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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ELBA RUSSO, Plaintiff, vs. WEST HOLLYWOOD HEALTHCARE AND WELLNESS CENTRE LP; COUNTRY VILLA WILSHIRE HEALTHCARE CENTER; AND SHLOMO RECHNITZ; and DOES 1 to 25, inclusive, Defendant.	CASE NO: 23STCV27188 Assigned for all Purposes to the Honorable Daniel M. Crowley [Dept. 71] **MOTION FOR APPROVAL OF PAGA SETTLEMENT AND RELEASE** Submitted Herewith Under Separate Cover: Declaration of Sevag Nigoghosian; [Proposed] Order Action filed: November 6, 2023 Hearing Date: August 29, 2025 Hearing Time: 8:30am Hearing Dept: 71 Resv. ID: 408751464892

I. INTRODUCTION

Plaintiff, ELBA RUSSO ("Plaintiff"), and Defendant, WEST HOLLYWOOD HEALTHCARE AND WELLNESS CENTRE LP ("WHHWC" or "Defendant(s)") have reached an agreement to settle the above-captioned action ("Action"). The parties have memorialized the terms of this settlement in a Settlement Agreement ("Settlement Agreement"). Attached as "**Exhibit A**" is a copy of the PAGA Settlement Agreement. By this Motion and pursuant to California Labor Code § 2699(l), Plaintiff seeks an order permitting settlement on the terms outlined in the Settlement Agreement. Plaintiff and Defendant are collectively referred to as the "Parties" and any one of them individually may be referred to as a "Party."

Defendant adamantly denies any liability or wrongdoing of any kind whatsoever associated with the Action, and further denies that, for any purpose other than settling the Action, the Action is appropriate for representative treatment. It is the desire of the Parties to fully, finally, and forever compromise, and discharge all claims known or unknown related to those alleged in the Action.

II. <u>ALLEGATIONS AND INVESTIGATION</u>

Plaintiff started working at WHHWC as a Dietary Aid on or around March 25, 2020. Plaintiff's employment with WHHWC ended on or around March 2023. Plaintiff was an hourly, non-exempt employee. *See* Declaration of Sevag Nigoghosian, at ⁋4.

Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* ("PAGA"). *See* Declaration of Sevag Nigoghosian, at ⁋5. On May 31, 2023, Plaintiff, on behalf of herself and Defendant other California non-exempt hourly employees (hereafter collectively the "Aggrieved Employees") gave written notice by electronic service to the California Labor and Workforce Development Agency ("LWDA") and via certified mail to Defendant of her claims against Defendant. In her notice to the LWDA, Plaintiff asserted on behalf of herself and the Aggrieved Employees that Defendant: (1) failed to compensate for all hours worked; (2) failed to pay minimum wages (Labor Code Sections 1194, 1197, 1197.1); (3) failed to pay overtime compensation (Labor Code Section 510); (4) failed to provide accurate itemized wage statements (Labor Code Section 226); (5) failed to pay wages at the end of employment (Labor Code section 203); (6) failed to timely pay wages due during employment (Labor Code Section

204); (7) failed to provide rest breaks (Labor Code Section 226.7); (8) failed to provide meal breaks (Labor Code Sections 512, 226.7); (9) failed to reimburse business expenses (Labor Code Sections 2800, 2802); (10) failed to provide sick pay (Labor Code sections 232, 246); and (11) failed to provide Worker's Compensation coverage (Labor Code section 2802) . *See* Declaration of Sevag Nigoghosian, at ⁋5.

Plaintiff filed her lawsuit on November 6, 2023, in the Superior Court for the State of California, County of Los Angeles, Case No. 23STCV27188 with causes of action under the following legal theories: (1) Failure to Compensate for all Hours Worked; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Overtime; (4) Failure to Provide Accurate Wage Statements; (5) Failure to Pay Wages when Employment Ends; (6) Failure to Pay Wages Owed Every Pay Period; (7) Failure to Provide Rest Breaks; (8) Failure to Provide Meal Breaks; (9) Failure to Reimburse Business Expenses; (10) Violation of California Business & Professions Code §17200; (11) Private Attorneys General Act ("PAGA"); (12) Discrimination on the Basis of Disability in Violation of Fair Employment and Housing Act ("Feha); (13) Failure to Accommodate Disability in Violation of Feha; (14) Failure to Engage in Interactive Process to Determine Reasonable Accommodation in Violation of Feha; (15) Retaliation in Violation of Feha; (16) Failure to Prevent Discrimination and Retaliation in Violation of Feha; and (17) Wrongful Termination in Violation of Public Policy. *See* Declaration of Sevag Nigoghosian, at ⁋6.

According to Defendant's records, it employed 312 Aggrieved Employees from May 31, 2022, through August 15, 2024, and there are paychecks issued for a total of approximately 5534 pay periods worked for that same time period. *See* Declaration of Sevag Nigoghosian, at ⁋7.

