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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

BILLY JAMES PIZARRO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

POMERADO OPERATIONS, LLC, a limited
liability company dba BOULDER CREEK POST
ACUTE; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 37-2023-00012945-CU-OE-CTL

[Assigned to Hon. Judy S. Bae, Dept. C-62]

**DECLARATION OF H. SCOTT LEVIANT
IN SUPPORT OF PLAINTIFF'S MOTION
FOR AN ORDER APPROVING
SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

Date: February 7, 2025
Time: 9:10 a.m.
Courtroom: C-62
Judge: Hon. Judy S. Bae

Action Filed: March 29, 2023
Trial Date: Not Set

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I, H. Scott Leviant, declare as follows:

2. I am employed as a Senior Counsel at the law firm of Moon Law Group, PC. My business address is 725 S. Figueroa St., 31st Floor, Los Angeles, California 90017 and my business telephone number is (213) 232-3128. I am counsel for Plaintiff.

BACKGROUND

8. On March 28, 2023, Plaintiff's Counsel sent a letter to the LWDA on behalf of Plaintiff

1 in compliance with California Labor Code § 2699.3.

2 9. More than 65 days passed after the letter was sent to the LWDA, and the LWDA did not
3 indicate that it intended to investigate the alleged violations referenced in the letter.

4 10. On March 29, 2023, Plaintiff commenced this Action by filing a Complaint alleging
5 causes of action against Defendant for failure to pay minimum wages, failure to pay overtime
6 compensation, failure to provide meal periods, failure to authorize and permit rest breaks, failure to
7 indemnify necessary business expenses, failure to timely pay final wages at termination, failure to
8 provide accurate itemized wage statements, and for unfair business practices. On June 9, 2023, Plaintiff
9 filed a First Amended Complaint adding a ninth cause of action for civil penalties under PAGA. The
10 First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”). On
11 July 28, 2024, this Court granted an order dismissing class claims without prejudice and Plaintiff’s
12 individual claims with prejudice. The Parties agreed to settle the matter as a PAGA action only.

13 11. Defendant denies the allegations in the Operative Complaint, denies any failure to
14 comply with the laws identified in in the Operative Complaint and deny any and all liability for the
15 causes of action alleged. Defendant admits to no claim by virtue of its agreement to settle this matter.

16 12. Because Court approval of a PAGA settlement is required, this settlement is presented to
17 this Court for review and approval.

18 13. Counsel for Plaintiff has thoroughly investigated the facts relating to the claims alleged in
19 the operative complaint and have made a thorough study of the legal principles applicable to the claims
20 asserted against Defendant. Based on their investigation and evaluation of this case, Plaintiff’s Counsel
21 has concluded that the settlement is fair, reasonable, and adequate in light of all known facts and
22 circumstances, including the defenses asserted by Defendant, potential adverse findings regarding
23 liability, and numerous potential appellate issues.

24 14. On June 18, 2024, the Parties participated in an all-day mediation presided over by a
25 professional and neutral mediator, Lynn Frank, Esq. Although the Parties were unable to settle at
26 mediation, the Parties were able to reach a settlement, pursuant to a mediator’s proposal, which led to
27 this Agreement to settle the Action.

28 15. The Parties have memorialized the terms of the settlement in a long-form agreement.

1 (“Settlement”).

2 SUMMARY OF THE SETTLEMENT TERMS

3 16. Key provisions of the proposed settlement include the following:

- 4 (a) Aggrieved Employees: All persons employed by Defendant as hourly-paid or
5 non-exempt employees in the State of California who worked for Defendant from
6 March 29, 2022 until and including June 18, 2024. (Agreement, ¶¶ 1.4, 1.19).
- 7 (b) No Reversion: The Settlement is *non-reversionary*. (Agreement, ¶ 3.1.)
- 8 (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of
9 **\$380,000.00** (hereinafter referred to as the “Gross Settlement Amount” or
10 “GSA”) for settlement of the PAGA Penalties, which shall be inclusive of
11 Plaintiff’s Counsel’s attorney’s fees and costs, and the settlement administrator’s
12 fees and costs, and subject to the escalator clause. (Agreement, ¶¶ 3.1, 3.2, 8.1.)
- 13 (d) Net Settlement Amount: At least **\$228,333.33** will be available for distribution to
14 the Aggrieved Employees and the LWDA. Of this amount, the LWDA will
15 receive at least **\$171,250.00** under the Agreement, and Aggrieved Employees will
16 receive at least **\$57,083.33**. (Agreement, ¶¶ 1.15, 3.2.3.)
- 17 (e) Attorney’s Fees: Plaintiff’s Counsel requests an award of attorney’s fees in the
18 amount of **\$126,666.67**, subject to the escalator clause, which is one-third of the
19 GSA. (Agreement, ¶¶ 3.2.1, 8.1.)
- 20 (f) Litigation Costs: Plaintiff’s Counsel seeks reimbursement of actual litigation
21 costs, that was originally anticipated to be a maximum amount of \$15,000.00.
22 (Agreement, ¶ 3.2.1.) However, those actual costs are expected to be \$19,530.74,
23 which is more than the originally anticipated amount. Therefore, **\$19,530.74** is
24 requested. A true and correct copy of the litigation costs is attached hereto at
25 **“Exhibit 2.”**
- 26 (g) Settlement Administration: Payment to Aggrieved Employees and administration
27 will be accomplished through third-party settlement administrator, ILYM Group,
28 Inc., which has agreed to perform Administrator duties for a flat fee not to exceed

\$4,750.00, which is reasonable, based on all of the services offered. (Agreement, ¶ 3.2.2; Declaration of Lisa Mullins [Decl. of Mullins], ¶ 7.)

(h) Uncashed Checks: Uncashed checks will be cancelled, and the funds will, pursuant to Unclaimed Property laws, be directed to the California State Controller's Office in the name of the Aggrieved Employee who did not cash the check. (Agreement, ¶ 4.4.3.)

(i) Release: In exchange for the above settlement consideration, Defendant shall be entitled to a *limited* release from the LWDA and each and every Aggrieved Employee, including Plaintiff.¹ (Agreement, ¶ 5.)

(j) Notice to LWDA: The Declaration of H. Scott Leviant confirms that notice was provided to the LWDA and attaches the confirmatory submission documents.

17. A true and correct copy of the PAGA SETTLEMENT AGREEMENT is attached hereto as **"Exhibit 1."**

THE SETTLEMENT MEETS ALL THE CRITERIA FOR APPROVAL

18. Plaintiff and Plaintiff's counsel have diligently investigated the claims in this matter. Plaintiff and Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution, including risks related to the outcome of possible summary judgment efforts, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the Aggrieved Employees and are fair and reasonable. Plaintiff's Counsel brought a great deal of experience with wage and hour actions in negotiating the settlement of this case.

19. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under

¹ This comports with settled California Supreme Court authority. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009) (concluding that "with respect to the recovery of civil penalties, nonparty employees as well as the government are bound by the judgment in an action brought under the act....").

1 this settlement. But, before any other consideration, we have agreed to this settlement because it is
2 objectively reasonable. The potential for resolution benefits the aggrieved employees and the State of
3 California, since they do not have to wait additional years for a similar recovery. The efficiency of this
4 litigation benefits the Court, the parties and their counsel. A settled resolution now is the most realistic
5 method for addressing the claims raised in this matter.

6 20. We have engaged in the necessary investigation in this case that made it possible for us to
7 exercise informed judgment in those aspects of the settlement process in which we were involved. The
8 Defendant in this matter produced important information, including declarations from their human
9 resource manager and pay and time data for a substantial sampling of employees. That information,
10 coupled with other data provided, was sufficient to permit Plaintiff's counsel to adequately evaluate the
11 settlement. Plaintiff had more than enough information upon which to evaluate a fair and reasonable
12 settlement amount.

13 21. Here, the expense, complexity and likely duration of future litigation was to some extent
14 an unknown. However, what is certain is that to adequately establish the foundational violations that
15 would support any penalty award, significant time and expense would be invested. To adequately
16 establish that aggrieved employees experience the alleged violations, and at what frequency, the
17 aggrieved employees would need to be interviewed in a systematic fashion. The process would be
18 expensive and time-consuming. But doing so would have been required, since frequency of violations
19 would need to be established before any penalties could be recovered. As to claims such as meal period
20 and rest break violations, the decisions of aggrieved employees are a major factor in assessing liability.
21 Thus, even if records show a facially non-compliant meal period, no penalty could be assessed
22 automatically. In sum, the evidence collected to date leads us to conclude that, to the extent violations
23 occurred, a fact which Defendant disputes, the violations were *not* systematic and *not* uniform across all
24 of Defendant's employees who worked during the PAGA period. With these considerations in mind, the
25 amount of the Settlement is reasonable. For the PAGA Period, the number of PAGA Pay Periods at
26 issue is estimated to be about 9,060 total for the Aggrieved Employees, reflecting short average terms of
27 employment. Using the most straightforward formulation of applying the "catch-all" \$100 penalty
28 specified in Labor Code § 2699(f)(2) to each PAGA Pay Period, the total penalty exposure is

1 approximately \$906,000. This settlement of \$380,000.00 is a reasonable compromise that recovers
2 nearly one \$85 penalty for every other PAGA Pay Period. The actual exposure that could be established
3 at a trial is likely lower, since, it would be essentially impossible to demonstrate that 292 employees
4 experienced one violation in every PAGA Pay Period that they worked, just accounting for the likely low
5 participation rate by the Aggrieved Employees. In addition, with assistance from Plaintiff's data
6 consultant, and after a thorough review of evidence casting serious doubt on the viability of many of the
7 theories of penalty recover, counsel separately estimated the plausible potential PAGA exposure to be,
8 on a penalty-by-penalty basis, to be approximately **\$1,359,000.00**, which includes many overly
9 optimistic assumptions about the ability to prove the frequency of violations for all aggrieved employees
10 who allegedly experienced issues. The settlement is just over **27.96%** of that very optimistic exposure
11 calculation, described below:

- 12 • Failure to compensate for unpaid wages based on off-the-clock work and regular rate errors –
13 Delays caused by the clock-in process and use of a cellphone-based communications
14 application resulted in alleged off-the-clock work. Defendant's alleged failure to incorporate
15 overtime and sick pay resulted in the alleged regular rate errors. The maximum exposure is
16 estimated to be as much as \$906,000 (9,060 total pay periods * \$100 penalty). However, it is
17 more plausible to assume that, at best, half the Aggrieved Employees would support the off-
18 the-clock allegations, resulting in less exaggerated exposure of \$453,000 (\$906,000
19 maximum exposure * assumed 50% violation rate).
- 20 • Failure to provide meal periods – Deficient meal periods given the nature of the work
21 resulted in the alleged non-compliant meal periods. Assuming that facial violations in time
22 records all result in a penalty, a generous assumption given that employee choice can be a
23 significant factor, the calculated maximum exposure is \$453,000 (9,060 total pay periods *
24 \$50 penalty). However, this claim is highly dependent upon Aggrieved Employee testimony,
25 resulting in a more realistic exposure of \$181,200 (\$453,000 maximum exposure * 40%
26 violation rate).
- 27 • Failure to provide rest breaks – Similarly, time constraints due to the nature of the work
28 resulted in the alleged non-compliant rest breaks. Assuming that rest break violations

1 occurred and all result in a penalty, a generous assumption given that employee rest breaks
2 are not recorded and employee choice can be a significant factor, the calculated maximum
3 exposure is \$453,000 (9,060 total pay periods * \$50 penalty). However, Defendant heavily
4 disputed this theory. Given the absence of any record to establish missed rest breaks and the
5 highly dependent Aggrieved Employee testimony, it is estimated that this claim could
6 support, at best, a more realistic exposure of \$135,900 (\$453,000 maximum exposure * 30%
7 violation rate).

- 8 • Unreimbursed business expenses – Plaintiff alleged that all employees were required to use a
9 cellphone-based communications application without reimbursement. Per *employee* tied to
10 the use of cell phones, and disregarding that charges are incurred on a *monthly* basis, this
11 results in a maximum exposure of \$906,000 (9,060 total pay periods * \$100 penalty).
12 However, Defendant contends that any incurred business expenses were highly
13 individualized and, if business expenses were incurred, employees were reimbursed. Given
14 Defendant’s defenses and noting the issue of a monthly charge generating penalties in each
15 pay period, it is estimated that this claim could support, at best, a more realistic exposure of
16 \$271,800 (\$906,000 maximum exposure * 30% violation rate). Even this violation rate
17 overstates the likely true number of instances where this occurred.
- 18 • Failure to timely pay wages – It is estimated that the maximum exposure for this claim is
19 \$906,000 (9,060 total pay periods * \$100 penalty). However, given Defendant’s defenses to
20 underlying unpaid wage claims, it is more plausible to estimate that that this claim could
21 support, at best, penalties of \$90,600 (\$906,000 maximum exposure * 10% violation rate).
22 This also gives rise to an argument about “stacking,” since it is a second penalty sought for
23 the same underlying alleged misconduct.
- 24 • Failure to furnish accurate itemized wage statements – It is estimated that the maximum
25 exposure for this claim is \$2,265,000 (9,060 total pay periods * \$250 penalty), tied to the
26 unpaid wage claims and regular rate errors. However, it is more plausible to assume that a
27 small percentage of the aggrieved employees would come forward and support the off-the-
28 clock claim, while regular rate errors affected very few employees, resulting in a more

1 realistic exposure of no more than \$226,500 (\$2,265,000.00 maximum exposure * 10%
2 violation rate). This also gives rise to an argument about “stacking,” since it is a second
3 penalty sought for the same underlying alleged misconduct.

