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as an individual and on behalf of all employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

SUSANA HERNANDEZ DE MARTINEZ,
individually, and on behalf of all others
similarly situated,

Plaintiff,

vs.

FACILITY SERVICES PARTNERS, INC., a
California Corporation; and DOES 1 through
10, inclusive,

Defendants

Case No.: CVRI2304625

[Assigned for all purposes to Hon. Eric A Keen,
Dept. 6]

**DECLARATION OF LILIT TUNYAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
AN ORDER APPROVING SETTLEMENT
OF CLAIMS BROUGHT PURSUANT TO
THE PRIVATE ATTORNEY GENERAL'S
ACT OF 2004**

Reservation N: 353152327678

Date: June 24, 2024

Time: 8:30a.m.

Courtroom: Dept. 6

Judge: Hon. Eric A Keen

Action Filed: September 5, 2023

Trial Date: Not Set

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States District Courts for the Central, Eastern, Southern and Northern Districts of California. I am the founding partner at the law firm of Tunyan Law, APC. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I am one of the attorneys of record for Plaintiff SUSANA HERNANDEZ DE MARTINEZ (“Plaintiff”).

BACKGROUND

3. Plaintiff alleges that Defendant FACILITY SERVICES PARTNERS, INC. (“Defendant”) engaged in practices and procedures that violated the California Labor Code. These alleged statutory violations subject Defendant to potential liability for PAGA penalties pursuant to Labor Code § 2698. Through this action, Plaintiff seeks to recover penalties pursuant to Labor Code § 2698, *et. seq.*

5. For purposes of this settlement, Defendant employed individuals in non-exempt positions in California. The Aggrieved Employees group (also known as the “PAGA Members”) consists of 93 non-exempt employees who are or were employed by Defendant within the State of California from July 2, 2022 through the date of entry of order for PAGA settlement approval or 60 days from April 6, 2024, whichever is earlier (“PAGA period”). It is estimated that there are approximately 3, 020 pay periods as of April 6, 2024.

7. On June 26, 2023, Plaintiff's Counsel sent a letter to the LWDA on behalf of Plaintiff, in compliance with California Labor Code § 2699.3. More than 65 days passed after the letter was sent to the LWDA, and the LWDA did not indicate that it intended to investigate the alleged violations

1 referenced in the letter sent by Plaintiff.

2 8. On September 5, 2024, Plaintiff filed a complaint seeking civil penalties under the Private
3 Attorneys General Act of 2004, California Labor Code §§ 2698 et seq. (“PAGA”) stemming from
4 alleged wage and hour claims against Defendant (“Complaint”) in the Superior Court of California,
5 Riverside County entitled *De Martinez v. Facility Services Partners, Inc.*, Case No. CVRI2304625 (the
6 “Lawsuit”).

7 9. Defendant denies all liability and admit to no claim by virtue of its agreement to settle.
8 Defendant contends they had lawful policies, including break and pay policies, in effect throughout the
9 statutory period, and legal defenses to a substantial portion of the alleged penalty claims. Plaintiff and
10 Plaintiff’s Counsel have also taken into account the uncertainty and risk of the outcome of further
11 litigation, and the difficulties and delays inherent in such litigation, including those involved in PAGA
12 claim representative adjudication. Plaintiff and Plaintiff’s Counsel further recognize the burdens of proof
13 necessary to establish liability for the claims asserted in the lawsuit, Defendant’ defenses, and the
14 difficulties in establishing entitlement to monetary recovery. Plaintiff and Plaintiff’s Counsel have also
15 considered the Parties’ settlement discussions, as well as the evaluations of the mediator, who is
16 experienced and well-regarded in complex labor and employment matters.

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

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

25 12. The Parties agreed to participate in a mediation in an effort to resolve the PAGA claims
26 asserted in this matter. The Parties selected mediator Lynn S. Frank, Esq., a neutral with extensive
27 experience mediating wage and hour class and representative actions. Prior to the mediation, Plaintiff
28 requested substantial data from Defendant, and Defendant provided the requested data. Prior to and

1 during the mediation, the Parties exchanged extensive information and engaged in discussions regarding
2 their evaluations of the case and various aspects of the case, including but not limited to, the risks and
3 delays of further litigation, the risks to the Parties of proceeding with representative adjudication, the law
4 relating to time rounding, off-the-clock theory, meal and rest periods, and wage-and-hour law and
5 enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other
6 things. Plaintiff's Counsel conducted significant investigation and informal discovery regarding the facts
7 of the case, including and not limited to, the exchange, review, and analysis of a large volume of
8 documents and data obtained from Defendant, Plaintiff, and other sources. The volume of data and
9 documents that Plaintiff's Counsel reviewed and analyzed included and was not limited to Plaintiff and
10 Aggrieved Employees' employment records, a detailed sampling of Aggrieved Employees' time and pay
11 data, Defendant's Employee Handbook and employment practices, procedures, and policies including,
12 but not limited to Defendant's expenses policy, meal and rest periods policy, work time policy, overtime
13 policy, pay periods and pay days policy, among other information and documents. Counsel for the
14 Parties also met and conferred on numerous occasions, e.g., to discuss issues relating to the production of
15 documents and data prior to the mediation. Plaintiff's Counsel also drafted the pleading and the
16 mediation brief and prepared for and attended court proceedings, mediation, and settlement negotiations,
17 among other tasks.

18 13. Counsel for the Parties have also invested time researching and investigating the applicable
19 law, which is constantly evolving as it relates to representative PAGA claims, time rounding, off-the-
20 clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiff's claims and
21 damages, and Defendant's defenses thereto, as well as facts discovered.

22 14. Based on Plaintiff's Counsel's analysis, the result achieved in this litigation is fair, adequate,
23 and reasonable. Based on investigation and information discovered, Plaintiff's Counsel believes that
24 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations that
25 Defendant, with respect to Plaintiff and the Aggrieved Employees, *inter alia*, failed to properly pay
26 wages, failed to provide compliant meal and rest periods and to pay associated premium pay, failed to
27 timely pay wages during employment and upon termination of employment, failed to provide compliant
28 wage statements, failed to maintain requisite payroll records, and failed to reimburse necessary business

1 expenses, and thereby engaged in conduct giving rise to civil penalties recoverable under the Private
2 Attorneys General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiff also asserted that
3 Aggrieved Employees were expected to perform similar job duties and were subject to the same or
4 similar operations and employment policies, practices, and procedures. Additionally, Plaintiff asserted
5 that Defendant's recordkeeping practices with respect to Plaintiff and Aggrieved Employees were
6 substantially the same during the time period at issue. As a result of said alleged uniform practices,
7 Plaintiff claims that Aggrieved Employees were not paid all of the compensation that was owed to them
8 by Defendant. Thus, in Plaintiff's Counsel's view, it is clear that the outcome of this litigation would be
9 determined by Defendant's uniform operations and employment practices, policies, and procedures that
10 Plaintiff alleges applied across Defendant's hourly-paid or non-exempt employees in California during
11 the PAGA period.

12 15. The Parties participated in a full-day mediation on April 6, 2024, reaching a settlement at that
13 time. The Parties then spent many weeks thereafter negotiating the detailed terms of the Settlement
14 memorialized in a long-form agreement to resolve this matter.

15 SUMMARY OF THE SETTLEMENT TERMS

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

- 17 (a) The Aggrieved Employees: The Aggrieved Employees (also known as the
18 "PAGA Members") are: "All non-exempt employees who are or were employed
19 by Defendant within the State of California from July 2, 2022, through the date of
20 entry of order for PAGA settlement approval or 60 days from April 6, 2024,
21 whichever is earlier." It is estimated that there are approximately 3,020 pay
22 periods as of April 6, 2024. (Agreement, ¶ 9.)
- 23 (b) No Reversion: The Settlement is non-reversionary. (Agreement, ¶ 6.)
- 24 (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of
25 **\$165,000.00** (hereinafter referred to as the "Gross Settlement Amount" or
26 "GSA") for settlement of the PAGA Penalties, which shall be inclusive of
27 Plaintiff's Counsel's attorney's fees and costs and the settlement administrator's
28 costs. (Agreement, ¶ 6.)