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Defendant denies any liability or wrongdoing of any kind whatsoever associated with the lawsuit and the Representative PAGA Claim. *See* Declaration of Sevag Nigoghosian, at ⁋8. It is the desire of the Parties to fully, finally, and forever compromise, and discharge all claims known or unknown related to those alleged in Plaintiff's lawsuit. *See* Declaration of Sevag Nigoghosian, at ⁋8.

On October 8, 2023, the Parties attended a full day mediation session with experienced wage-and-hour mediator Steve Pearl. *See* Declaration of Sevag Nigoghosian, at ⁋9. At the mediation, the Parties agreed to settle the entire action, including the Representative PAGA claim for violation of Labor Code § 2698, *et seq*. *See* Declaration of Sevag Nigoghosian, at ⁋9. Before agreeing to the terms of the Settlement, the Parties engaged in informal discovery regarding Defendant policies, practices, operations, time and payroll information and other topics. *See* Declaration of Sevag Nigoghosian, at ⁋9. In advance of mediation, Defendant produced Plaintiff's personnel file, including time and payroll data for Plaintiff and also produced the time records and payroll records for 63 aggrieved employees. *See* Declaration of Sevag Nigoghosian, at ⁋9. Through extensive arm's length negotiations at the mediation and only after discovery and investigation were performed, the Parties agreed to settlement terms. *See* Declaration of Sevag Nigoghosian, at ⁋9.

The Parties conducted investigation of the facts and law both before and after the lawsuit was filed. *See* Declaration of Sevag Nigoghosian, at ⁋10. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff. *See* Declaration of Sevag Nigoghosian, at ⁋10. Based on their own independent investigations and evaluations, the Parties and their respective counsel are of the opinion that the Settlement for consideration and on the terms set forth in this Motion are fair, reasonable and adequate and are in the best interests of Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation. *See* Declaration of Sevag Nigoghosian, at ¶10.

The Parties recognize that the issues presented in the Representative PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits. *See* Declaration of Sevag Nigoghosian, at ¶11.

III. FAIRNESS OF THE SETTLEMENT

While this lawsuit is a Representative PAGA Claim, the Parties are not obligated to follow the class action procedural rules for obtaining approval of this settlement. *Arias v. Superior Court (Angelo Dairy)* (2009) 46 Cal.4th 969.

Plaintiff alleges that the strongest claims are that Plaintiff, and other Aggrieved Employees were not provided with timely, uninterrupted meal and rest breaks. *See* Declaration of Sevag Nigoghosian, at ¶12. In terms of Plaintiff's other claims for minimum wage violations and failure to compensate for all hours worked, no rounding issues were observed. *See* Declaration of Sevag Nigoghosian, at ¶12. The other associated PAGA claims are derivative to the meal/rest break and overtime allegations for which Defendant would not have additional liability for inaccurate pay stubs, failure to pay all wages owed, failure to keep accurate payroll records, and failure to pay wages at the end of employment. *See* Declaration of Sevag Nigoghosian, at ¶12. Furthermore, there are no overtime violations observed in the sample because average hours worked were found to be 7.3 hours. *See* Declaration of Sevag Nigoghosian, at ¶12. Moreover, Aggrieved Employees did not have any claims for reimbursement of business expenses. *See* Declaration of Sevag Nigoghosian, at ¶12.

Plaintiff contends that the civil penalty statutes applicable to the Representative PAGA Claim are Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802 and 2699(f)(2). *See* Declaration of Sevag Nigoghosian, at ⁋13. Under these civil penalty statutes, an employee who suffers a Labor Code violation may be awarded a sum of money for each pay period in which he or she was underpaid. *See* Declaration of Sevag Nigoghosian, at ⁋13. However, under Labor Code § 2699(e)(2), the Court can reduce an award of civil penalties if the award is unjust, arbitrary, oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, at ⁋13.

Under the civil penalty formulas applicable under PAGA, Plaintiff estimated the maximum possible exposure of approximately $131,559.00 for civil penalties for Plaintiff's strongest disputed claims for failure to provide meal and rest periods. *See* Declaration of Sevag Nigoghosian, at ⁋14. Plaintiff's analysis, which Defendant vehemently dispute, revealed a 16.9% violation rate for either late, short, or interrupted meal periods at shifts of 5 hours or longer. *See* Declaration of Sevag Nigoghosian, at ⁋14. However, Plaintiff's analysis also revealed that only 91.5% of the shifts were over 5 hours long for a total of 5064 pay periods with violations. *See* Declaration of Sevag Nigoghosian, at ⁋14. As such, with the 16.9% violation rate, the maximum possible exposure would be $42,800.00, which is calculated as $50 penalty multiplied by 856 pay periods (16.9% of the 5064 pay periods). *See* Declaration of Sevag Nigoghosian, at ⁋14.

Plaintiff's analysis, which Defendant vehemently dispute, revealed a 16.9% violation rate for missed rest breaks. *See* Declaration of Sevag Nigoghosian, at ⁋14. However, Plaintiff's analysis also revealed that 94.9% of shifts were long enough in duration to require a rest period which amounted to 5252 pay periods. *See* Declaration of Sevag Nigoghosian, at ⁋14. At the same 16.9% rate for rest break violations, the maximum possible exposure would equate to $88,759 calculated at $100 penalty per pay period multiplied by 887.59 pay periods (16.9% of the 5252 pay periods). *See* Declaration of Sevag Nigoghosian, at ⁋14. Assuming that Plaintiff's calculations and analysis is accurate, the maximum exposure presumes that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, at ⁋14.