4 22. The PAGA Penalties, pursuant to PAGA and the terms of the Settlement Agreement, will
5 be allocated to the LWDA and all Aggrieved Employees, with seventy-five percent allocated to the
6 former and twenty-five percent allocated to the latter.

7 23. The PAGA Penalties, which are estimated to be \$229,052.59², provide genuine and
8 meaningful relief to the LWDA and all alleged Aggrieved Employees consistent with the dual-purpose
9 of PAGA because it both redresses the alleged Aggrieved Employees for the Labor Code violations they
10 suffered from throughout their employment with Defendant and deters Defendant from violating the
11 Labor Code in the future, in light of the long-term, costly process required to litigate, mediate, and
12 ultimately settle the Action. For these reasons, the PAGA Penalties amount to genuine and meaningful
13 relief consistent with the underlying purpose of PAGA.

14 24. The PAGA Penalties are also reasonable in light of the potential verdict value of all
15 claims released. Indeed, the Settlement Agreement contains a release of all PAGA claims that arise or
16 could arise from the facts underlying the operative Complaint and PAGA Notice, including those related
17 to unpaid wages, including minimum wages, overtime compensation, meal period premiums, rest break
18 premiums and unreimbursed business expenses. These claims served as the basis of the alleged
19 Aggrieved Employees’ PAGA claims.

20 25. Further reflected in the PAGA Penalties is the potential risks in continuing to litigate the
21 Action, including, but not limited to, the risk of not prevailing at trial, and the risk that, even if Plaintiff
22 prevailed, the PAGA damages would be limited due to the largely discretionary nature of PAGA civil
23 penalties; Defendant’s defenses; and the fact that the ultimate purpose of the Action is and has been to
24 obtain genuine and meaningful relief for the LWDA and Aggrieved Employees.

25
26
27 ² The PAGA Penalties equal the Gross Settlement Amount (\$380,000.00) less the PAGA Counsel Fees
28 Payment (\$126,666.67), PAGA Counsel Litigation Expenses Payment (\$19,530.74), and Administration Expenses
Payment (\$4,750.00).

THE EXPERIENCE OF COUNSEL

26. Moon Law Group, PC (former named Moon & Yang, APC), has been engaged in the practice of employment and labor law for almost a decade and presently focuses exclusively on plaintiffs' employment law. The firm and its lawyers have handled many hundreds of wage-related class actions between them. The firm and its lawyers have successfully settled more than 300 class action matters during that time span. The firm and its lawyers have also tried both bench and jury trials (representing both plaintiffs and defendants) relating to employment matters. Moon Law Group, PC, is routinely appointed lead or co-lead class counsel (or counsel for representative plaintiffs in FLSA representative actions) in federal and state courts in California and elsewhere, by way of motion for class certification or motion for settlement approval. I personally participated in the litigation of more than 500 class actions since 1999, and more than 90 percent of those cases were wage and hour matters. While I have not maintained a comprehensive list, I have been appointed as lead or co-lead counsel in many hundreds of class actions.

27. Mr. Kane Moon received a B.A. in History in 1998 from UCLA. He received his J.D. from Loyola Marymount Law School in 2006. He became an Active Member of the State Bar of California in June 2007 and has been an Active Member in good standing continuously since then. He has been selected to Super Lawyers for 2020-2024.

28. Mr. Moon co-founded Moon & Yang, APC, now Moon Law Group, PC, in March 2010. Since that time, Mr. Moon built his practice to have an emphasis on employment and related civil litigation cases. In fact, the practice is focused almost exclusively on advocating for the rights of employees in wage-and-hour litigation through class and representative actions. Moon Law Group, PC is presently class counsel for many dozens of other putative wage-and-hour class and representative action lawsuits pending in various state and federal jurisdictions throughout California. Moon Law Group, PC has also successfully settled hundreds of wage-and-hour cases; tried both bench and jury trials in employment-related matters, representing both plaintiffs and defendants; and been appointed lead or co-lead class counsel in numerous federal and state courts in California. The following is a list of some of the firm's class action settlements that have received preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL

6616659 (class size approx. 2,650; lead counsel) (In approving my \$650 hourly rate, the Court found: “Class Counsel's declarations show that the attorneys are experienced and successful litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC attorneys.” (*Id.* at *10.); *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc.*, LASC BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc.*, LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing, Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*, LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.*, LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc.*, LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972 (\$750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel). Mr. Moon's experience is and has been invaluable in assessing the reasonableness of settlements such as the one at issue here.

29. Ms. Mariam Ghazaryan and Ms. Sandy Pham are associates at Moon Law Group, PC. Ms. Ghazaryan and Ms. Pham's practice is focused on labor and employment class action lawsuits involving various violations of California and federal labor laws.

(a) Ms. Ghazaryan received her law degree from the Southwestern School of Law. Ms. Ghazaryan was admitted to the California bar in December 2021.

Ms. Ghazaryan's billing rate is \$700.00 per hour.

(b) Ms. Pham received her law degree from the Southwestern School of Law. Ms. Pham was admitted to the California bar in December 2023. Ms. Pham's billing rate is \$500.00 per hour.

30. I received my undergraduate degree from Occidental College. Graduating cum laude, I majored in economics and received a "minor" emphasis in mathematics. Along with my study of economics and mathematics, I also had an emphasis in physics. This combination of scientific and economic education has been of assistance during my litigation of complex civil actions. I received my Juris Doctor degree from the University of Southern California Law Center.

31. My experience relevant to class action litigation includes the following:

(a) I have been involved in the litigation of class actions since 1997, working as a law clerk on a number of class action matters. Since 1999, I have participated as an attorney in the litigation of hundreds of class actions, in California Superior Courts and in federal courts in California, Illinois, and Louisiana. I emphasized litigation of wage and hour class actions beginning in 2005, but I have focused on complex litigation of different types at all times since 1999.

(b) Dating back to 1999, some of the earliest cases in which I contributed to my then-firm's efforts as co-lead/liaison counsel include:

i. *In re Paradise Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC130375; and,

ii. *In re Lincoln Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC133643.