- (d) Net Settlement Amount: At least **\$91,715.55** will be available for distribution to the Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at least **\$68,786.66** under the Agreement, and Aggrieved Employees will receive at least **\$22,928.89**. (Agreement, ¶ 6.c.)
- (e) Attorney's Fees: Plaintiff's Counsel request an award of attorney's fees in the amount of **\$55,000.00**, which is one third of the GSA. (Agreement, ¶ 6.a.)
- (f) Litigation Costs: Plaintiff's Counsel's litigation costs are capped to a maximum amount of **\$16,000**. Those actual costs are **\$14,344.45** which include the future motion filing, final report filing and joint stipulation fees. Therefore, **\$14,344.45** is requested, by Plaintiff. (Agreement, ¶¶ 6.a, 13.b.)
- (g) Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator ILYM Group, Inc., which has agreed to perform Settlement Administrator duties for a flat fee not to exceed **\$3,950.00**, which is reasonable, based on all of the services offered. (Agreement, ¶ 12)
- (h) General Release by Plaintiff: The Parties have entered into a separate settlement and release agreement for the general release of Plaintiff's individual claims against Defendant. Upon approval of this PAGA settlement Plaintiff will receive **\$10,000.00** as a consideration for general release of her claims beyond claims in which action and for representing all Aggrieved Employees which shall be paid by Defendant in addition to the GSA. (Agreement, ¶ 2.)
- (i) Uncashed Checks: Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, shall be transmitted to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee. (Agreement, ¶ 13.c.)
- (j) Release: In exchange for the above settlement consideration, Defendant shall be entitled to a release from the LWDA and each and every Aggrieved Employee,

1 including Plaintiff. (Agreement, ¶ 2.)

2 (k) Tax Allocation: The Settlement Payments to Aggrieved Employees are
3 classified as other miscellaneous income and will be allocated as 100%
4 penalties, which will be reported on IRS Form 1099-MISC, if required.
5 (Agreement, ¶ 10.)

6 (l) No Right to Opt-out: There is no statutory right for any Aggrieved Employee to
7 object, opt out or otherwise exclude themselves from the Settlement.
8 (Agreement, ¶ 5.)

9 (m) Notice to LWDA: The Declaration of Lilit Tunyan confirms that notice was
10 provided to the LWDA and attaches the confirmatory submission documents.
11 (Exhibit “3”)

12 17. A true and correct copy of the PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT
13 AGREEMENT AND RELEASE is attached hereto as **Exhibit “1.”**

14 THE SETTLEMENT MEETS ALL THE CRITERIA FOR APPROVAL

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

23 19. Resolution at this time will forestall the need for additional expensive and time-consuming
24 litigation that could very well result in an outcome less satisfactory than that proposed under this
25 settlement. But, before any other consideration, we have agreed to this settlement because it is
26 objectively reasonable. The potential for resolution benefits the aggrieved employees and the State of
27 California, since they do not have to wait additional years for a similar recovery. The efficiency of this
28 litigation benefits the Court, the parties and their counsel. A settled resolution now is the most realistic

1 method for addressing the claims raised in this matter.

2 20. We have engaged in the necessary investigation in this case that made it possible for us to
3 exercise informed judgment in those aspects of the settlement process in which we were involved. The
4 Defendant in this matter produced important information, including policies and time data, and discloses
5 key legal defenses it intended to rely upon. The information, coupled with other data and aggrieved
6 employee interviews, was sufficient to permit Plaintiff's counsel to adequately evaluate the settlement.
7 Plaintiff had more than enough information upon which to evaluate a fair and reasonable settlement
8 amount.

9 21. Here, the expense, complexity and likely duration of future litigation was to some extent an
10 unknown. However, what is certain is that to adequately establish the foundational violations that would
11 support a substantial penalty award, tremendous time and expense would be invested. To adequately
12 establish that aggrieved employees experience the alleged violations, and at what frequency, most of the
13 aggrieved employees would need to be interviewed in a systematic fashion and their testimony cataloged
14 in way sufficiently meaningful to permit the submission of summary evidence at trial, such as via survey.
15 *First*, the burdensome nature of such a process would be expensive and time-consuming. *Second*, the
16 review of the provided by Defendant's data confirmed substantial risk that the Court would either
17 substantially reduce any penalty ultimately awarded *or* conclude that the conduct was insufficient to
18 support a penalty award. *Third*, it would be essentially impossible to formulate an objectively reliable
19 means of summarizing testimonial experiences, other than by an extraordinarily detailed survey which
20 would impose the risk of manageability. And formulating such a survey would have been important,
21 since frequency of violations would need to be established before any penalties could be recovered. In
22 sum, the evidence collected to date leads Plaintiff to conclude that, direct testimony would have been
23 required from as many of the roughly 93 aggrieved employees as could be obtained, which would be, at
24 best, very difficult.

25 ESTIMATE OF THE VALUE OF THE CLAIMS

26 22. Plaintiff contended that Defendant rounded time worked by Aggrieved Employees, required
27 Aggrieved Employees to perform work before clocking-in and after clocking-out of their scheduled
28 shifts and during meal and rest periods. Plaintiff also contended that Plaintiff and Aggrieved Employees

1 were not allowed to leave work premises for rest breaks without authorization and were required to use
2 their personal cellular telephones for work purposes to communicate with supervisors regarding the
3 schedule and work assignments without reimbursement of the reasonable portion of the phone bills and
4 wash their uniforms at their expense. Additionally, Plaintiff alleged that Defendant intentionally and
5 willfully failed to pay Plaintiff and Aggrieved Employees all wages due to them while they were
6 employed by Defendant, within the time period permissible under California law, and that Defendant
7 failed to pay all wages due upon termination, within the time period permissible under California law,
8 thereby triggering waiting-time penalties under California Labor Code section 203.

9 23. Defendant denies Plaintiff's claims. Plaintiff's Counsel considered defense arguments, e.g.,
10 that the employer's practices, policies, and procedures complied with the law, that Defendant paid
11 Aggrieved Employees over the California minimum wage for all hours worked, that employees worked
12 off-the-clock without knowledge of a supervisor or Defendant, that Defendant correctly paid overtime
13 for all overtime hours worked, that use of cell phone was not required, that no waiting-time penalties
14 were due because waiting time penalties only arise from "willful" failure to pay wages due and owing at
15 the time of termination or resignation, that Plaintiff and Aggrieved Employees suffered no actual injury
16 from the alleged wage statement violations and that this alleged violation and the alleged recordkeeping
17 violation are entirely derivative of the other causes of action. Plaintiff's Counsel also considered the
18 likelihood of Plaintiff's success in establishing that any of provisions of the California Labor Code, on
19 which the civil penalties under PAGA are predicated, were violated and that such violations were
20 injurious and/or warranted imposition of civil penalties. Plaintiff's Counsel also considered that trial
21 courts have wide discretion when assessing penalties under PAGA, and that it could be determined that
22 individual liability issues predominate (e.g. due to purported variation in shifts and other circumstances
23 which could raise individualized questions of fact) and could pose challenges to manageability, and the
24 merits of Plaintiff's claims.

25 24. Plaintiff's Counsel considered information obtained through investigations and from
26 Plaintiff, as well as class data and information obtained from Defendant and other sources, and created
27 violation, damages, and penalties valuations and models prior to reaching the settlement. Based thereon,
28 Plaintiff calculated the potential value of the claims. However, the potential value of each claim assumed

1 an exposure based on the Plaintiff having proven all elements of the claims and entitlement to monetary
2 recovery, despite risks associated with demonstrating manageability, and establishing liability and any
3 underlying California Labor Code violations and damages, and significant additional costs that would
4 have to be incurred in order to establish liability and damages. Plaintiff also faced the risk of the Court
5 finding that individualized issues predominate, such that the action is not suitable for representative
6 adjudication. While Plaintiff's Counsel disagreed with defense arguments and factual contentions,
7 Plaintiff's Counsel recognized the circumstances and realities of the case, applicable case law and
8 regulations, the costs and expenses of further litigation, and risks to recovery, and applied appropriate
9 discounts for them.

10 25. After analyzing the claims in this matter, Plaintiff has concluded that the value of this
11 Settlement is fair, adequate, and reasonable. The Settlement provides a significant monetary benefit that
12 falls well within "the range of an acceptable settlement" under the circumstances, which is the standard
13 on which the instant Settlement must be judged. As held by the Ninth Circuit, a settlement may be fair
14 and reasonable even where it only provides a fraction of what could have been obtained at trial. The
15 reasonable value of the Settlement was evaluated two ways.

16 (a) First, using the most straightforward formulation of applying the "catch-all" \$100 penalty
17 specified in Labor Code § 2699(f)(2) to each pay period per employee, for all of the
18 estimated 3,020 pay periods through mediation, the maximum single penalty plausible
19 exposure under that direct approach is **\$302,000.00**. The Settlement of **\$165,000.00** is
20 about 54.6% of that roughly estimated maximum exposure value. When considering the
21 serious risks discussed herein, and the Court's inherent power to adjust penalties
22 downward to reflect an employer that sought to be in compliance with wage and hour
23 laws, even if mistakes were sometimes made, the compromise figure is reasonable.