Moreover, Plaintiff is aware of no California state courts awarding Plaintiff multiple PAGA penalties for the same violation for the same pay period under different Labor Code provisions. *See* Declaration of Sevag Nigoghosian, at ⁋15. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the various Labor Code statutes. *See* Declaration of Sevag Nigoghosian, at ⁋15. Furthermore, judges have awarded extremely small sums to PAGA claimants in the past. *See* Declaration of Sevag Nigoghosian, at ⁋15. In addition, Defendant would make an argument under *Naranjo v. Spectrum Security Services, Inc*., 40 Cal. App. 5th 444 (Cal. App. 2d Dist., Sept. 26, 2019) and other similar cases, which at the time of this settlement, held that meal or rest period violations are not a predicate for civil penalties for improper wage statements and untimely final wages under Labor Code secs.201-203, 226, 226.3, and 2699. *See* Declaration of Sevag Nigoghosian, at ⁋15. Defendant also adamantly dispute all of Plaintiff's allegations in the operative Complaint. *See* Declaration of Sevag Nigoghosian, at ⁋15.

The source of penalties available is under PAGA, which allows employees to seek civil penalties for certain violations of the Labor Code so long as the penalties are not unjust, arbitrary, oppressive, or confiscatory. *See* Declaration of Sevag Nigoghosian, at ⁋16. There are no State Court decisions under the PAGA to date with substantial awards of civil penalties. *See* Declaration of Sevag Nigoghosian, at ⁋16. There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional conduct. *See* Declaration of Sevag Nigoghosian, at ⁋16. The PAGA expressly counsels against such awards. *See Lab. Code* § 2699(e)(2) ("…a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."). *See* Declaration of Sevag Nigoghosian, at ⁋16. Further, although, class certification is not required for a PAGA claim, Defendant could contend that Plaintiff should show that the PAGA claims are manageable. *See* Declaration of Sevag Nigoghosian, at ⁋16.

As such, Defendant could also convince the Court to dismiss the claims due to unmanageability. *See* Declaration of Sevag Nigoghosian, at ⁋17. In *Ortiz v. CVS Caremark Corp.*, the court dismissed a PAGA claim because it was unmanageable. 2014 WL 1117614, at *3–4 (N.D. Cal. 2014). *See* Declaration of Sevag Nigoghosian, at ⁋17. The Ortiz court cited the "multitude of individualized assessments" that case would have required in ordering dismissal. *Id.* at *4. *See* Declaration of Sevag Nigoghosian, at ⁋17. Several other courts have adopted *Ortiz*, and dismissed PAGA claims where, as here, there are a large number of allegedly aggrieved individuals whose claims require individual assessments. *See, e.g., Litty v. Merrill Lynch & Co.*, 2014 WL 5904904, at *3 (C.D. Cal. 2014); *Bowers v. First Student, Inc.*, 2015 WL 1862914, at *4 (C.D. Cal. 2015); *see also Stafford v. Dollar Tree Stores, Inc.*, 2014 WL 6633396, at *2–4 (E.D. Cal. 2014) (bifurcating trial of plaintiff's claim from representative claims: "in light of the number of potential aggrieved employees, judicial economy favors deferring the representative portion of the PAGA claim"); *Amey v. Cinemark USA Inc.*, 2015 WL 2251504, at *16 (N.D. Cal. May 13, 2015). DS, ¶ 24. *See* Declaration of Sevag Nigoghosian, at ⁋17. The risk of an unmanageable trial is heightened in a representative PAGA claim because the burden of proof rests with the plaintiff to establish violations of the Labor Code "with respect to each and every individual on whose behalf [they] seek[] to recover civil penalties." *Molina v. Dollar Tree Stores, Inc.*, 2013 U.S. Dist. LEXIS 138642, at *33-34 (C.D. Cal. Aug. 9, 2013); *Hibbs-Rines v. Seagate Techs, LLC*, 2009 WL 513496, at *4 (N.D. Cal. Mar. 2, 2009). *See* Declaration of Sevag Nigoghosian, at ⁋17. Moreover, in a PAGA case the plaintiff must prove liability with respect to "each and every individual" through representative evidence – but without sacrificing the defendant's due process right to present proof of their affirmative defenses. *Elkins v. Superior Court*, 41 Cal. 4th 1337, 1357 (2007); *Walmart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2561 (2011); *Duran v. U.S. Bank Nat'l Ass'n*, 59 Cal. 4th 1, 33-34 (2014). *See* Declaration of Sevag Nigoghosian, at ⁋17. Plaintiff is required to establish a violation of the Labor Code in each pay period of each and every one of the approximately 312 employees. *See* Declaration of Sevag Nigoghosian, at ⁋17. The Court could find that this is an impractical task and require the Eligible Employees to bring individual claims instead of a PAGA representative claim. *See* Declaration of Sevag Nigoghosian, at ⁋17.