(c) I have litigated contested class certification motions multiple times, prevailing on many. Examples include the following:

1) In 2023, I certified a rest break claim against SMS Transportation, in the matter of *Beard v. SMS Transportation*. Rest break claims are notably difficult to certify.

2) In 2023, I certified a regular rate claim against Downtown Women's Center, in the matter of *Evans v. Downtown Women's Center*.

- 1 3) In 2018, I certified wage and hour claims against Home Depot, in the
2 matter of *Utne v. Home Depot*, in the United States District Court,
3 Northern District of California. The contested certification resulted in a
4 certified class of roughly 140,000 individuals.
- 5 4) In 2019, I certified a Fair Credit Reporting Act claim related to
6 employment background checks against Wal-Mart Stores, Inc., in the
7 matter of *Pitre v. Wal-Mart Stores, Inc.*, in the United States District
8 Court, Central District of California. The contested certification
9 resulted in a certified class of over 5,000,000 individuals.
- 10 5) In 2018, I fully briefed a contested class certification motion in the
11 matter of *Harelson v. U.S. Aviation*, in the United States District Court,
12 Northern District of California. After certification was fully briefed, the
13 matter successfully settled.
- 14 6) In 2013, I certified an investment fraud suit, in the matter of *Larsen v.*
15 *Coldwell Banker*, in the United States District Court, Central District of
16 California.
- 17 7) In 2012, I fully briefed a contested class certification motion, in the
18 wage and hour matter of *Gillings v. Time Warner*, in the United States
19 District Court, Central District of California. In that matter, summary
20 judgment was granted against my clients and the certification motion
21 was deemed moot. I appealed to the Ninth Circuit and obtained a
22 reversal of the District Court's decision. Upon remand, the matter
23 settled.
- 24 8) In approximately 2011, I fully briefed a contested class certification
25 motion, in the wage and hour matter of *Gomez v. Lincare, Inc.*, in the
26 Superior Court of California, County of Orange. Certification was
27 denied. The result was appealed, and a partial reversal was obtained.
28

9) In approximately 2008, I fully briefed a contested class certification motion, in the wage and hour matter of *Ghazaryan v. Diva Limousine, LTD.*, Superior Court of California, County of Los Angeles. Certification was denied. I appealed, handling all briefing, and, in *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), pet. for rev. denied, I obtained a decision directing the trial court to certify the class. *Ghazaryan* is now widely cited, including by the California Supreme Court, as a comprehensive source for the standards applied to certification motions in California.

10) In approximately 2006, I fully briefed a contested class certification motion, in the wage and hour matter of *Laliberte v. Pacific Mercantile Bank*, Superior Court of California, County of Orange. Certification was denied. I appealed, handling all briefing. The published opinion of *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev. denied, pet. for cert. den. resulted, and I petitioned for a Writ of Certiorari related to certification due process issues.

11) In approximately 2008, I assisted with briefing of a contested class certification motion, in the wage and hour matter, against the Automobile Club of Southern California (AAA). A class was certified and the matter tried.

(d) I have prosecuted appeals in more than 20 class action matters alone, arguing before the United States Court of Appeals for the Ninth Circuit Court and several of California's Courts of Appeal. I have taken several appeals through to Petitions for Writs of Certiorari to the United States Supreme Court. In connection with the appeals I have handled, I have participated in appeals resulting in decisions concerning or relating to class actions or wage and hour issues. Among others, those include:

1) *Camp v. Home Depot, U.S.A., Inc.*, 84 Cal. App. 5th 638 (October 24,

2022), *rev. granted* (February 1, 2023);

- 2) *Donohue v. AMN Services, Inc.*, (February 25, 2021) (amicus counsel)
- 3) *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169 (9th Cir. Jan. 29, 2019), *pet. for rehearing and pet. for en banc rehearing den.*;
- 4) *Troester v. Starbucks Corporation*, 5 Cal. 5th 829 (2018), *as modified on denial of reh'g* (Aug. 29, 2018);
- 5) *Gillings v. Time Warner Cable LLC*, 583 Fed.Appx. 712 (9th Cir. 2014);
- 6) *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal. App. 4th 1524 (2009), *pet. for rev. denied*;
- 7) *Laliberte v. Pacific Mercantile Bank*, 147 Cal. App. 4th 1 (2007), *rev. denied, pet. for cert. denied*;
- 8) *Alvarez v. May Dept. Stores Co.*, 143 Cal. App. 4th 1223 (2006), *rev. denied, pet. for cert. denied*;
- 9) *Johnson v. Glaxosmithkline, Inc.*, 166 Cal. App. 4th 1497 (2008), *rev. denied*;
- 10) *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir. 2000), *pet. for cert. denied*;
- 11) *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011) (amicus counsel);
- 12) *D. R. Horton, Inc. and Michael Cuda*, Case 12–CA–25764, 357 NLRB No. 184 (January 3, 2012) (amicus counsel). This NLRB matter is of particular note, as it is at the center of a dispute regarding the interplay between the Federal Arbitration Act (FAA) and two labor relations laws, the National Labor Relations Act (NLRA) and Norris-LaGuardia Act. Cases highlighting that issue have been accepted by the United States Supreme Court.

(e) I was the lead appellate author in a matter before the California Supreme Court that generated substantial interest in the field of wage and hour litigation. That

1 matter, *Troester v. Starbucks Corporation*, resolved a significant issue of
2 whether, under California law, a *de minimis* defense exists to the employer's
3 obligation to pay all wages for all compensable time worked by an employee.

4 (f) I was the lead appellate counsel in a matter before the California Court of
5 Appeal (Sixth Appellate District) that generated substantial interest in the field
6 of wage and hour litigation. That matter, *Camp v. Home Depot, U.S.A., Inc.*,
7 held that prior jurisprudence erroneously concluded that, under California law,
8 underpayment of wages as a result of rounding of time clock punches is lawful
9 so long as the rounding was neutral on its face and as applied. *Camp* is now
10 pending before the California Supreme Court but remains citable as authority
11 pursuant to an Order of the California Supreme Court.

