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MARIA GUADALUPE MENDEZ, on behalf of herself and all similarly aggrieved employees

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

MARIA GUADALUPE MENDEZ, Plaintiff, v. JUQUILITA MARKET, INC.; and DOES 1 through 50, inclusive, Defendants.	Case No.: 24CV005255 **DECLARATION OF LAURA L. FRANKLIN IN SUPPORT OF PLAINTIFF'S MOTION TO APPROVE SETTLEMENT AGREEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT** Date: August 22, 2025 Time: 8:30 a.m. Dept.: 15 Complaint Filed: December 11, 2024

I, Laura L. Franklin, hereby declare and state as follows:

1. I am an attorney duly licensed to practice before all courts in the State of California, and I am an associate at Fitzpatrick & Swanston, counsel of record for Plaintiff Maria Guadalupe Mendez ("Plaintiff"). I have personal knowledge of the facts set forth below and if called to testify I could and would do so competently.

2. I support this settlement as fair, reasonable, and adequate, and in the best interest of the PAGA Members as a whole. Attached hereto as **Exhibit A** is a true and correct copy of the PAGA Settlement Agreement.

3. Pursuant to the terms of the Parties' proposed Settlement Agreement, Defendant will pay the total amount of Ten Thousand Dollars and No Cents ($10,000.00) (the "Gross Settlement Payment").[1] This amount encompasses a settlement of PAGA claims asserted in this lawsuit, attorneys' fees to Plaintiff's counsel in the amount of $3,300.00 (33.3% of the Gross Settlement Payment), Plaintiff's counsel's litigation costs not to exceed $2,500.00, a service award to Plaintiff in the amount of $1,000.00; and settlement administration costs in an amount not to exceed $1,500.

4. Based on the amounts above, the PAGA Fund will be at least $1,700.00. Pursuant to the PAGA, this amount includes approximately $1,275.00 to be distributed to the California Labor and Workforce Development Agency ("LWDA"), and approximately $425.00 to be distributed to the "PAGA Settlement Members," "all individuals who are or previously were employed by Defendant in California as hourly, non-exempt employees, at any time during the PAGA Period." The proposed settlement, moreover, does not release any substantive claims of PAGA Settlement Members, merely their rights to bring PAGA claims predicated on the same violations of the Labor Code raised in this Action that accrued during the PAGA Period.

5. In light of the above, the proposed settlement constitutes an adequate, fair, and reasonable settlement on behalf of the State of California and PAGA Settlement Members and accomplishes the goals of PAGA.

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[1] The Gross Settlement Amount shall be paid in two installment payments. The first is due within one week of the Court approving the Settlement, and the second and final payment is due within six months after the Court approving the Settlement.

6. **Summary of the Litigation and Settlement:** Defendant owns and operates a small grocery store in Salinas, California (the "Market"), which includes an on-site restaurant (taqueria) and an on-site butcher shop. Plaintiff was employed by Defendant at the Market from August 2022 until on or about July 30, 2023, as a non-exempt cashier/stocker/server.

7. Plaintiff alleges that she and other employees were subjected to Labor Code violations during their employment, including during the PAGA Period. Specifically, Plaintiff alleges that Defendant: (1) failed to accurately record and pay for all hours worked; (2) failed to pay premium overtime wages for daily and weekly overtime hours worked; (3) failed to provide employees with the opportunity to take compliant meal and rest breaks or premium pay in lieu thereof; (4) failed to reimburse employees for the required use of their personal cell phones for work; and (5) failed to provide accurate wage statements as required by Labor Code § 226(a).

8. On October 26, 2023, Plaintiff submitted a Notice of Labor Law Violations ("PAGA Notice") to the Labor and Workforce Development Agency and Defendant asserting claims for civil penalties pursuant to PAGA predicated on violations of Labor Code §§ 201, 201.3, 202, 203, 204, 218.5, 218.6, 223, 225.5, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1199, 2699, 2800, and 2802.

9. Defendant, via its counsel, reached out to Plaintiff's counsel after receiving the PAGA Notice and the separate letter from Plaintiff's counsel requesting Plaintiff's personnel and pay records. Defendant informally shared information and documents pertaining to Plaintiff's claims, and the Parties subsequently agreed to participate in private mediation and entered into a tolling agreement.

10. Prior to the mediation, Defendant Plaintiff's counsel with information and documents pertaining to the alleged aggrieved employees' claims, including copies of the wage statements and time records for each of the aggrieved employees and the applicable employee handbook. The documents and information provided allowed Plaintiff's counsel to analyze liability and exposure in preparation for the mediation.

11. On June 10, 2024, the Parties participated in a mediation with Christopher Panetta, Esq. regarding the claims presented by Plaintiff. Although the case did not settle at mediation, the Parties continued to discuss resolution thereafter, with the mediator's assistance.

12. In September 2024, the Parties entered into a Memorandum of Understanding ("MOU") that memorialized the essential terms of an agreed settlement that resolves the present PAGA action. The MOU was fully executed on September 20, 2024.

13. Mr. Panetta also assisted the Parties in reaching an agreement to settle Plaintiff's Individual Claims, which has since been memorialized in a separate Confidential Settlement Agreement and Release of Claims[2] (the "Confidential Individual Settlement").

14. On December 11, 2024, in accordance with the terms of the MOU, Plaintiff filed her PAGA complaint (the "Complaint"), so that the Parties could then seek the Court's approval of this PAGA settlement, as required by Labor Code § 2699.