The Parties further recognize that the issues presented in the Representative PAGA Claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits to the Subject Employees and Plaintiff from continued litigation, especially in the pandemic era where further and extensive litigation may cause businesses to shut down, resulting in no monetary compensation to Plaintiff, Plaintiff's attorneys, other Aggrieved Employees, and the State of California. *See* Declaration of Sevag Nigoghosian, at ⁋18.

The settlement of the Representative PAGA Claim involves monetary relief to all Aggrieved Employees, Plaintiff, her attorneys, and the State of California. *See* Declaration of Sevag Nigoghosian, at ⁋19.

Furthermore, Plaintiff recognizes that continued litigation presents significant risks that support a significant downward departure from Plaintiff's estimated civil penalties amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable compromise amount for these claims and is in the best interest of Plaintiff and Eligible Employees and thus, warrants approval. *See Laguna v. Coverall N. Am., Inc.*, Case No. 12-55479 (9th Cir. June 3, 2014) 2014 WL 2465049, * 3. *See* Declaration of Sevag Nigoghosian, at ⁋20. The PAGA settlement and its terms are fair, just, reasonable, adequate, and equitable to Defendant, Plaintiff, and the State, especially in light of the current economic climate, and are the product of good faith, and informed arms-length negotiations between the Parties consistent with public policy and fully comply with applicable provisions of law. *See* Declaration of Sevag Nigoghosian, at ⁋20.

IV. TERMS AND PROCEDURES OF THE SETTLEMENT

The Settlement covers any and all civil penalties claim arising from Plaintiff's allegations in her Complaint, as laid out above. Defendant agrees to pay $80,000.00 toward the Settlement (the "Gross Settlement Amount" or "GSA") which will be distributed by Defendant as follows:

a. $26,666.66 (33 1/3% of the GSA) in attorneys' fees to the Law Offices of Sevag Nigoghosian;

b. $12,000.00 (as of April 24, 2025) in attorney litigation costs to the Law Offices of Sevag Nigoghosian;

c. $4,500.00 in PAGA Settlement Administrator costs to Phoenix Settlement Administrator;

d. $36,833.34 (the "Net Settlement Amount" or "NSA") will be divided as follows:

i. $27,625.00 (75% of "NSA") to the LWDA, which represents civil penalties payable to the LWDA under the Labor Code Private Attorneys General Act ("PAGA"), Labor Code section 2698, *et seq.*; and

ii. $9,208.34 (25% of NSA) (the "Aggrieved Employee Amount") to the Aggrieved Employees which represents civil penalties payable to the Aggrieved Employees as compensation for civil penalties that are allegedly owed on the Representative PAGA Claim for the period from September 2, 2022 to October 8, 2024.

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Plaintiff and each Aggrieved Employee shall receive a portion of the Aggrieved Employee Amount on a pro-rata basis by multiplying the Aggrieved Employee Amount by the ratio of (i) the number of pay periods worked by the Aggrieved Employee during the release period and (ii) the total number of pay periods worked by all Aggrieved Employees during the release period.

For purposes of computing taxes, one hundred percent (100%) of the Aggrieved Employee Settlement Award shall be considered to be a civil penalty and shall not be subject to withholding, unless otherwise required by law. The Claims Administrator shall file proof of payment.

V. <u>THE PROPOSED ATTORNEYS' FEES AND COST ARE FAIR, ADEQUATE, AND REASONABLE AND SHOULD BE APPROVED</u>

Plaintiff's counsel represents Plaintiff on a straight contingency basis. Plaintiff counsel's request for $26,666.66 in attorney fees and $12,000.00 in litigation costs is fair and reasonable. *See* Declaration of Sevag Nigoghosian, at ⁋22. "Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery. *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 47 fn. 11 (quoting *Shaw v. Toshiba America Information Systems, Inc.* (E.D. Tex. 2000) 91 F.Supp.2d 942, 972; *See also Lafitte v. Robert Half Int'l Inc.* (Cal. Aug. 11, 2016) 1 Cal.5th 480, 503, 376 P.3d 672, 686 (holding that courts can use the percentage method for the calculation of attorneys' fees). *See* Declaration of Sevag Nigoghosian, at ⁋22. This is also consistent with Plaintiff's Counsel's experience in cases involving PAGA claims. *See* Declaration of Sevag Nigoghosian, at ⁋22. This award is justified here because Plaintiff's counsel achieved a strong result for the Aggrieved Employees and the State while bearing the substantial burdens of contingency representation. *See* Declaration of Sevag Nigoghosian, at

⁋22.

It is an accepted practice in wage and hour class action settlements to award attorneys' fees to Plaintiff's Counsel based on a percentage of the total settlement value agreed upon by the parties. California courts have long recognized that an appropriate method for awarding attorneys' fees in class actions is to award a percentage of the common fund. *See Serrano v. Priest* (1977), 20 Cal.3d. 25, 48-49 ["when a number of persons are entitled in common to a specific fund, and an action brought by a plaintiff or plaintiffs for the benefit of all results in the creation or preservation of that fund, such plaintiff or plaintiffs may be awarded attorney's fees out of the fund"]; *Wershba v. Apple Computer, Inc.* (2001), 91 Cal.App.4th, 230, 254; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26-30.)