12 (g) In addition to my work on complex litigation matters and class actions, I have
13 authored published articles and columns on issues related to class actions and
14 other litigation issues, including:

- 15 1) H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J. 18
16 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1, 2006);
- 17 2) H. Scott Leviant and Lilit Ter-Astvatsatryan, *Where Troester Stops Not*
18 *Even Troester Knows*, DAILY JOURNAL (Los Angeles), July 2, 2019;
- 19 3) H. Scott Leviant and Lilit Ter-Astvatsatryan, *Unaccounted Time:*
20 *Reading the Tea Leaves of Troester*, DAILY JOURNAL (Los Angeles),
21 September 12, 2018;
- 22 4) Dennis F. Moss and H. Scott Leviant, *Class Actions: One step forward*
23 *after two steps back*, DAILY JOURNAL (Los Angeles), January 11, 2012;
- 24 5) H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY
25 JOURNAL (Los Angeles), December 28, 2010;
- 26 6) H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los Angeles),
27 April 21, 2010;
- 28 7) H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class*

Action Defense?, FORUM, January/February 2009

- 8) H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-2010 (Ongoing series);
- 9) H. Scott Leviant & Linh Hua, *Legislature Using Purse Strings to Bind Judiciary*, Daily Journal (San Francisco), March 15, 2010;
- 10) H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los Angeles), December 2, 2009;
- 11) H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles), April 15, 2008;
- 12) H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los Angeles), May 4, 2007;
- 13) H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the Incentive Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;
- 14) H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid Wage Cases*, FORUM, January/February 2008;
- 15) H. Scott Leviant, et al., *Electronic Evidence: No Longer an Optional Element in a Comprehensive Litigation Plan*, ADVOCATE, April 2006;
- 16) H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

(h) In addition to publications in industry newspapers, periodicals and journals, I am the Supervising Editor, primary author and founder of the legal blog The Complex Litigator (<http://www.thecomplexlitigator.com>). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice, with a primary emphasis on wage and hour litigation issues. Through my blog, I have also, on occasion, published podcasts of round table discussions with preeminent members of the wage and hour practice bar on both the plaintiff and defense sides. My blog has been cited to

the California Supreme Court in at least one Petition for Review. The Complex Litigator has been in existence since 2008, having outlasted many other legal blogs, and it has a unique readership that numbers in the tens of thousands.

(i) I have also lectured on issues related to class actions and complex litigation, including the following educational seminars:

- 1) *Strategies for Settlement of Individual and Wage & Hour Class Actions*, Bridgeport's Eighth Annual Wage & Hour Litigation Conference (December 16, 2011)
- 2) *The Year in Review – Staying Abreast of Current Cases*, Consumer Attorneys of San Diego Class Action Symposium (October 14, 2011)
- 3) *Concepcion v. AT&T and Derivative Wage & Hour Claims*, Bridgeport's Mid Year Wage & Hour Litigation Conference (June 3, 2011)
- 4) *Advanced Principles: UCL Remedies and Defenses*, 20th Annual Golden State Antitrust and Unfair Competition Law Institute (October 21, 2010)
- 5) *Refining Your Wage and Hour Practice*, 2010 CELA Annual Conference (October 2, 2010)
- 6) *Word v. WordPerfect Software, Tips, Tools and Tricks*: Legal Technology for Plaintiffs Employment Lawyers (September 30, 2010)
- 7) *California's 17200 -- Its Use and Abuse*, Federalist Society (May 19, 2010)
- 8) *20 Tips for Successful Navigation of e-Discovery Requirements*, Los Angeles County Bar Association's Thirtieth Annual Labor and Employment Law Symposium (March 31, 2010)
- 9) *Social Networking for Lawyers: A Roadmap to Success*, Los Angeles County Bar Association's 2nd Annual two-day 2009 Small Firm and Solo Practitioners Conference: MISSION POSSIBLE (June 25, 2009)
- 10) *A Seminar Overview of the Current State of Employment Law*, The Westchester/LAX/Marina Del Rey Chamber of Commerce (February 23,

2006)

(j) I served three consecutive years as an elected member of the Board of Governors of the Consumer Attorneys of California. In that capacity, I worked to preserve the right of California's consumers and employees to bring proposed class actions. For example, I provided assistance to CAOC in its successful effort to defeat AB 298, which would have substantially impaired the ability of plaintiffs to prosecute class actions in California. More recently, on behalf of CAOC, I co-authored several requests for publication of unpublished class action decisions, including one such request in *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the California Supreme Court matter entitled *Californians for Disability Rights v. Mervyn's, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011).

32. My current contingent billing rate is consistent with my practice area, legal market and accepted hourly rates:

(a) In the December 8, 2008 article "Billable Hours Aren't the Only Game in Town Anymore," *NATIONAL LAW JOURNAL*, the following hourly billing rates were reported by Sheppard Mullin Richter & Hampton, a leading firm in the defense of wage-and-hour class actions that I have frequently opposed when litigating wage-and-hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th Year - \$455.

(b) In 2009 I was retained as appellate counsel in the appeal of a denial of class certification. For the specialized work on that appeal, I charged an hourly rate of \$650.00 per hour, a rate the hiring co-counsel accepted.

(c) The 2023-24 Adjusted Laffey Matrix states that an attorney with 20 or more

years experience can reasonably charge \$1,057 per hour.

<http://www.laffeymatrix.com/see.html>.³ That rate is derived from the Washington, D.C. area and requires a costs of living evaluation for use in Los Angeles. Using federal statistics for average attorney salaries, attorney pay is 8.7% lower in Los Angeles, compared to Washington, D.C., indicating an 8.7% downward adjustment to the Laffey Matrix may be appropriate.

<https://www.bls.gov/oes/current/oes231011.htm>.⁴ However, using federal employee pay tables, federal employee wages are 0.13% higher when Los Angeles is compared to Washington, D.C., indicating almost no adjustment to the Laffey Matrix is appropriate. <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/general-schedule>.⁵ And, using Schedule 9 of 5 U.S.C. § 5332, there is a 3% differential favoring Los Angeles. Thus, something in the range of a 8.7% locality reduction to a 3.0% locality increase appears appropriate here. Thus, applying an adjustment factor of 0.0%, the locality corrected Adjusted Laffey Matrix hourly rate for attorneys with 20 or more years of experience is \$1,057. The complete Adjusted Laffey Matrix is set forth below.

- (d) The full 2023-2024 Adjusted Laffey Matrix provides for the following hourly rates for paralegal/law clerks and attorneys falling into various ranges of years of experience:

Year	Adj. Factor**	Paralegal Clerk	1-3	4-7	8-10	11-19	20+
6/01/22-5/31/23	1.059295	\$239	\$437	\$538	\$777	\$878	\$1,057

- (e) I have been selected to Super Lawyers from 2012-2024, achieving that professional recognition for more than a decade. I was selected for the Rising Stars edition of

³Last viewed January 30, 2024.

⁴Last viewed January 30, 2024.

⁵ Last viewed January 30, 2024.

1 Super Lawyers in 2009.

2 (f) Based upon my practice area, geographic market, experience, including all of the
3 above information, reputation, and generally accepted hourly rates, my current,
4 regular hourly billing rate is now \$925.00, which is well below the presumptively
5 appropriate hourly rate of \$1,057 for attorneys with 20 or more years of
6 experience.