24 (b) Second, the Settlement can also be evaluated by looking at each allegation and the
25 penalty that would attach thereto. The Settlement of **\$165,000.00** is 68.3% of the
26 **\$241,545.00** estimate of *risk-adjusted* penalty recovery (excluding interest) at this stage
27 in the litigation, *based upon a penalty-by-penalty analysis*. On that basis, it would be
28 unwise to pass up this settlement opportunity. This assessment is based on a carefully

constructed model of the current fair value of the case, using estimated risks, appellate authority, and estimates of violation frequency by pay period. The maximum calculated plausible risk-adjusted exposure is **\$1,299,100.00**, *when examining each penalty provision separately*. The estimate of the value of each claim consists of the following components:

- 1) The reasonably estimated penalty exposure for unpaid wages as a result of rounding and off-the-clock was estimated to be **\$90,600** which is a risk adjusted estimation of the maximum possible exposure of **\$302,000.00** (3,020 pay periodsX\$100 penalty) after 70% reduction (30% of \$302,000.00). Per produced by Defendant records' rounding underpaid employees in 63% of all pay periods, and overpaid in 29% of all pay periods. As for the off-the-clock work, based on the fact of impossibility to collect testimony from all employees regarding off-the-clock work and the risk of manageability and ability to prove liability, the risk-adjusted estimated exposure is estimated to be **\$90,600** assuming one penalty per each pay period, based on a risk reduction of 70%, before any Court-imposed reductions for good faith conduct by Defendant.
- 2) The reasonably estimated exposure for meal break violations over the PAGA period was calculated at **\$59,625.00** which is a risk adjusted estimation of the maximum possible exposure of **\$238,500.00**(2,385 pay periodsX\$100 penalty) after 75% reduction (25% of \$238,500.00). Defendant's produced sample meal period records show a 79% unique meal period violation rate over all pay periods (2, 385 pay periods), and 92.5% of shifts greater than 10 hours had no second meal period recorded. Based on the records of facial violations and the serious risk that employee choice would become an issue that impeded proof, the risk-adjusted estimated exposure is estimated to be **\$59,625.00**, based on a risk reduction of 75%, before any Court-imposed reductions for good faith conduct by Defendant.
- 3) The reasonably estimated exposure for rest break violations over the PAGA period was calculated at **\$30,200.00** which is a risk adjusted estimation of the maximum possible exposure of **\$302,000.00** (3,020 pay periodsX\$100 penalty) after 90% reduction (25% of \$302,000.00). Based on the lack of facial violations as rest breaks were not recorded, the risk-adjusted estimated exposure is estimated to be **\$30,200.00**, based on a risk reduction of 90%, before any

Court-imposed reductions for good faith conduct by Defendant.

- 4) The risk-adjusted penalty recovery for violation of Labor Code § 203 was estimated to be approximately **\$720** on a maximum exposure of **\$3,600.00** after risk-adjusted 80% reduction (20% of \$3,600.00) given the number of terminated employees during the PAGA period was 36(36 employeesX\$100 penalty). To avoid an imposition of penalties for failing to pay wages at termination, Defendant would necessarily be forced to prevail on several distinct theories of recovery. However, I believe it would be unrealistic to expect the Court to award the full exposure amount given the foregoing issues and potential defenses regarding the underlying wage claims, including that any failure to pay wages at termination was not willful or intentional. A risk reduction of 80% was applied to reflect the contingent nature of this claim and the additional need to demonstrate willful misconduct.
- 5) The risk-adjusted penalty recovery for violation of Labor Code § 226 was estimated to be approximately **\$30,200.00**, which is a risk adjusted estimation of the maximum possible exposure of **\$302,000.00** (3,020 pay periodsX\$100 penalty) after 90% reduction (10% of \$302,000.00). To avoid an imposition of penalties for failing to provide correct itemized wage statements (including correct gross and net wages earned, and total hours worked), Defendant would necessarily be forced to prevail on several distinct theories of recovery. However, I believe it would be unrealistic to expect the Court to award the full exposure amount given the foregoing issues and potential defenses regarding the underlying wage claims, including that any failure to provide accurate itemized wage statements was not willful or intentional. A risk reduction of 90% was applied to reflect the contingent nature of this claim and the additional need to demonstrate willful misconduct.
- 6) The risk-adjusted penalty recovery for violation of Labor Code § 2082 was estimated to be approximately **\$30,200.00**, on a maximum possible exposure of **\$151,000.00** (1,510 pay periodsX\$100 penalty) after 80% reduction (20% of \$151,000.00) should Plaintiff be able to prove 100% liability for all 93 employees for unreimbursed expenses every two pay periods) during PAGA period for this one violation. A risk reduction of 80% was applied to reflect the risk of manageability and proving liability given Defendant denies that employees were required to use their personal cell phones for work.

7) Performing risk-adjusted valuations for all claims yields a total value in the range of
\$241,545.00.

Notably, the maximum plausible exposure assumes high violation rates that would not likely be demonstrated. And the maximum plausible exposure assumes either the participation of all aggrieved employees or the use of surveys or statistical data as a surrogate, which would still require the participation of hundreds of persons to have adequate validity. Finally, Defendant's ability to assert viable legal defenses would further reduce the maximum plausible exposure. Beyond that, the Court would retain discretion to reduce any established penalties based upon Defendant's compliant policies. Thus, the likely PAGA exposure is far below the optimistic estimate. Accordingly, settlement is in the best interests of the Aggrieved Employees.

26. Plaintiff's Counsel are also of the opinion that because the issues here are fairly contested, there is a possibility of the Court not awarding PAGA penalties even if Plaintiff prevailed on the merits due to the largely discretionary nature of awarding PAGA penalties. Indeed, under Labor Code section 2699, subdivision (e)(2), a Court can reduce PAGA penalties "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." Lab. Code § 2699(e)(2). In other words, were this matter to go to trial, any award granted would be at the discretion of the Court and subject to a substantial reduction.

27. The Settlement is the product of arm's-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery. The settlement amount is, of course, a compromise figure. By necessity it took into account risks related to liability, damages, and all the defenses asserted by the Defendant. Given the strong case that Defendant could bring to bear, this is not an inconsequential settlement.

ESTIMATED SETTLEMENT PAYMENTS TO PAGA MEMBERS

28. The amount to be designated as PAGA Penalties is \$91,715.55, which will be distributed as 75% (\$68,786.66) to the LWDA and 25% (\$22,928.89) to the Aggrieved Employees. The Aggrieved Employees group consists of 93 non-exempt employees who are or were employed by Defendant during the PAGA period. It is estimated that there are approximately 3, 020 pay periods as of April 6, 2024. As

1 a result, each Aggrieved Employee will receive an estimated average amount of \$246.54. The amount to
2 Aggrieved Employees will vary based on each individual's duration of employment during the PAGA
3 Period. Thus, those who worked longer for Defendant during the relevant period will receive a benefit
4 greater than the average estimated amount. The high and low range of payments to Aggrieved
5 Employees at this time is unknown, as these amounts will be calculated by the Settlement Administrator
6 following approval and the receipt and processing of the employee data.

7 OTHER PENDING ACTIONS

8 29. I made reasonable inquiry of other members at Tunyan Law, APC, and I am not aware of any
9 actions which assert claims similar to those asserted in the above-captioned matter, on behalf of a group
10 of individuals some or all of whom would be members of the PAGA group defined in this action.

11 THE EXPERIENCE OF COUNSEL

12 30. I am a founding partner of Tunyan Law, APC and has been engaged in the practice of
13 employment and labor law for about four and a half years and focused exclusively on plaintiffs'
14 employment law and wage-and-hour class actions and more than twenty-four years in practice of law in
15 general. I have handled hundreds of wage-related class actions.

16 31. Prior to establishing my own practice, I was an associate attorney at Moon & Yang, APC and
17 Mahoney Law Group, APC. Since I was admitted to the California Bar, my practice has focused mainly
18 on labor and employment class action lawsuits involving California and federal labor laws. Along with
19 those firm's other attorneys I have successfully settled more than 50 class action and PAGA matters
20 during that time span and was routinely appointed lead or co-lead class counsel in courts in California
21 including by way of motion for class certification.

22 32. I received my Juris Doctorate from the State Yerevan University and my LL.M. from
23 University of Minnesota Law School. Prior to moving to California and starting to practice law in
24 California I practiced law in Armenia for about twenty years as a licensed attorney. I have been general
25 counsel and head of legal department for big telecommunication and financial corporations in Armenia
26 for the last 12 years prior to moving to California. I managed corporate legal department and corporate
27 legal and regulatory affairs and handled complex litigation matters as well as complex transactions for
28 many years.