The litigation costs expended to aid in the representation of the Aggrieved Employees include the following: lawsuit filing fee of $454.22, PAGA initial filing fee of $75.00, a mediation fee of $10,000.00 (for Plaintiff's portion of the mediation); and expert data analysis fee of $800.00. *See* Declaration of Sevag Nigoghosian, at ⁋23. All of these costs are documented and reasonably incurred. *See* Declaration of Sevag Nigoghosian, at ⁋23.

VI. NO ADMISSION OF LIABILITY OR WRONGDOING

The payment of consideration or any other obligation are not and shall not be construed in any way as an admission of wrongdoing or liability on the part of Defendant, or any other person or business entity. Defendant adamantly denies all allegations of wrongdoing arising out of the employment relationship between the Parties, including the Aggrieved Employees. The Parties intend merely to avoid the expense, delay, uncertainty and burden of continued litigation.

VII. PAGA SETTLEMENT ADMINISTRATION

The Parties agree to use PHOENIX SETTLEMENT ADMINISTRATOR to handle the administration of this Settlement.

PAGA Employee List. Defendant shall compile a list containing the following information regarding each of the PAGA Employees: (1) full name; (2) last known mailing address; (4) Social Security number; and (5) the total number of pay periods worked during the PAGA Period ("PAGA Employee List"). The PAGA Employee List will be provided to the Settlement Administrator within twenty-one (21) calendar days after the Court has signed and entered the Approval Order. This information shall be treated as and remain confidential and shall be used solely to manage the notice and payment process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendant, the individual in question, or by order of the Court.

Funding of Settlement. Defendant shall fund the Gross Settlement Amount by way of electronic transfer to the account to be established by the Settlement Administrator for purposes of administration of the Settlement ("Settlement Administration Account") within thirty (30) calendar days after the Court has signed and entered the Approval Order granting approval of the PAGA Settlement. Defendant obligations for funding the settlement are satisfied upon electronic transfer of the Gross Settlement Amount to the Settlement Administrator pursuant to the Settlement Administrator's instructions, provided, however, that any unsuccessful electronic transfer of funds be of no fault of Defendant. In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good faith to resolve the issues.

Payments to LWDA, Plaintiff's Counsel, Plaintiff, and Settlement Administrator. Within fourteen (14) calendar days after Defendant fund the Gross Settlement Amount, the Settlement Administrator shall pay the Court-approved LWDA Payment to the LWDA, Attorneys' Fees and Costs to Plaintiff's Counsel, and Settlement Administration Costs to itself.

<u>Employee Notices and Payments to PAGA Employees</u>. Within fourteen (14) calendar days after Defendant fund the Gross Settlement Amount, the Settlement Administrator shall mail via U.S. First Class mail to each PAGA Employee his or her Individual Settlement Check at the last known address in the PAGA Employee List or a more updated address from the National Change of Address Database. A notice letter explaining why the check is being sent ("Employee Notice"), in a mutually-agreed upon form that has been approved by the Court, in substantially the form that is attached hereto as "**Exhibit B**" will be included in the mailing of each PAGA Employee's Individual Settlement Check. Together, an Individual Settlement Check that is mailed to a PAGA Employee with the Employee Notice is referred to as a "Payment Packet." Prior to mailing the Payment Packets, the Settlement Administrator shall check the addresses provided using the National Change of Address database. Should any of the Employee Notices be returned as undeliverable, the Settlement Administrator will have seven (7) calendar days after it receives the returned undeliverable mail to search for a more current address for the PAGA Employee (via a skip trace or other reasonable method) and to re-mail Employee Notices to the traced address. The Settlement Administrator will only be required to re-mail the Payment Packets once by way of this process.

<u>Expiration of Settlement Checks.</u> All Individual Settlement Checks will expire one hundred and eighty (180) calendar days after the initial mailing of the original Payment Packets to the PAGA Employees, and thereafter, shall be cancelled. If any funds remain in the Settlement Administration Account as a result of cancelled Individual Settlement Checks, such funds shall be transmitted to the California State Controller's Office Unclaimed Property Fund in the name of each PAGA Employee whose check is voided. All duties set forth herein shall be included in the Settlement Administration Costs and paid from the Gross Settlement Amount. Irrespective of whether a PAGA Employee's Individual Settlement Check has been actually received and/or cashed, he or she will be deemed to be bound to this Settlement, the release provided herein, and the Court's Approval Order.

Disputes Relating to Settlement Administration. Any disputes concerning administration of the Settlement which cannot be resolved by the Parties shall be submitted to and resolved by the Court.

Settlement Administrator's Tax Reporting. The Settlement Administrator shall be responsible for providing the requisite Form 1099's as required by this Agreement, and the completion of any other steps necessary for compliance with any tax obligations of the Settlement under federal, state, and/or local law, as applicable.