7
8 REASONABLENESS OF THE REQUESTED FEE AWARD

9 33. When this case was taken on a contingent fee basis, with the firm agreeing to assume
10 responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation,
11 Moon Law Group, PC, paid filing fees, copy charges, Westlaw fees, and mailing, telephone and express
12 mail charges. There was never a guarantee that Moon Law Group, PC, would recoup those expenditures.
13 The firm took on this case, which necessarily required the firm to forego other opportunities, given finite
14 resources to devote to cases.

15 34. Because of the uncertainty of the outcome in this and other wage and hour litigation
16 undertaken by Moon Law Group, PC, we took this case with the expectation that a risk enhancement,
17 either in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be
18 available if we prevailed. This expectation stems from the fact that many cases we undertake as putative
19 class actions do not resolve successfully.

20 35. Counsel's experience in employment class actions and PAGA cases was integral in
21 evaluating strengths and weaknesses of the case against Defendant and the reasonableness of the
22 settlement. Practice in the narrow fields of wage and hour litigation requires skill and knowledge
23 concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of class
24 action and PAGA action litigation.

25 36. In the past 5 years, Moon Law Group, PC, has settled many dozens of wage & hour class
26 and PAGA actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008)
27 observed, it has been the experience at Moon Law Group, PC, that attorney fee awards of one-third of a
28 common settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they

will seek no more than one third of the settlement amount in fees. This is consistent with common practice, consistent with Ninth Circuit practice, consistent with California law approving the percentage of the fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016), and not inappropriate in light of the many hours expended by attorneys and paralegals performing work for Plaintiff before and after the filing of this matter. That work includes:

- (a) Numerous interviews with Plaintiff and review of documents provided by Plaintiff;
- (b) Legal research and investigation regarding the Defendant's practices;
- (c) Preparation of multiple drafts of the original complaint and finalization and filing of the original complaint;
- (d) Preparation of multiple drafts of the subsequent complaint and finalization and filing of the subsequent complaint;
- (e) Review of documents and data produced by Defendant;
- (f) Analysis of the audit results and preparation of a damages model for informal settlement negotiations;
- (g) Drafting, negotiating, and reviewing multiple drafts of the Settlement Agreement and attachments; and
- (h) Preparation of the motion for settlement approval.

37. The actual lodestar incurred by Plaintiff's counsel is approximately **\$130,438.00** to date, based on the firm's contemporaneous time recording software, and I did not bill for a significant amount of time related to numerous other short activities. The breakdown of work by attorney is as follows:

Attorney	Time	Rate	Total
Kane Moon	50.7	\$950	\$48,165.00
H. Scott Leviant	56.3	\$975	\$54,893.00
Mariam Ghazaryan	25.9	\$700	\$18,130.00
Sandy Pham	19.2	\$500	\$9,250.00
	151.4	Total:	\$130,438.00

That lodestar would be higher if I included the estimated time that I did not include in by billing entries.

The bottom line is that attorneys for Plaintiff invested substantial amounts of time pursuing informal

discovery and evaluating data before and after the settlement negotiations in this matter. Those efforts led to this settlement.

38. I also anticipate that we will spend an additional 5 hours on this matter, appearing at the hearing of this Motion, working with the administrator to process the Settlement, and preparing final accounting filings after distribution of the Settlement.

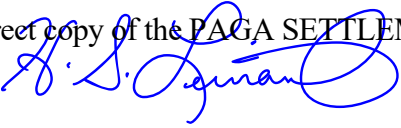
39. Our fee request is \$126,666.67, which is one-third of the Gross Settlement Amount, as specified in the Settlement Agreement. As we are requesting a fee of \$126,666.67, this represents a “negative” multiplier of about 0.98 (a “negative” multiplier meaning a multiplier less than 1.0). Multipliers between two and four are common and reasonable for a lodestar crosscheck. Therefore, Plaintiff’s Counsel requests an award of fees of \$126,666.67.

40. The Agreement also provides for the award of actual costs. Plaintiff’s actual, out-of-pocket costs in taking on representation in this Lawsuit on a contingency basis will be approximately \$19,530.74 as set forth in “**Exhibit 2.**” Under the Settlement, Defendant agrees not to oppose any cost request up to \$15,000.00. In this instance, because actual costs exceeded the estimate, Plaintiff requests an award of \$19,530.74, an amount that is above that cap.

THE THIRD-PARTY ADMINISTRATOR

41. The parties have agreed that administration will be handled by a third-party administrator. In counsel’s experience as class counsel in similar wage-and-hour actions with a similar number of employees, ILYM Group, Inc. is fully capable of administering the Settlement at a competitive and reasonable cost and should be approved by the Court to administer the Settlement notice process. Administration will cost \$4,750.00. See concurrently filed Declaration of Lisa Mullins.

EXHIBITS

42. As noted above, a true and correct copy of the **PAGA SETTLEMENT AGREEMENT** is attached hereto as “**Exhibit 1.**” 

43. Attached hereto as “**Exhibit 2**” is a true and correct copy of Plaintiff’s Counsel’s current costs for this matter.

44. Attached hereto as “**Exhibit 3**” is a true and correct copy of confirmation of the submission of the PAGA SETTLEMENT AGREEMENT to the LWDA.

NOTICE WAS PROVIDED TO THE LWDA

45. A copy of the PAGA SETTLEMENT AGREEMENT was submitted to the LWDA prior to the filing of this motion. That submission is attached hereto as **“Exhibit 3.”**

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this November 27, 2024, at Los Angeles, California.


H. Scott Leviant, Esq. "Declarant"

Exhibit “1”

Kane Moon (SBN 249834)
H. Scott Leviant (SBN 200834)
Sandy Pham (SBN 352753)
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Attorneys for Plaintiff
Billy James Pizarro

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

BILLY JAMES PIZARRO, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

POMERADO OPERATIONS, LLC, a limited
liability company dba BOULDER CREEK
POST ACUTE; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 37-2023-00012945-CU-OE-CTL

[Assigned to the Hon. Judy S. Bae, Dept. C-62]

PAGA SETTLEMENT AGREEMENT

Complaint filed: March 29, 2023

Trial date: Not set

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff BILLY JAMES PIZARRO (“Plaintiff”) and defendant POMERADO OPERATIONS, LLC dba BOULDER CREEK POST ACUTE (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Pizarro v. Pomerado Operations, LLC dba Boulder Creek Post Acute* initiated on March 29, 2023 and pending in Superior Court of the State of California, County of San Diego, Case No. 37-2023-00012945-CU-OECTL.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendant as an hourly-paid or non-exempt employee in California who worked for Defendant during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of San Diego.
- 1.8. “Defense Counsel” means Stradling Yocca Carlson & Rauth LLP, the attorneys

representing Defendant in the Action.

