _____.

There is no statutory right for PAGA Group Members to object, opt out or otherwise exclude themselves from this Settlement.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

¹ One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your Individual PAGA payment. Neither Plaintiff nor Defendant have made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

EXHIBIT 2



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	215
Opt Out Rate	N/A
Opt Outs Received	
Total Class Claimants	215
Subtotal Admin Only	\$4,861.35

Flat Fee Total **\$4,500.00**

For 215 Class Members

Pricing Good for Scope of Estimate Only

All Aspects of Escheating to the State of CA Included

Spanish Translation, Printing & Mailing Included

May 22, 2024

Case: Franco v M&B, PAGA Administration

Phoenix Contact: Michael E. Moore
Contact Number: 949.331.0131
Email: mike@phoenixclassaction.com

Requesting Attorney: Harout Messrelian
Firm: Messrelian Law Inc.
Contact Number: 818.484.6531
Email: hm@messrelianlaw.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PHX will need to adjust this Estimate accordingly.
Estimate is based on **215** Class Members. Class data **Must** be sent in Microsoft Excel or uploaded in the same format. Class Data **Must** be sent in one spreadsheet, with no additional programming needed. A rate of \$150 per hour will be charged for any additional analysis or programming. Pricing good for 90 day

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)				
Administrative Tasks:	Rate	Hours/Units	Line Item	Estimate
Programming Manager	\$100.00	2		\$200.00
Programming Database & Setup	\$100.00	1		\$100.00
Toll Free Setup*	\$100.00	1		\$100.00
Call Center & Long Distance	\$2.50	16		\$40.00
NCOA (USPS)	\$50.00	1		\$50.00
Total				\$490.00

* Up to 120 days after disbursement

Data Merger & Scrub / PAGA Letter & Check / Postage / Spanish Translation				
Project Action	Rate	Hours/Units	Line Item	Estimate
Notice Packet Formatting	\$100.00	1		\$100.00
Spanish Translation	\$150.00	1		\$150.00
Data Merge & Duplication Scrub	\$0.09	215		\$19.35
PAGA Letter and Check Packet	\$1.00	215		\$215.00
Estimated Postage (up to 1 oz.)*	\$0.64	215		\$137.60
Total				\$621.95

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Skip Tracing & Remailing PAGA Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Associate	\$55.00	3		\$165.00
Skip Tracing Undeliverables	\$0.75	38		\$28.50
Remail PAGAPackets	\$1.00	35		\$35.00
Estimated Postage	\$0.64	35		\$22.40
Programming Undeliverables	\$50.00	1		\$50.00
Total				\$300.90

Case Management

Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Associate	\$55.00	5		\$275.00
Case Manager	\$85.00	2		\$170.00
Total				\$445.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks

Project Action:	Rate	Hours/Units	Line Item	Estimate
Programming Calculations	\$135.00	1		\$135.00
Disbursement Review	\$135.00	1		\$135.00
Programming Manager	\$95.00	2		\$190.00
QSF Bank Account & EIN	\$135.00	1		\$135.00
Check Run Setup & Printing	\$135.00	2		\$270.00
Total				\$865.00

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Supervisor	\$115.00	2		\$230.00
Remail Undeliverable Checks (Postage Included)	\$1.50	29		\$43.50
Case Associate	\$55.00	3		\$165.00
Reconcile Uncashed Checks	\$85.00	3		\$255.00
Conclusion Reports	\$115.00	2		\$230.00
Case Manager Conclusion	\$85.00	2		\$170.00
Final Reporting & Declarations	\$115.00	3		\$345.00
QSF Annual Tax Reporting *	\$700.00	1		\$700.00
(State Tax Reporting & Escheating Uncashed Checks to the State of CA included)				

Total **\$2,138.50**

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: **\$4,861.35**



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.

EXHIBIT 3