Confirmation of Administration of Settlement. Within twenty-one (21) calendar days of distributing the Gross Settlement Fund, the Settlement Administrator shall provide to Plaintiff's Counsel and Counsel for Defendant a written declaration verifying that it effected disbursement of the Gross Settlement Fund pursuant to the terms of this Agreement.

Notice Regarding Settlement Compliance. Within fourteen (14) calendar days of receipt of the Settlement Administrator's declaration confirming Defendant funding of the Settlement and the Settlement Administrator's disbursement of the Gross Settlement Fund, and provided Defendant has also issued payment to Plaintiff as set forth in Plaintiff's General Release Agreement, Plaintiff shall file a notice informing the court of compliance with the terms of the Settlement and satisfaction of the Judgment, and requesting formal closure of the Action.

VIII. TAXES

Plaintiff and each Aggrieved Employee bear full responsibility for the payment of any taxes or withholdings arising from the Aggrieved Employee Settlement Awards paid to them.

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IX. RELEASED CLAIMS

Upon the approval by the Court of this Settlement, Plaintiff, the State of California and each Aggrieved Employee shall fully release and forever discharge Defendant and the Released Parties from any and all claims, rights, demands, liabilities for violation of PAGA (Labor Code § 2699, et seq.) that arose during the Release Period as it relates to Labor Code section 2698, et seq. and all applicable Wage Orders, and all claims for attorneys' fees and costs and statutory interest in connection therewith.

Plaintiff entered into a confidential individual settlement agreement with Defendant to settle her individual claims. As part of this confidential agreement, Plaintiff also provided Defendant with a general release of all claims, whether known or unknown, including unknown claims covered by Civil Code Section 1542. *See*, Declaration of Sevag Nigoghosian at ¶ 23.

X. CONCLUSION

The Parties respectfully request the Court grant this Motion.

DATED: April 24, 2025

LAW OFFICES OF SEVAG NIGOGHOSIAN

By______________________________
Sevag Nigoghosian, Esq.
Attorneys for Plaintiff, Elba Russo

EXHIBIT "A"

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Elba Russo ("Plaintiff") and defendant West Hollywood Healthcare Centre, LP dba West Hollywood Healthcare Center ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS

1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against Defendant captioned *Elba Russo v. West Hollywood Healthcare and Wellness Centre, LP, et al.*, Case No. 23STCV27188 initiated on November 6, 2023and pending in Superior Court of the State of California, County of Los Angeles.

1.2. "Administrator" means Phoenix Class Action Administrators, 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 PAGA 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 this Settlement.

1.4. "Aggrieved Employee" means and refers to all current and former nonexempt employees employed by Defendant in California 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 Los Angeles.

1.8. "Defense Counsel" means Fisher & Phillips LLP, including Grace Y. Horoupian, Corina S. Johnson, and all lawyers associated with this firm.

1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the day the Court enters Judgment.

1.10. "PAGA Settlement Amount" means $80,000 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The PAGA 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 Payment.

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 Final Approval.

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

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

1.15. “Net Settlement Amount” means the PAGA Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Representative Service 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 Law Offices of Sevag Nigoghosian, including Sevag Nigoghosian, Esq., the attorneys representing the 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 September 2, 2022 to October 8, 2024.

1.20. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.)

1.21. “PAGA Notice” means Plaintiff’s May 3, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.22. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.23. “Released PAGA Claims” means the PAGA claims alleged in the Complaint, or that reasonably could have been based on the facts stated in the Complaint and in the relevant LWDA notice letters, including all PAGA claims seeking civil penalties premised upon: (1) failure to compensate for all hours worked, (2) failure to pay minimum wages, (3) failure to pay overtime,

(4) failure to provide accurate itemized wage statements, (5) failure to pay wages when employment ends, (6) failure to pay wages owed every pay period, (7) failure to give rest breaks, (8) failure to give meal breaks, (9) failure to reimburse business expenses, and (10) violation of California Business and Professions Code section 17200, and described further in Paragraph 5 below.

1.24. "Released Parties" means: Defendant West Hollywood Healthcare and Wellness Centre LP, Shlomo Rechnitz, and each of their parents, subsidiaries, directors, owners, shareholders, officers, and attorneys, past and present, and each of them acting in concert with the foregoing.

1.25. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

2.1. On November 6, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: Failure To Compensate For All Hours Worked; Failure To Pay Minimum Wages; Failure To Pay Overtime; Failure To Provide Accurate Itemized Wage Statements; Failure To Pay Wages When Employment Ends; Failure To Pay Wages Owed Every Pay Period; Failure To Give Rest Breaks; Failure To Give Meal Breaks Failure To Reimburse Business Expenses; Violation of CA B&P Code § 17200; Private Attorneys General Act ("PAGA"); Discrimination On The Basis Of Disability In Violation Of Fair Employment And Housing Act ("FEHA); Failure To Accommodate Disability In Violation Of FEHA; Failure To Engage In Interactive Process To Determine Reasonable Accommodation In Violation of FEHA; Retaliation In Violation of FEHA; Failure To Prevent Discrimination And Retaliation In Violation of FEHA; Wrongful Termination In Violation of Public Policy. The Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice. On October 8, 2024, Plaintiff and Defendant participated in an all-day mediation presided over by Steve Pearl, Esq., which led to this Agreement to settle the Action.