1 33. I am a current member of the California Employment Lawyers Association (CELA) and the
2 California Consumer Attorneys Association of Los Angeles (CAALA). I have been an active member of
3 the State Bar of California in good standing.

4 34. I am experienced in prosecuting employment matters, particularly class actions, and I focused
5 a substantial percentage of my practice on wage, hour, and working conditions violations. In addition to
6 the present case, I represented plaintiffs and the class members and have extensively worked on many
7 wage-and-hour class cases and have been appointed as class or PAGA counsel along with other counsel
8 and co-counsel for wage-and-hour class action lawsuits in various counties throughout California such as:
9 *Rocke v. Pink Chicku LLC*, Santa Clara County Superior Court, Case N23CV41357, *Galvan v. Western*
10 *Sky Dairy, LLC*, Kern County Superior Court, Case N BCV-23-100992, *Oregel v. Diablo Range*
11 *Framing, Inc.*, Contra Costa County Superior Court, Case N C23-00697, *Gonzalez v. RV Retailer San*
12 *Diego, LLC, et al.*, Riverside County Superior Court, Case N CVRI2301403, *Evans, et al. v. Downtown*
13 *Women's Center*, Los Angeles County Superior Court, Case N 22STCV06578 (class certification
14 motion granted in part); *Sanchez v. Anodizing Industries, Inc.*, Los Angeles County Superior Court,
15 Case N 21STCV30722; *Godoy v. Intertrade Industries, LTD*, Orange County Superior Court, Case No.
16 30-2020-01151921-CU-OE-CXC; *Fuentes v. Actron Manufacturing Inc.*, Los Angeles Superior Court,
17 Case N 20STCV31099; *Gonzalez v. Community Health Systems, Inc.*, San Bernardino County Superior
18 Court, Case N CIVDS2015678; *Rodriguez v. Progress Lighting, Inc. et al.*, San Bernardino County
19 Superior Court, Case N CIVDS2023894; *Castillo v. Gibson Overseas, Inc.*, San Bernardino Superior
20 Court, Case N CIVDS2022537; *Mumphrey v. People's Care Northern California, Inc. et al.*, San
21 Joaquin County Superior Court, Case N STK-CV-UOE-2019-0016397; *Ochoa v. Orlando Spring*
22 *Corp*, Los Angeles Superior Court, Case N 20STCV343129; *Findley v. USC, et al.*, Los Angeles
23 Superior Court, Case N 20STCV47290; *Maldonado v. Techmer PM, LLC*, Los Angeles Superior
24 Court, Case N 20STCV21918; *Huerta v. IRS*, Los Angeles Superior Court, Case N 20STCV09163;
25 *Mata v. Marukai Corporation*; Los Angeles Superior Court, Case N 20STCV00959; *Tapia v. Home*
26 *&Body*; Orange County Superior Court, Case N 30-2020-01155185-CU-OE-CXC; *Ruvalcaba v.*
27 *Quinn Group, Inc.*, Los Angeles Superior Court, Case N 20STCV41323; *Bravo v. FIDM*, Los
28 Angeles Superior Court, Case N 19STCV25338; *Lomeli v. Plaskolite et al.*, Los Angeles Superior

1 Court, Case N 21STCV14611; *Alcantar v. Classic Salads LLC*, Santa Cruz County Superior Court,
2 Case N 21CV002309; *Casas v. Freedom Solar Services, et al.*, Los Angeles Superior Court, Case N
3 21STCV20233; *Serrano v. Barstow Community Hospital*, San Bernardino Superior Court, Case N
4 CIVDS2006967; *Lopez v. Fairway Staffing Services, et al.*, Los Angeles Superior Court, Case N
5 21STCV26640; *Linden v. Marugame Udon USA, LLC*, Los Angeles Superior Court, Case No.
6 20STCV00728; *Salter v. U.S. Reports, et al.*, Los Angeles Superior Court, Case N 19STCV30384;
7 *Perez v. Torn & Glasser, Inc.*, Los Angeles Superior Court, Case N 21STCV43614; *Gomez v. Arya*
8 *Ice Cream Distributing Co., Inc*, Los Angeles Superior Court, Case N 21STCV31170; *Herrera v.*
9 *Coastal Construction & Lumber*, Santa Cruz County Superior Court, Case N 22CV394683; *Garcia*
10 *v. San Jose Water Company*, Santa Clara County Superior Court, Case No. 22CV396328; *Ramirez v.*
11 *Partners Personnel Management Services LLC*, Los Angeles Superior Court, Case N
12 21STCV31253; *Ramirez v. Merrill Gardens LLC*, Eastern District Court of California, Case N1:22-
13 cv-00542-DAD-SAB; *Garcia v. Tri-Valley Plastering, Inc.*, Fresno County Superior Court, Case N
14 22CECG00591; *Garcia v. South Valley Companies, Inc.*, Kern County Superior Court, Case N
15 BCV-22-100465; *Morales v. Wiseguys Custom Home Theater, LLC*, San Diego Superior Court, Case
16 N37-2019-00070151-CU-OE-CTL.

17 35. Artur Tunyan is another partner and attorney at Tunyan Law, APC. He received his Juris
18 Doctorate from the State Yerevan University and his LL.M. from the American University of
19 Armenia and University of Illinois Chicago, School of Law. Prior to moving to California and
20 starting to practice law in California he practiced law in Armenia for about twenty-five years. He
21 oversaw international donor-funded projects for the judiciary and managed public-private
22 partnership initiatives in sectors such as energy, banking, finance, and aviation. He managed
23 complex transactions and litigation matters for many years.

24 REASONABLENESS OF THE REQUESTED FEE AWARD

25 36. When this case was taken on a contingent fee basis, with the firm agreeing to assume
26 responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation,
27 Tunyan Law, APC, paid filing fees, copy charges, expert fees, mediation fees, Westlaw fees, mailing,
28 telephone and express mail charges. There was never a guarantee that Tunyan Law, APC would recoup

1 those expenditures. The firm took on this case, which necessarily required the firm to forego other
2 opportunities, given finite resources to devote to cases.

3 37. Because of the uncertainty of the outcome in this and other wage and hour litigation
4 undertaken by Tunyan Law, APC, we took this case with the expectation that a risk enhancement, either
5 in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be
6 available if we prevailed. This expectation stems from the fact that many cases we undertake as putative
7 class actions do not resolve successfully.

8 38. Counsel's experience in employment class actions was integral in evaluating strengths and
9 weaknesses of the case against Defendant and the reasonableness of the settlement. Practice in the
10 narrow fields of wage and hour litigation requires skill and knowledge concerning the rapidly evolving
11 substantive law (state and federal), as well as the procedural law of class action litigation.

12 39. In the past four years, I have settled many wage-and-hour class actions. Just as the Court in
13 *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) observed, it has been my experience, that
14 attorney fee awards of one-third of a common settlement fund are the rule, rather than the exception.
15 Here, PAGA group Counsel agrees that they will seek no more than one third of the settlement amount in
16 fees. This is consistent with common practice, consistent with Ninth Circuit practice, consistent with
17 California law approving the percentage of the fund method to award fees from a common fund, *Laffitte*
18 *v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016), and not inappropriate in light of the many hours
19 expended by attorneys performing work for Plaintiff before and after the filing of this matter. That work
20 includes:

- 21 (a) Numerous interviews with Plaintiff and review of documents provided by Plaintiff;
- 22 (b) Investigation of the matter and exploring the corporate structure of Defendant;
- 23 (c) Legal research and investigation regarding the Defendant's practices at numerous
24 points in the litigation;
- 25 (d) Preparation of multiple drafts of the original complaint and finalization and filing
26 of the original complaint;
- 27 (e) Extensive "meet and confer" efforts with Defendant's counsel to obtain relevant
28 documents and information through informal discovery;

- (f) Selecting a mediator and mediation date;
- (g) Drafting the LWDA Notice letter;
- (h) Drafting statements and stipulations;
- (i) Review of payroll and time data;
- (j) Review of Defendants' policy documents;
- (k) Working with opposing counsel for the receipt of a representative sampling and analyzing the same with the aid of expert consultants and Plaintiff to perform analyses of liability and exposure prior to attendance of the mediation, preparation of a damages model with the aid of a statistics expert;
- (l) Analysis of the audit results and preparation of a damages model with the aid of a statistics expert;
- (m) Review and revisions to the damage model and supporting data analysis;
- (n) Communicate with Plaintiff who requested updates or other information regarding this matter;
- (o) Research and preparation of Plaintiff's mediation brief;
- (p) Attendance at mediation;
- (q) Drafting, negotiating, and reviewing multiple drafts of the PAGA Settlement Agreement and attachments and individual settlement and release agreements;
- (r) Preparation of the motion for settlement approval; and,
- (s) Review of edits to the motion for settlement approval and revisions to all documents to conform.