1.9. “Effective Date” means the date by when the following have occurred: (a) the Court enters an Order approving the PAGA Settlement, if no objections are asserted and no individual seeks to intervene in the matter; or (b) sixty-five (65) calendar days after the date of entry of the Order of the court approving the PAGA settlement, if any objections are asserted or any individual seeks to intervene in the matter but no appeal is filed; or (c) ten (10) business days after the final resolution of that appeal if the appeal is rejected, the settlement is upheld, and the settlement approval order is no longer subject to further judicial review, if a timely appeal is made.

1.10. “Gross Settlement Amount” means \$380,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses.

1.11. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. “Judgment” means the judgment entered by the Court based upon the Order granting Approval of the Settlement.

1.13. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).

1.14. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).

1.15. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

- 1.16. “PAGA Counsel” means Moon Law Group, PC, the attorneys representing Plaintiff in the Action.
- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from March 29, 2022 until and including June 18, 2024.
- 1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.21. “PAGA Notice” means Plaintiff’s original letter to Defendant and the LWDA and Plaintiff’s amended letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.22. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (at least \$57,083.33) and the 75% to LWDA (at least \$171,250.00) in settlement of PAGA claims.
- 1.23. “Plaintiff” means Billy James Pizarro, the named plaintiff in the Action.
- 1.24. “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. “Released PAGA Claims” means the claims being released as described in Paragraph 5 below.
- 1.26. “Released Parties” means Defendant, and any predecessor, successor, subsidiary, parent, affiliated or related entity, and each of its employees, agents, directors, and/or officers.
- 1.27. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28. “Defendant” means Pomerado Operations LLC dba Boulder Creek Post Acute, the named defendant in the Action.

1 **2. RECITALS.**

2 2.1. On March 29, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes
3 of action against Defendant for failure to pay minimum and straight time wages; failure to
4 pay overtime wages; failure to provide meal periods, failure to authorize and permit rest
5 periods, failure to indemnify necessary business expenses; failure to timely pay final wages
6 at termination, failure to provide accurate itemized wage statements; and unfair business
7 practices. On April 27, 2023, Plaintiff filed an amendment to the Complaint to substitute
8 Defendant as the correctly named entity. On June 6, 2023, Plaintiff filed a First Amended
9 Complaint alleging causes of action against Defendant for civil penalties under the Private
10 Attorneys General Act of 2004 (“PAGA”). The First Amended Complaint is the operative
11 complaint in the Action (the “Operative Complaint.”) On July 26, 2023, Plaintiff
12 dismissed class and individual claims. Defendant denies the allegations in the Operative
13 Complaint, denies any failure to comply with the laws identified in in the Operative
14 Complaint and denies any and all liability for the causes of action alleged.

15 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and
16 the LWDA by sending the PAGA Notice.

17 2.3. On June 18, 2024, the Parties participated in an all-day mediation presided over by Lynn
18 Frank, Esq., which led to this Agreement to settle the Action.

19 2.4. Prior to mediation, Plaintiff obtained, through formal and informal discovery, a
20 representative sample of time and payroll data, policy documents, and the number of
21 aggrieved employees and pay periods at issue.

22 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any
23 other pending matter or action asserting claims that will be extinguished or affected by the
24 Settlement.

25
26 **3. MONETARY TERMS.**

27 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant
28 promises to pay \$380,000.00 and no more as the Gross Settlement Amount. Defendant has

no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$126,666.67, and a PAGA Counsel Litigation Expenses Payment of not more than \$15,000.00. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. To the extent the PAGA Counsel Fees Payment and/or the PAGA Counsel Litigation Expenses Payment are not approved and/or reduced by the Court, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed

\$10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of at least \$228,333.33 is to be paid from the Gross Settlement Amount, with 75% (at least \$171,250.00) allocated to the LWDA PAGA Payment and 25% (at least \$57,083.33) allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. **SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 292 Aggrieved Employees who worked a total 9,060 of PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within fifteen (15) calendar days, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the

1 Administrator must maintain the Aggrieved Employee Data in confidence, use the
2 Aggrieved Employee Data only for purposes of this Settlement and for no other purpose,
3 and restrict access to the Aggrieved Employee Data to Administrator employees who need
4 access to the Aggrieved Employee Data to effect and perform under this Agreement.
5 Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that
6 the Aggrieved Employee Data omitted employee identifying information and to provide
7 corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without
8 any extension of the deadline by which Defendant must send the Aggrieved Employee
9 Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
10 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
11 Aggrieved Employee Data.

12 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
13 Amount by transmitting the funds to the Administrator no later than January 14, 2025.

14 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after
15 Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all
16 Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
17 Payment, the PAGA Counsel Fee Payment, and the PAGA Counsel Litigation Expenses
18 Payment. Disbursement of the PAGA Counsel Fee Payment and the PAGA Counsel
19 Litigation Expenses Payment shall not precede disbursement of Individual PAGA
20 Payments.

21 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send
22 them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The
23 face of each check shall prominently state the date (not less than 180 days after the
24 date of mailing) when the check will be voided. The Administrator will cancel all
25 checks not cashed by the void date. Before mailing any checks, the Settlement
26 Administrator must update the recipients' mailing addresses using the National
27 Change of Address Database.

28 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all

Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee who did not cash the check.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Release by Aggrieved Employees: All Aggrieved Employees, including Plaintiff, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

5.2. Release by PAGA Counsel: PAGA Counsel release, on behalf of their present and former

attorneys, employees, agents, successors and assigns, the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice. PAGA Counsel will receive only those fees awarded by the Court pursuant to this Settlement.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents; and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than forty-five (45) calendar days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Order granting approval to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

1 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE**

2 Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are
3 292 Aggrieved Employees who worked 9,060 Pay Periods during the PAGA Period.

4 8.1. Increase in Pay Periods. In the event the number of Pay Periods in the PAGA Period
5 worked by Aggrieved Employees (9,060 pay periods) during the foregoing period
6 increases by more than 10%, or 906 Pay Periods, then Defendant shall, at its option, either
7 (1) increase the Gross Settlement Amount proportionally by the Pay Periods in excess of
8 9,966 Pay Periods (for example, if the increase is 11% then the settlement amount will
9 increase by 1%) or (2) cap the settlement pay periods at 9,966 without any additional
10 payments. The Administrator has a duty to perform or observe all tasks to be performed or
11 observed by the Administrator contained in this Agreement or otherwise.