2.3. Prior to mediation, Plaintiff obtained, through informal discovery, time records, pay records, and information relating to the size and scope of Aggrieved Employees, as well as data permitting Plaintiff to fully understand the nature and scope of the allegations in the Operative Complaint, including approximately 20% of time and wage records which were analyzed by Plaintiff's Counsel. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.4. The Parties represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

3.1. PAGA Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay $80,000 and no more as the PAGA Settlement Amount. Defendant has no obligation to pay the PAGA Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the PAGA Settlement Amount will revert to Defendant.

3.2. Payments from the PAGA Settlement Amount. The Administrator will make and deduct the following payments from the PAGA 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 one-third of the PAGA Settlement Amount, which is currently estimated to be $26,666.66 and PAGA Counsel Litigation Expenses Payment of not more than $12,000.00. Defendant will not oppose requests for Court approval of these payments provided that they 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.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed $4,500.00 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 $4,500.00, 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 $36,833.34 to be paid from the PAGA Settlement Amount, with 75% ($27,625) allocated to the LWDA PAGA Payment and 25% ($9,208.34) 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 ($9,208.34) 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 approximately 312 Aggrieved Employees who worked a total of approximately 5,534 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 21 days of the Court's order granting approval of the Settlement, 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 Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of PAGA Settlement Amount. Defendant shall fully fund the PAGA Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. Payments from the PAGA Settlement Amount. Within 14 days after Defendant funds the PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

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

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within 7 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.

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 PAGA Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Release by Aggrieved Employees: All Aggrieved Employees 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.

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 (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) 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. The Parties are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 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 Preliminary 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, the Parties 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 motion for approval of this Settlement or conditions its approval on any material change to this Agreement, the Parties, by and through their respective Counsel, will expeditiously work together 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 Phoenix Class Action Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administrators 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 section 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.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 312 Aggrieved Employees who worked 5,534 Pay Periods during the PAGA Period. If the total number of PAGA Pay Periods as of the end of the PAGA Period exceeds the above figure by greater than 7.5% (exceeds 5.949), then the PAGA Settlement Amount shall increase pro rata based on the number of additional PAGA Pay Periods above 7.5% (i.e., if the number of PAGA Pay Periods is 8.5% greater than the above figure, then the PAGA Settlement Amount shall increase by 1%). As an alternative to paying an increased PAGA Settlement Amount Defendant may elect to shorten the PAGA Period by selecting an end date prior to the date that the number of pay periods reaches 5,949 pay periods.

9. <u>CONTINUING JURISDICTION OF THE COURT</u>. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

10. <u>ADDITIONAL PROVISIONS.</u>

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

10.2 <u>Integrated Agreement</u>. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party (except for Plaintiff's separate Individual Settlement Agreement).

10.3 <u>Attorney Authorization</u>. The Parties separately warrant and represent that they have authorized their respective Counsel to take all appropriate action required or permitted to be taken pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any 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 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 Elba Russo: Sevag Nigoghosian, Esq., LAW OFFICES OF SEVAG NIGOGHOSIAN, 500 N Central Ave., Ste 840, Glendale, CA 91203

To Defendant West Hollywood Healthcare and Wellness Centre LP dba West Hollywood Healthcare Center: Grace Y. Horoupian, Esq., Corina Johnson, Esq., Fisher & Phillips LLP, 2050 Main Street, Suite 1000, Irvine, CA 92614

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 CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310

____
Plaintiff Elba Russo

____
For Defendant West Hollywood Healthcare and Wellness Centre LP dba West Hollywood Healthcare Center
Title: Administrator
Name: Monica Urena

____
Counsel For Plaintiff Elba Russo

____
Counsel For Defendant West Hollywood Healthcare and Wellness Centre LP dba West Hollywood Healthcare Center

of Aggrieved Employee Data.

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E. L. Russo.

Plaintiff Elba Russo

For Defendant West Hollywood Healthcare and Wellness Centre LP dba West Hollywood Healthcare Center
Title: Administrator
Name: Monica Urena

Counsel For Plaintiff Elba Russo

Counsel For Defendant West Hollywood Healthcare and Wellness Centre LP dba West Hollywood Healthcare Center

EXHIBIT "B"

[Date_____, 2025]

PAGA EMPLOYEE NAME
ADDRESS

You have received the enclosed check in connection with the Settlement of the above-referenced lawsuit brought by a former employee Elba Russo ("Plaintiff") against West Hollywood Healthcare Centre, LP dba West Hollywood Healthcare Center, (hereinafter "WHHC") for civil penalties pursuant to the Private Attorneys General Act, Labor Code § 2698 et seq. ("PAGA").