40. The actual lodestar incurred by Plaintiff's counsel is approximately **\$73,697.50** to date (and estimated to be **\$75,947.50**). The breakdown of work by attorney is as follows:

Attorney	Time	Rate	Total
Lilit Tunyan	142.60	\$550	\$78,430.00
Artur Tunyan	6.2	\$400	\$2,480.00
	148.8	Total:	\$80,910.00

1 41. I also anticipate that we will spend an additional 5 hours on this matter, appearing at the
2 hearing of this Motion, working with the administrator to process the Settlement, and preparing final
3 accounting filings after distribution of the Settlement, for an additional lodestar of \$2,750.

4 42. The fee request is \$55,000.00, which is one third of the Gross Settlement Amount, as
5 specified in the Settlement Agreement. The requested sum of \$55,000.00 constitutes a **negative**
6 **lodestar** multiplier of 1.52, when compared to just the recorded, and estimated future lodestar of Tunyan
7 Law, APC, totaling **\$83,660.00** (\$80,910.000 + \$2,750).

8 43. The Agreement also provides for the award of actual costs. Plaintiff's actual, out-of-pocket
9 costs in taking on representation in this Lawsuit on a contingency basis are currently \$14,334.45 which
10 include future motion, final report and stipulation filing fees, as set forth in **Exhibit "2."** Therefore,
11 Tunyan Law, APC, requests an award of \$14,334.45 to reimburse costs incurred in bringing this action.

12 THE SETTLEMENT ADMINISTRATOR

13 44. The parties have agreed that administration will be handled by a third-party administrator. In
14 counsel's experience as class counsel in similar wage-and-hour actions with a similar number of
15 employees, ILYM Group, Inc. is fully capable of administering the Settlement at a competitive and
16 reasonable cost and should be approved by the Court to administer the Settlement notice process.
17 Administration will cost \$3,950.00. After obtaining competing bids from four potential settlement
18 administrators, the Parties have agreed to retain ILYM Group, Inc. ("Settlement Administrator"), which
19 quoted \$3,950.00 flat fee, to handle the notice and settlement administration process. The Parties
20 respectfully request that the Court appoint ILYM Group, Inc. to handle these procedures and serve as the
21 Settlement Administrator. Defendant will provide the Settlement Administrator with a list of Aggrieved
22 Employees within 15 days from the entry of the order approving Settlement that Defendant will compile
23 from its records, which will include each Aggrieved Employee's last known full name, last known
24 address, last known telephone number, Social Security number and employee ID number, start and end
25 dates of employment as a non-exempt and/or hourly-paid employee of Defendant in California during
26 the PAGA Period, and other such mutually agreed upon information by the Parties as may be necessary
27 for the Settlement Administrator to independently calculate and review the Pay Periods attributed to each
28 Aggrieved Employee, and the Settlement Administrator will calculate each Aggrieved Employee's

1 estimated share of the twenty-five percent (25%) portion of the PAGA Payment. The Settlement
2 Administrator will also establish Qualified Settlement Fund Escrow Account, prepare, administer, and
3 distribute settlement checks to the Aggrieved Employees, including necessary tax forms (W2 and/or
4 1099), calculate and withhold all applicable state and federal taxes, should any disbursements be returned
5 to ILYM Group's office as undeliverable, ILYM Group will attempt to locate an update address using
6 the NCOA database and/or other skip trace efforts and will promptly remail the disbursement,
7 redistribute all uncashed checks to the California Controller's Unclaimed Property Fund in the name of
8 the Aggrieved Employee, perform any other usual and customary duties for administering a PAGA
9 action settlement. Settlement Administration Fees are currently estimated not to exceed \$3,950.00 and
10 will be paid out of the Gross Settlement Amount, subject to approval of the Court.

11 EXHIBITS

12 45. As noted above, a true and correct copy of the PRIVATE ATTORNEYS GENERAL ACT
13 SETTLEMENT AGREEMENT AND RELEASE is attached hereto as **Exhibit "1."**

14 46. Attached hereto as **Exhibit "2"** is a true and correct copy of the current expense ledger for
15 Tunyan Law, APC.

16 NOTICE WAS PROVIDED TO THE LWDA

17 47. A copy of the PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT
18 AND RELEASE was submitted to the LWDA prior to the filing of this motion. That submission is
19 attached hereto as **Exhibit "3."**

20 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
21 true and correct. Executed this 17th day of May 2024, at Glendale, California.

22 

23 _____
24 LILIT TUNYAN, "Declarant"

Exhibit “1”

PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (this “Agreement” or “Settlement”) is made by and between Plaintiff SUSANA HERNANDEZ DE MARTINEZ (“Plaintiff”), individually and on behalf of all other allegedly aggrieved employees (the “Aggrieved Employees” or “PAGA Group” as discussed and defined below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the California Private Attorneys General Act (“PAGA”) on the one hand, and Defendant FACILITY SERVICES PARTNERS, INC. (“Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

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

WHEREAS, Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from approximately September 2021 to May 2023.

WHEREAS, on June 26, 2023, Plaintiff timely sent notice letter to the California Labor and Workforce Development Agency (“LWDA”) of her intent to pursue representative actions pursuant to the Private Attorneys General Act of 2004, California Labor Code Section 2698, *et seq.* (“PAGA”), on behalf of herself, other aggrieved employees, and the State of California (the notice by Plaintiff to the LWDA is referred to as the “PAGA Notice” herein) for alleged violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 174.5, 1197, 1198, and 2802, and the applicable Industrial Welfare Commission Wage Orders. The applicable PAGA Notice related to the Lawsuit is attached hereto as **Exhibit A** (all of the foregoing is collectively referred to herein as Plaintiff’s “PAGA Claims”).

WHEREAS, on September 5, 2023, Plaintiff filed a complaint asserting a single cause of action for civil penalties under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.* (“PAGA”) in the Superior Court of California, Riverside County entitled *De Martinez v. Facility Services Partners, Inc.*, Case No. CVRI2304625 pending in Riverside County Superior Court (the “Lawsuit”).

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

WHEREAS, on April 6, 2024, the Parties attended a full day mediation with experienced wage-and-hour mediator Lynn S. Frank, Esq. As a result, the Parties agreed to settle Plaintiff’s PAGA Claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiff’s claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: “All non-

exempt employees who are or were employed by Defendant in California from July 2, 2022, through the date of entry of order for PAGA settlement approval or 60 days from April 6, 2024, whichever is earlier.”

WHEREAS, for purposes of this Settlement, the PAGA Period is defined as the period from July 2, 2022 through the date of entry of order for PAGA settlement approval or 60 days from April 6, 2024, whichever is earlier (“PAGA Period”).

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff’s PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the representative PAGA Claims that Plaintiff and the Aggrieved Employees have or may have against Defendant and the Released Parties, as defined below. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant or the Released Parties of any wrongdoing or liability. Specifically, Defendant and the Released Parties deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit and the PAGA Notice. Defendant and the Released Parties, among other things, contend that they have complied at all times with the California Labor Code and all applicable California laws.

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

WHEREAS, Counsel for Plaintiff and the Aggrieved Employees, Tunyan Law, APC, has investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, and believes that this Settlement is in the best interests of the Aggrieved Employees and that this Settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties have arrived at this Settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

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

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

1. Effective Date. The effective date (“Effective Date”) of this Settlement shall mean the date after the following has occurred: (1) the date the Court enters an order approving this Settlement; or (2) the date such court order becomes final in the event of an appeal, whichever occurs later.