12
13 **9. CONTINUING JURISDICTION AND WAIVER OF RIGHT TO APPEAL.**

14 9.1. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
15 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
16 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
17 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
18 law.

19 9.2. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
20 conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and
21 PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive
22 all rights to appeal from the Judgment, including all rights to post-judgment and appellate
23 proceedings, the right to file motions to vacate judgment, motions for new trial,
24 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
25 right to oppose such motions, writs or appeals. If another party appeals the Judgment, the
26 Parties' obligations to perform under this Agreement will be suspended until such time as
27 the appeal is finally resolved and the Judgment becomes final, except as to matters that do
28 not affect the amount of the Net Settlement Amount.

1 **10. ADDITIONAL PROVISIONS.**

2 10.1. No Admission of Liability or Representative Manageability for Other Purposes. This
3 Agreement represents a compromise and settlement of highly disputed claims. Nothing in
4 this Agreement is intended or should be construed as an admission by Defendant that any
5 of the allegations in the Operative Complaint have merit or that Defendant has any liability
6 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff
7 that Defendant's defenses in the Action have merit. The Parties agree that representative
8 treatment is for purposes of this Settlement only. If, for any reason the Court does not
9 approve this Settlement, Defendant reserves all available defenses to the claims in the
10 Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement,
11 this Agreement and Parties' willingness to settle the Action will have no bearing on, and
12 will not be admissible in connection with, any litigation (except for proceedings to enforce
13 or effectuate the Settlement and this Agreement).

14 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
15 together with its attached exhibits shall constitute the entire agreement between the Parties
16 relating to the Settlement, superseding any and all oral representations, warranties,
17 covenants, or inducements made to or by any Party.

18 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
19 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
20 appropriate action required or permitted to be taken by such Parties pursuant to this
21 Agreement to effectuate its terms, and to execute any other documents reasonably required
22 to effectuate the terms of this Agreement including any amendments to this Agreement.

23 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their
24 best efforts, in good faith, to implement the Settlement by, among other things, modifying
25 the Settlement Agreement, submitting supplemental evidence and supplementing points
26 and authorities as requested by the Court. In the event the Parties are unable to agree upon
27 the form or content of any document necessary to implement the Settlement, or on any
28 modification of the Agreement that may become necessary to implement the Settlement,

the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that

violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Kane Moon, Esq.
H. Scott Leviant, Esq.
Sandy Pham, Esq.
MOON LAW GROUP, PC
725 South Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: hsleviant@moonlawgroup.com
E-mail: spham@moonlawgroup.com

To Defendant:

Shane P. Criqui, Esq.
Victoria P. McLaughlin, Esq.
STRADLING YOCCA CARLSON & RAUTH, P.C.
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
Telephone: 949 725 4000
Facsimile: 949 725 4100
E-mail: scriqui@stradlinglaw.com
E-mail: vmclaughlin@stradlinglaw.com

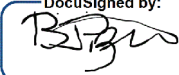
10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

[Signature Page Follows]

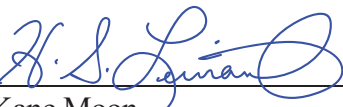
Plaintiff:

Dated: 8/8/2024

DocuSigned by:

By: _____
613A72A7F814437...
Billy James Pizarro

Plaintiff's Counsel:

Dated: August 8, 2024

MOON LAW GROUP, PC
By: 
Kane Moon
H. Scott Leviant
Sandy Pham
Attorneys for Plaintiff

Defendant:

Dated: _____

POMERADO OPERATIONS, LLC dba BOULDER
CREEK POST ACUTE
By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated: _____

STRADLING YOCCA CARLSON & RAUTH LLP
By: _____
Shane P. Criqui
Victoria P. McLaughlin
Attorneys for Defendant

1 **Plaintiff:**

2 Dated: _____

By: _____
Billy James Pizarro

4 **Plaintiff's Counsel:**

5 Dated: _____

MOON LAW GROUP, PC

7 By: _____
Kane Moon
H. Scott Leviant
Sandy Pham
Attorneys for Plaintiff

11 **Defendant:**

12 Dated: 8/12/24

POMERADO OPERATIONS, LLC dba BOULDER
CREEK POST ACUTE

15 By: TIM MASON
Print Name

17 
Signature

19 ADMINISTRATOR
Title

21 **Defendant's Counsel:**

22 Dated: _____

STRADLING Yocca CARLSON & RAUTH LLP

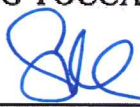
24 By: 
Shane P. Criqui
~~Victoria P. McLaughlin~~
Attorneys for Defendant

Exhibit “2”

Date	Description	Charge
3/30/2023	Complaint One Legal	\$ 1,489.33
4/7/2023	Ace - Attorney Service	\$ 106.00
4/21/2023	Ace - Attorney Service	\$ 51.95
5/11/2023	One Legal - Attorney Service	\$ 11.99
5/15/2023	One Legal - Attorney Service	\$ 11.99
5/16/2023	One Legal - Attorney Service	\$ 11.99
5/17/2023	One Legal - Attorney Service	\$ 11.99
6/9/2023	One Legal - Attorney Service	\$ 11.99
6/16/2023	SDSC - Service Charge	\$ 1.00
7/13/2023	One Legal - Attorney Service	\$ 38.25
7/19/2023	One Legal - Attorney Service	\$ 11.33
8/3/2023	One Legal - Attorney Service	\$ 31.92
8/7/2023	One Legal Application Declaration	\$ 73.10
8/8/2023	Ace - Attorney Service	\$ 44.00
9/8/2023	One Legal - Attorney Service	\$ 11.33
4/10/2024	Mediation Payment - Lynn Frank (Plaintiff share)	\$ 11,000.00
6/12/2024	One Legal - Attorney Service	\$ 13.08
6/26/2024	Berger Consulting Group	\$ 6,560.00
8/1/2024	One Legal - Joint Trial Report	\$ 19.25
8/26/2024	SDSC - Service Charge	\$ 1.00
10/9/2024	One Legal - Notice of Change	\$ 19.25
		\$ 19,530.74

Exhibit “3”

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 725 S. Figueroa St., 31st Floor, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **DECLARATION OF H. SCOTT LEVIANT IN SUPPORT OF PLAINTIFF'S MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004** on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

Shane Criqui, Esq.
Kim L. Kirkpatrick
STRADLING YOCCA CARLSON & RAUTH, LLP
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
Telephone: (949) 725-4000
Facsimile: (949) 725-4100
E-mail: SCriqui@stradlinglaw.com
E-mail: kkirkpatrick@stradlinglaw.com

Attorneys for Defendant

[✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this **November 27, 2024** at Los Angeles, California.

H. Scott Leviant
Type or Print Name



Signature