Plaintiff claimed she and other non-exempt employees of WHHC employed anytime from September 2, 2022 to October 8, 2024 were subjected to the following claims including, but not limited to: (1) Failure to Compensate for all Hours Worked; (2) Failure to Pay Minimum Wages; (3) Failure to Pay Overtime; (4) Failure to Provide Accurate Wage Statements; (5) Failure to Pay Wages when Employment Ends; (6) Failure to Pay Wages Owed Every Pay Period; (7) Failure to Provide Rest Breaks; (8) Failure to Provide Meal Breaks; (9) Failure to Reimburse Business Expenses; (10) Violation of California Business & Professions Code §17200; (11) Private Attorneys General Act ("PAGA");.

WHHC denies, and continues to deny, all allegations and liability, but to avoid further time and expense of protracted and uncertain litigation, WHHC and Plaintiff have agreed to settle the lawsuit for civil penalties. The settlement, approved by the Court on ________, 2025, resolves the alleged claims brought on behalf of all non-exempt employees of WHHC that worked in California any time between September 2, 2022 to October 8, 2024 ("PAGA Group").

Pursuant to the Court's Order, a payment of $80,000 was approved in settlement of this lawsuit. After accounting for Plaintiff's Counsel's attorneys' fees of $________ and reimbursement of litigation costs of $_______, administration expenses to _________, of $__________, the remaining sum called the "PAGA Payment" will be divided pursuant to California law as follows: $_________ (75%) to the State of California Labor Workforce Development Agency and $__________ (25%) to all PAGA Group employees to be shared on a proportionate basis. The enclosed check represents your share based upon the number of Pay Periods you worked any time during the period from September 2, 2022 to October 8, 2024 ("PAGA Period"). An IRS 1099 form is enclosed. You will be solely responsible for paying federal, state, or local taxes, if any, on the amount of your check.

Regardless of whether you negotiate the enclosed check, by way of this Settlement and the corresponding Final Order, for the PAGA Period, each PAGA Settlement Employee shall fully release WHHC for all claims for civil penalties under PAGA as alleged in the LWDA Letter and Plaintiff's Operative Complaint filed in this Action or reasonably could have been asserted under Labor Code § 2698 et seq. based upon the facts alleged in the LWDA Letter and Plaintiff's Complaint filed in this Matter.

By cashing this check, you are not giving up any right to sue for damages arising out of any alleged grievances that you have against WHHC.

The enclosed check is valid for 180 days from the date of issuance. ***It is strongly recommended that you cash or deposit this check immediately***. After 180 days of issuance, the check will become void and the amount forwarded to the State of California Controller's Office Unclaimed Property Division for further handling. If the check is lost or misplaced, please contact the Administrator immediately, toll-free (800) _______ to have it reissued. If you have any questions about your check, please contact the [insert administrator information]**.**

Very truly yours,

PROOF OF SERVICE

RUSSO v WEST HOLLYWOOD HEALTHCARE et al.

23STCV27188

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 500 N. Central Ave., Suite 840, Glendale, Ca. 91203.

On April 25, 2025, I served the following document described as **MOTION FOR APPROVAL OF PAGA SETTLEMENT AND RELEASE** on all interested parties in this action by placing [X] a true copy [ ] the original thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

[X] (BY ELECTRONIC MAIL) I caused said document(s) to be transmitted to the email address(es) of the addressee(s) designated.

[] (BY FACSIMILE) The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission.

[] (BY MAIL, 1013a, 2015.5 C.C.P.)

[] I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[ ] (BY MESSENGER) I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed above and providing them to a messenger for personal service.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[ ] (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 25, 2025, at Glendale, California.

/s/ vicki ghalbourjian

Vicki Ghalbourjian

SERVICE LIST

Grace Y. Horoupian
Corina S. Johnson
Fisher & Phillips LLP
2050 Main Street, Suite 1000
Irvine, CA 92614
ghoroupian@fisherphillips.com
cjohnson@fisherphillips.com
thsu@fisherphillips.com

ATTORNEYS FOR DEFENDANT, WEST HOLLYWOOD HEALTHCARE AND WELLNESS CENTRE LP

Make a Reservation

ELBA RUSSO vs WEST HOLLYWOOD HEALTHCARE AND WELLNESS CENTRE LP, et al.

Case Number: 23STCV27188 Case Type: Civil Unlimited Category: Other Employment Complaint Case
Date Filed: 2023-11-06 Location: Stanley Mosk Courthouse - Department 71

Reservation

Case Name:
ELBA RUSSO vs WEST HOLLYWOOD HEALTHCARE AND WELLNESS CENTRE LP, et al.

Case Number:
23STCV27188

Type:
Motion re: (MOTION FOR APPROVAL OF PAGA SETTLEMENT AND RELEASE)

Status:
RESERVED

Filing Party:
Elba Russo (Plaintiff)

Location:
Stanley Mosk Courthouse - Department 71

Date/Time:
08/29/2025 8:30 AM

Number of Motions:
1

Reservation ID:
408751464892

Confirmation Code:
CR-RBKID5XSSUNVURQUI

Fees

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

Payment

Amount:
$0.00

Type:
NOFEE

Account Number:
n/a

Authorization:
n/a

Payment Date:
n/a

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