2. Release of Claims by Plaintiff, the Aggrieved Employees, and the State of California. Upon the Effective Date and full funding of the Gross Settlement Amount (as that term is defined below) and General Release Payment to Plaintiff, and except as to the rights and obligations created by this Settlement, Plaintiff and the Aggrieved Employees, individually and on behalf of their descendants, marital community, dependents, heirs, executors, administrators, representatives, attorneys, successors and assigns, and the State of California, on behalf of itself and its administrators, representatives, and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Defendant, including Defendant’s parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, insurers, shareholders, partners, members, officers, directors and agents thereof, both individually and in their business capacities (collectively, the “Released Parties”), to the full extent permitted by law, of and from the Lawsuit and from any and all claims asserted or that could have been asserted, arising during the period from July 2, 2022, through the date of entry of order for PAGA settlement approval or 60 days from April 6, 2024, whichever is earlier, for civil penalties under California Labor Code section 2698, *et seq.* (“PAGA”) as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Complaint and in PAGA Notice, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages at termination, failure to furnish accurate itemized wage statements, failure to reimburse necessary business expenses, and failure to maintain accurate records, and for violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 174.5, 1197, 1198, and 2802, and the applicable Industrial Welfare Commission Wage Orders, whether known or unknown, suspected or unsuspected, concealed or hidden, that were alleged in the Action and/or the PAGA Notice, or that could have been alleged in the Action and/or PAGA Notice based on the factual allegations contained therein, which Plaintiff and any Aggrieved Employee have or had at any time through and including the PAGA Period, against any of the Released Parties (the “Released PAGA Claims”). With the exception of Plaintiff, who will execute a separate individual settlement and release agreement that includes a general release of all claims, this settlement shall not impact aggrieved employees’ ability to assert claims (claims for wages and other damages) other than the Released PAGA Claims. Defendant agrees to enter into a separate individual settlement and release agreement with Plaintiff for general release of her claims in lieu of litigating Plaintiff’s individual non-PAGA claims and for representing the Aggrieved Employees in consideration for general release payment (“General Release Payment”). The Gross Settlement Amount does not include the General Release Payment to Plaintiff in the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00), which Defendant agrees to pay in addition to the Gross Settlement Amount.

3. Effect of Judgment. Upon the Effective Date, Plaintiff, the LWDA, and the Aggrieved Employees shall be forever barred and enjoined from instituting or prosecuting, either directly or indirectly, individually, collectively, and/or representatively, any Released PAGA Claim. This

Agreement may be pleaded by any Released Party as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released PAGA Claim.

4. Notice to LWDA. Pursuant to California Labor Code § 2699(l)(2), Plaintiff shall submit to the LWDA a copy of this Agreement at the same time that Plaintiff submits it to the Court for approval.

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

6. Gross Settlement Amount. Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of One Hundred Sixty-Five Thousand Dollars and Zero Cents (\$165,000.00) as the non-reversionary gross settlement amount (the "Gross Settlement Amount") in full settlement of the Lawsuit. The Gross Settlement Amount, which represents the total amount payable under this Settlement by Defendant (subject to the Escalator Clause described below), will be allocated as follows:

- a. PAGA Counsel's attorneys' fees and costs request of up to 33 1/3% of the Gross Settlement Amount or Fifty-Five Thousand Dollars and Zero Cents (\$55,000.00) ("PAGA Counsel's Fees") and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter ("PAGA Counsel's Costs") not to exceed Sixteen Thousand Dollars and Zero Cents (\$16,000.00). Defendant will not oppose these requests. To the extent that the Court approves less than the amount of attorney's fees and costs that PAGA Counsel requests, any reduced amount shall revert to the PAGA Fund.
- b. Administration costs are estimated not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00) to be paid to the Settlement Administrator ("Administration Costs"), which is a good faith estimate. If the Parties' estimated administration fees are too little, it can be adjusted and shall be paid from the Gross Settlement. If the actual administration fee is less than the Parties' estimated administration fees, the difference between the actual and estimated administration fees will revert to the PAGA Fund; and
- c. The remainder of the Gross Settlement Amount (the "PAGA Fund") after deducting items (a) and (b) shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% paid to the LWDA (the "LWDA PAGA Portion") and 25% paid to the Aggrieved Employees (the "Aggrieved Employees' PAGA Portion") on a pro-rata basis as set forth in Paragraph 7 below.

7. Allocation Adjustment. The Parties agree that, in the event the Court denies approval of the Gross Settlement Amount and/or the PAGA Fund, they shall renegotiate the allocation of the funds in good faith in an effort to obtain approval of this Settlement. The specific amounts of the attorneys' fees and costs awards shall be subject to Court approval, and the award of any

amounts less than that requested by Plaintiff and/or Plaintiff's counsel will not be grounds for Plaintiff or her counsel terminating this Settlement but may be subject to appeal. In the event of such an appeal, final funding and administration of the portion of the attorneys' fees, costs award and/or General Release Payment in dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the exhaustion of any such appellate review, additional amounts are distributable to the Aggrieved Employees, then the cost of administration of the additional payments to them will be paid out of such additional amounts and not by Defendant. Any amount not awarded in attorneys' fees, costs and/or general release payment shall be added to the PAGA Fund for distribution to the LWDA and the Aggrieved Employees.

8. Allocation and Calculation of the PAGA Penalties. Each Aggrieved Employee shall receive a portion of his or her PAGA Portion on a pro-rata basis. Based on the Settlement Data provided by Defendant to the Settlement Administrator as defined in Paragraph 13.a. below, the Settlement Administrator will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period; and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. To determine each Aggrieved Employee's payment from the Aggrieved Employees' PAGA Portion, the Settlement Administrator will use the following formula: $\text{Settlement Payment} = \text{Aggrieved Employees' PAGA Portion} \times [\text{Pay Periods Worked by Individual Aggrieved Employee during the PAGA Period} \div \text{Total Pay Periods Worked by All Aggrieved Employees during the PAGA Period}]$.

9. Escalator Clause: As of April 6, 2024, Defendant estimates the PAGA Group, including Plaintiff, performed work for Defendant during approximately 3,020 pay periods at the time of mediation and this estimate serves as the basis for Plaintiff's accepting the Settlement. If the number of actual pay periods during the PAGA Period exceeds 10% of the estimated pay periods (i.e., exceeds 3,322 pay periods), Defendant shall increase the Gross Settlement by a pro-rata dollar value equal to the number of pay periods in excess of 3,322 pay periods. For example, if there is a 1% increase over 10% then the Gross Settlement increases by 1%. Aside from the terms set forth in this paragraph, under no circumstances will Defendant be required to pay any additional monies in order to receive the release of claims as set forth herein.

10. Tax Treatment of Settlement Amounts. Because this is a settlement of PAGA Claims for civil penalties only, no portion of this settlement is allocated to unpaid wages. With regard to settlement payments to the Aggrieved Employees and the LWDA, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Plaintiff and the Aggrieved Employees shall pay any federal or state taxes that may be required to be paid with respect to this Agreement and agree to indemnify and hold Defendant and all of the Released Parties harmless for any of their tax liability whatsoever related to the monetary consideration provided herein. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, its counsel and Plaintiff's and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments.

11. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES

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

12. Settlement Administrator. The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. The Settlement Administrator will be required to sign and provide to Defendant any Certification Re Confidential Discovery Materials and be bound by any Stipulated Protective Order as may be entered by the Court. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use ILYM Group, Inc. as the Settlement Administrator.

13. PAGA Settlement Payment Procedures.

a. Within fifteen (15) calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator. Within fifteen (15) calendar days of the Effective Date, Defendant shall also provide the Settlement Administrator with a list of the Aggrieved Employees with each listed employee’s full name, last known mailing address, last known telephone number, social security number, and the actual number of compensable pay periods worked by them during the PAGA Period (the “Settlement Data”). The Settlement Data will not be provided to Plaintiff’s Counsel. The Settlement Data shall be used only by the Settlement Administrator and only for purposes of administering this Settlement. The Settlement Administrator shall run all the addresses of the Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information and shall skip trace and re-mail all returned, undelivered mail within ten (10) calendar days of receiving notice that a notice and check was undeliverable.

b. Within fifteen (15) calendar days from the date Defendant submits the Settlement Data and the Gross Settlement Amount has been deposited with the Settlement Administrator, the Settlement Administrator shall:

- i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with the Notice of PAGA Representative Action Settlement (attached hereto as **Exhibit B**). Aggrieved Employees shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) calendar days of the original mailing or re-mailing.
- ii. Distribute a total of Seventy-Five percent (75%) of the PAGA Fund to the LWDA.
- iii. Distribute PAGA Counsel's Fees and PAGA Counsel's Costs, as approved by the Court.
- iv. Distribute payment to itself for services as the Settlement Administrator, as approved by the Court.

c. Settlement Checks issued to the Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) calendar days from the date they are mailed by the Settlement Administrator. For any Aggrieved Employee whose individual PAGA payment check is uncashed and cancelled after the void date, the Settlement Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

d. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

14. Duties of the Parties Related to Approval. Promptly upon execution of this Agreement, Plaintiff shall file her motion for approval of this Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(l). The approval motion will request Court approval of the following: (1) the terms of this Agreement; (2) PAGA Counsel's Fees and PAGA Counsel's Costs; (3) payments to the Aggrieved Employees and the LWDA; (4) payment to the Settlement Administrator; and (5) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court. Not later than seven (7) calendar days prior to the submission of the motion to the Court for approval of this Settlement, Plaintiff's counsel will submit a final draft thereof (including all supporting papers and proposed order) to counsel for Defendant for their review and comment.

15. Interim Stay of Proceedings. The Parties agree to refrain from further litigation of the Lawsuit, except such proceedings necessary to implement and obtain the Final Judgment.

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

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

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

19. No Transfer/Assignment of Claims. Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim, right, liability, demand, obligation, expense, action, or causes, or portion thereof, or interest therein, which is or may be subject to this Settlement, including any claim released under this Settlement Agreement. Plaintiff is solely responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Released Parties or any of the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the Lawsuit of any lien holder or any lien claimant or any court in relation to any interest which any third party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement. Plaintiff shall defend, indemnify and hold harmless the Released Parties or any of the Released Parties from and against any claim (including the payment of attorneys' fees and costs actually incurred whether or not litigation is commenced) based on or in connection with or arising out of any such assignment or transfer made, purported or claimed.

20. Liens and Attorneys' Fees/Indemnification.

Plaintiff solely is responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, or expert witnesses. Each Party solely is responsible for any fees and costs he, she or it has incurred including, but not limited to, fees for attorneys, consultants and expert witnesses. Plaintiff acknowledges that none of the

Released Parties are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Lawsuit, except to the extent this Agreement provides for payment of PAGA Counsel's Fees and PAGA Counsel's Costs.

21. Covenants and Representations. Plaintiff acknowledges that she has read this Agreement, fully understands her rights, privileges, and duties under this Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that she had the opportunity to consult with her attorneys to explain the terms of this Settlement and the consequences of signing this Agreement.

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

23. Enforcement. The Parties agree that, following entry of the Final Judgment, this Agreement shall be enforceable by the Court, and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over the Parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of this Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

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

26. Severability. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provisions or application, and to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release

contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

27. Confidentiality. Plaintiff and Plaintiff's counsel agree that they have not and will not disclose or discuss to any third parties and have not and will not publish the Settlement or any of its terms before filing a motion for approval of the Settlement. In response to any inquiries, Plaintiff will state that "the case was resolved, and it was resolved confidentially." Plaintiff and Plaintiff's counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the PAGA Group or the Settlement on its website, and shall not contact, discuss with, or respond to any reporters or media regarding the Settlement. This shall not apply to or limit the public filing of motions or other case materials in the Action related to seeking and obtaining Court approval of the proposed settlement and the related awards of attorneys' fees and costs, or to communications between Plaintiff's counsel and Plaintiff or the Aggrieved Employees in the Action, including through the posting of Court-filed documents on Plaintiff's counsels' website. After filing a motion for approval of the Settlement and uploading the Settlement approval motion documents with LWDA website prior to filing the Settlement approval motion with court, the Settlement terms become public.

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

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

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

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

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

Dated: 5/8/2024 | 12:06 PM PDT

DocuSigned by:
Susana Hernandez De Martinez
Plaintiff SUSANA HERNANDEZ DE MARTINEZ

Dated:

Defendant FACILITY SERVICES
PARTNERS, INC.

By: _____

Its: _____

Dated: 5/8/2024 | 12:07 PM PDT TUNYAN LAW, APC

DocuSigned by:
By: Lilit Tunyan
Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff SUSANA HERNANDEZ DE
MARTINEZ, and Aggrieved Employees

APPROVED AS TO FORM:

Dated:

**SWERDLOW FLORENCE SANCHEZ SWERDLOW
& WIMMER, A Law Corporation**

By: _____
Lori Yankelevits
Millicent Sanchez

Attorneys for Defendant FACILITY SERVICES
PARTNERS, INC.

Dated: May 9, 2024


Defendant FACILITY SERVICES
PARTNERS, INC.
By: Malcolm P. Thomas
Its: President

Dated: TUNYAN LAW, APC

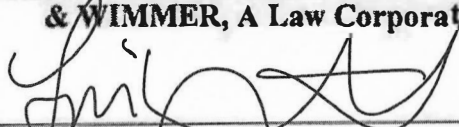
By: _____
Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff SUSANA HERNANDEZ DE
MARTINEZ, and Aggrieved Employees

APPROVED AS TO FORM:

Dated: May 9, 2024

SWERDLOW FLORENCE SANCHEZ SWERDLOW
& WIMMER, A Law Corporation

By:  _____
Lori Yankelevits
Millicent Sanchez

Attorneys for Defendant FACILITY SERVICES
PARTNERS, INC.

Exhibit “A”



TUNYAN LAW

Lilit Tunyan, Esq.
1336 Rossmoyne Avenue,
Glendale, CA 91207
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

March 15, 2023

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
Facility Services Partners, Inc.
LegalZoom.Com, Inc.
101 N Brand Boulevard, 11th Floor
Glendale, CA 91203

VIA CERTIFIED MAIL

Return Receipt Requested

Facility Services Partners, Inc.
1 University Drive
Aliso Viejo, CA 92656

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: *Susana Hernandez De Martinez v. Facility Services Partners, Inc.*

To Whom It May Concern:

Please be advised that my office has been retained by Susana Hernandez De Martinez ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer Facility Services Partners, Inc. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which she alleges Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of herself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Riverside County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendant as a cleaner from approximately June 2021 to May 23, 2023, primarily in Riverside County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and between 8 to 12 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the time period involved in this case, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked including straight time wages and overtime wages. Throughout the statutory period, Defendant regularly used a system

of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendant's operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Accordingly, Defendant frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period, Defendant maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work "off-the-clock". Plaintiff and the Aggrieved employees were required to arrive earlier than their scheduled start time to perform some additional work but were only required to clock in to work ten minutes prior to the scheduled start of the shift not to create overtime. Plaintiff and the Aggrieved Employees were not compensated for all the time worked prior to clocking in to work. Defendant also regularly required Plaintiff and the Aggrieved Employees to clock out at the end of their shifts but continue working to complete additional tasks for about twenty minutes again not to create overtime. Defendant also required Plaintiff and the Aggrieved Employees to work through their meal periods requiring them to clock out but continue working. Plaintiff and the Aggrieved Employees were also required to use their personal cellular telephones for work purposes at home after their scheduled work time to communicate with Defendant's supervisors regarding work schedules and assignments. Plaintiff and the Aggrieved Employees would also spend time after the scheduled shift hours to wash the uniforms provided by Defendant but Defendant failed to compensate for that time. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendant also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that

were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees. Plaintiff and the Aggrieved Employees would often times miss their meal periods, have interrupted, late or short meal periods.

Defendant required Plaintiff and the Aggrieved Employees to work through their meal periods requiring them to clock out but continue working. Additionally, Plaintiff's and the Aggrieved Employees' meal periods were cut short since they were required to walk to the meal break area located on another floor. Plaintiff and the Aggrieved Employees had never been authorized or taken their second meal periods when their shifts exceeded 10 hours. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit periods of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest periods. Each failure to authorize rest periods as so required is itself a violation of California's rest period laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees. Plaintiff and the Aggrieved Employees would mostly miss their first, second and third rest periods or have interrupted or short rest periods. Defendant required Plaintiff and the Aggrieved Employees to interrupt their

rest periods and continue working to finish the assignments. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement. Defendant required Plaintiff and the Aggrieved Employees to purchase some materials necessary for performing their work such as doorstoppers, special towers, keys but failed to reimburse them for those expenses. Further, Plaintiff and the Aggrieved Employees were required to use their cellular telephones for work purposes to communicate with supervisors regarding the work schedules and assignments, but they were not reimbursed for cell phone usage. Plaintiff and the Aggrieved Employees were also required to wash and maintain the uniforms provided by Defendant but were not reimbursed for that. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” Lab. Code § 226(e)(1).

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly list gross wages earned, the failure to list the true net wages earned, wages for meal and rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked. Additionally, Defendant included vacation and sick pay in the total hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. Additionally, Defendant included vacation and sick pay in the total hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;

3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code § 227.3 by failing to pay all vacation wages at termination;
7. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
8. Labor Code § 226 by failing to provide accurate itemized wage statements; and
9. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service, as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendant or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
Partner
TUNYAN LAW, APC

Exhibit “B”

NOTICE OF PAGA ACTION SETTLEMENT

*De Martinez v. Facility Services Partners, Inc., Riverside County Superior Court
Case No. CVRI2304625*

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

IF YOU ARE OR WERE EMPLOYED AS A NON-EXEMPT EMPLOYEE BY DEFENDANT FACILITY SERVICES PARTNERS, INC. ("DEFENDANT") DURING THE PAGA PERIOD (JULY 2, 2022 through -----), THIS PAGA SETTLEMENT AFFECTS YOUR RIGHTS.

A settlement (the "Settlement") has been reached in the lawsuit entitled *De Martinez v. Facility Services Partners, Inc.*, Case No. CVRI2304625 (the "Action"), asserting claims under the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* ("PAGA"). The purpose of this Notice is to advise you as to why you have received a portion of the Settlement proceeds. The Settlement fully and finally resolves the Action.

Who is affected by this proposed Settlement?

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

All non-exempt employees employed by Defendant in California at any time during the PAGA Period (the "PAGA Period" refers to the period of July 2, 2022 to -----).

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

What is this case about?

In the Action, Plaintiff Susana Hernandez De Martinez asserted claims that Defendant violated certain provisions of the Labor Code relating to, among other things, non-payment of wages, non-compliance with meal and rest period requirements, reimbursement of business expenses, and non-compliant wage statements. Plaintiff sought only civil penalties on behalf of the California Labor and Workforce Development Agency ("LWDA") and the other allegedly Aggrieved Employees under the Labor Code Private Attorneys General Act of 2004 ("PAGA") [Lab. Code § 2699, *et seq.*].

Defendant denied all liability and was confident that it had strong legal and factual defenses to these claims. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or PAGA Group Members. The Parties acknowledge the risks and uncertainties of continued litigation. Plaintiff's counsel believes the Settlement is fair, reasonable, and adequate, and is in the best interests PAGA Group Members.

The Court has made no determination about Plaintiff's allegations asserted in the Action. The Court has determined that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and approved the Settlement. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the claim.

What is the Settlement Formula and My Estimated Settlement Share?

According to Defendant's records from July 2, 2022 to ----- (i.e., the PAGA Period), your estimated number of pay periods worked is [] pay periods.

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

Each individual PAGA payment was calculated on a pro rata basis (i.e., proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Covered Period divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Covered Period.

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

¹ One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your Individual PAGA payment. Neither Plaintiff nor Defendant have made any representations or

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the checks will be transmitted to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

Release By LWDA and Aggrieved Employees

The Court has approved the Parties' Settlement and General Release Agreement (the "Agreement").

Plaintiff, on behalf of herself, the LWDA, and all Aggrieved Employees, acknowledges full and complete satisfaction of and releases and discharges and covenants not to sue Defendant and any Releasee from and with respect to Plaintiff's Released PAGA Claims.

"Released PAGA Claims" means any and all claims asserted or that could have been asserted, arising during the period from July 2, 2022, through----- for civil penalties under PAGA as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Complaint and in PAGA Notice, including but not limited to, for failure to pay minimum, regular, and overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages at termination, failure to furnish accurate itemized wage statements, failure to reimburse necessary business expenses, and failure to maintain accurate records, and for violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 227.3, 510, 512, 174.5, 1197, 1198, and 2802, and the applicable Industrial Welfare Commission Wage Orders, whether known or unknown, suspected or unsuspected, concealed or hidden, that were alleged in the Action and/or the PAGA Notice, or that could have been alleged in the Action and/or PAGA Notice based on the factual allegations contained therein, which Plaintiff and any Aggrieved Employee have or had at any time through and including the PAGA Period, against any of the Released Parties.

"Released Parties" means Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, insurers, shareholders, partners, members, officers, directors and agents thereof, both individually and in their business capacities.

The Agreement is intended to be effective as a bar to all Released PAGA Claims. Plaintiff, the LWDA, and Aggrieved Employees shall be forever barred and enjoined from instituting or prosecuting, either directly or indirectly, individually, collectively, and/or representatively, any Released PAGA Claims. This Agreement may be pleaded by any Releasee as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that has been or may be instituted, prosecuted or attempted, asserting any Released PAGA Claim that arose during the PAGA Covered Period.

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

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

You may call Settlement Administrator at _____ with any questions. If your check is lost or misplaced, you should contact Settlement Administrator immediately to request a replacement.

warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

Exhibit “2”

Date	Description	Rate (\$)
6/27/2023	PAGA letters mailing costs to Defendants	18.96
7/27/2023	LWDA fee for PAGA letter filing	75
9/5/2023	Complaint court filing fee	469.23
9/13/2023	Case Management Statement court filing fee	6.85
9/16/2023	Complaint service fee by process server OneLegal	87.51
10/17/2023	Joint stipulation to mediate, stay case court filing fee	27.4
2/14/2024	Joint stipulation to continue Case Management Conference court filing fee	27.4
2/27/2024	Case Management Statement court filing fee	6.85
3/4/2024	Mediation fee to Lynn Frank	11500
4/29/2024	Economic damages expert fee	2012.5
5/30/2024	PAGA settlement approval motion court filing fee	68.5
	Joint stipulation to vacate Trial Setting Conference court filing fee	27.4
	Final report court filing fee	6.85
Total		14334.45

Exhibit “3”

From: [DIR PAGA Unit](#)
To: atunyan@tunyanlaw.com
Subject: Thank you for your Proposed Settlement Submission
Date: Friday, May 17, 2024 4:43:41 PM

05/17/2024 04:42:51 PM

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

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

**DIR PAGA Unit on behalf of
Labor and Workforce Development Agency**

Website: [http://labor.ca.gov/Private Attorneys General Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

Case Number: LWDA-CM-964541-23	Plaintiff for PAGA Case: Susana Hernandez De Martinez
Filer/Attorney for PAGA Case: Lilit Tunyan	Law Firm for PAGA Plaintiff: Tunyan Law, APC
Employer: Facility Services Partners, Inc.	Date Case Received:
Filer for Employer:	Employer Filer Firm:
Court Type: California Superior Courts	Court Name: Riverside County Superior Court
PAGA Court Case Number: CVRI2304625	Violation Type:
Related BOFE Case:	

Submission Details

Actions	Attachment Name	Description	Date Submitted	Type
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	PAGA approval motion De Martinez v. Facility Services Partners Inc..pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	Proposed judgment for PAGA approval De Martinez v. Facility Services Partners Inc..pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	Proposed order for PAGA approval De Martinez v. Facility Services Partners Inc..pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	Declaration of Plaintiff ISO approval motion De Martinez v. Facility Services Partners, Inc..pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	Declaration of LT ISO of approval motion De Martinez v. Facility Services Partners Inc.pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Additional Document Submitted with Proposed Settlement on 05/17/2024 04:42:51 PM by Artur Tunyan	Declaration of administrator ISO approval motion De Martinez v. Facility Services Partners, Inc..pdf	5/17/2024 11:43 PM	Proposed Settlement
View/Download	Court Complaint Submitted on 09/08/2023 08:05:06 AM by Lilit Tunyan	Complaint conformed.pdf	9/8/2023 3:05 PM	Court Complaint
View/Download	Proposed Settlement Submitted on 05/17/2024 04:42:51 PM by Artur Tunyan	PAGA settlement agreement De Martinez v. Facility Services Partners, Inc. Fully Executed.pdf	5/17/2024 11:42 PM	Proposed Settlement

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of
6 18 and not a party to the within action; my business address is 535 N Brand Blvd. Suite 285,
7 Glendale, California 91203.

8 On the date indicated below, I served the document described as: **DECLARATION OF LILIT**
9 **TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR AN ORDER APPROVING**
10 **SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEY**
11 **GENERAL'S ACT OF 2004** on the interested parties in this action by sending a true copy thereof to
12 interested parties as follows and as stated on the attached service list:

13 Lori Yankelevits
14 lyankelevits@swerdlowlaw.com
15 Millicent Sanchez
16 msanchez@swerdlowlaw.com
17 Chehreh Golzar
18 cgolzar@swerdlowlaw.com
19 **SWERDLOW FLORENCE SANCHEZ**
20 **SWERDLOW & WIMMER**
21 A Law Corporation
22 10877 Wilshire Boulevard, Suite 1650
23 Los Angeles, CA 90024
24 Tel: (310) 288-980
25 Facsimile: (424) 281-2580

26 *Attorneys for Defendant Facility Services Partners, Inc.*

27 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale, California,
28 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.

[✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept electronic
service, I caused the documents to be sent to the persons at the electronic service addresses listed
above via electronic mail. I did not receive an error message.

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

Executed on May 17, 2024 at Glendale, California.

Lilit Tunyan

Name



Signature