15. In January 2025, the Parties entered into the longform Private Attorneys General Act Settlement Agreement ("PAGA Settlement Agreement"), which was fully executed January 10, 2025. The material terms of the Settlement are described below and set forth in detail in the Settlement Agreement attached hereto as Exhibit A.

16. **The PAGA Settlement Members:** The "PAGA Settlement Members" affected by this Settlement include "all individuals who are or previously were employed by Defendant in California as hourly, non-exempt employees, at any time during the PAGA Period." The PAGA Period commences on October 26, 2022, and ends on June 26, 2024 .

17. Based upon Defendant's records, there are sixteen (16) PAGA Settlement Members. Defendant also represents that the total number of pay periods worked by PAGA Settlement Members during the PAGA Period is approximately 401.

18. **The Gross Settlement Amount:** The Settlement Agreement requires Defendant to pay the Gross Settlement Payment of Ten Thousand Dollars and No Cents ($10,000.00). The terms of the Settlement Agreement provide for an award of attorneys' fees not to exceed

[2] Plaintiff's counsel will provide the Court with a copy of the Confidential Settlement Agreement and Release ("Confidential Individual Settlement) at the Court's request.

$3,300.00 (33.3% of the Gross Settlement Payment), and reimbursement of litigation costs of up to $2,500.00 to Plaintiff's counsel; a service award to Plaintiff in the amount of $1,000.00, and settlement administration costs of up to $1,500.00.

19. **Attorneys' Fees and Reimbursement for Litigation Costs:** As part of the Settlement Agreement, Defendant does not object to Plaintiff's counsel's request for attorneys' fees of 33.3% of the Gross Settlement Payment ($3,300.00), plus reimbursement of litigation costs in the amount of $2,500.00, subject to the Court approving this Settlement. Any portion of the attorneys' fees and costs not approved by the Court will be added to the PAGA Fund.

20. **Service Award to Plaintiff:** Plaintiff requests the payment of a Service Award in the amount of $1,000.00. This amount is intended to compensate Plaintiff for her efforts and work in prosecuting this case, including meeting and communicating with Counsel, reviewing the pleadings and documents in this case, and the Settlement Agreement. Any portion of the Service Awards not approved by the Court shall be added to the PAGA Fund.

21. **Settlement Administration Costs:** The Settlement Agreement provides for the payment of fees and expenses reasonably incurred by the Settlement Administrator. The Parties have agreed to utilize Phoenix Settlement Administrators to administer the Settlement, with the administration costs estimated not to exceed $1,500.00. Any portion of the settlement administration costs not approved by the Court shall be added to the PAGA Fund.

22. **The PAGA Fund:** The PAGA Fund is the balance of the Gross Settlement Payment remaining after the deduction of the Court approved: (i) attorneys' fees ($3,300.00); (ii) litigation costs ($2,500.00); (iii) Service Award to Plaintiff ($1,000.00); and (iv) Settlement Administration Costs ($1,500.00). Counsel estimates that the PAGA Fund will be at least $1,700.00.

23. Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Fund, or approximately $1,275.00, will be distributed to the LWDA for PAGA penalties. The remaining twenty-five percent (25%) of the PAGA Fund, or approximately $425.00 will be distributed to the PAGA Settlement Members.

24. The portion of the PAGA Fund distributed to the PAGA Settlement Members will be distributed on a pro rata basis, based on the number of pay periods each PAGA Settlement Member worked for Defendant during the PAGA Period divided by the aggregate total number of pay periods worked by all PAGA Settlement Members as non-exempt employees in California during the PAGA Period.

25. As noted above, Defendant's records show that there are 16 PAGA Settlement Members who collectively worked approximately 401 pay periods during the PAGA Period. Based thereon, on a raw average, each PAGA Settlement Member may potentially recover approximately $26.56, or approximately $1.06 per pay period, from the portion of the PAGA Fund attributable to the PAGA Settlement Members. The amount any particular PAGA Settlement Member will be entitled to recover will fluctuate depending on the number of pay periods he or she worked as a non-exempt employee in California during the PAGA Period. This is fair, as it directly allocates greater penalties to individual PAGA Settlement Members who have allegedly suffered greater harm.

26. **Uncashed Checks:** Funds from any checks that have not been cashed within 180 days of issuance do not revert and shall be paid to the designated cy pres recipient: Watsonville Law Center. Counsel does not have any conflicts of interest with this designated recipient.

27. **The Settlement is Fair and Reasonable as it Recognizes the Inherent Risk of Litigation:** Although Plaintiff is reasonably confident that she would prevail at trial, proceeding in litigation entails significant risk on the underlying merits of Plaintiff's theory, in addition to the still-developing law under PAGA.

28. **Plaintiff's Claims are Contested:** Plaintiff asserts that her representative PAGA claims are based on the allegations that Defendant failed to accurately record and pay for all hours worked, failed to pay premium overtime wages, failed to provide off-duty meal and rest periods, failed to reimburse employees for work-related expenses; and failed to provide accurate itemized wage statements.

29. **Unpaid Minimum and Overtime Wages:** Plaintiff alleges that Defendant failed to accurately record and pay for all hours worked. Defendant's time and pay records appear to show that employees' time worked was recorded to the minute and that employees were required to clock out for both meal and rest breaks (discussed below). However, Plaintiff's counsel found that the total hours worked shown on employees' time records is often significantly different from the total hours listed on the employees' corresponding wage statements. This appears to be, at least in part, due to an inconsistent rounding practice whereby time entries appear to be rounded to the nearest half hour for wage payment calculation purposes. Notably, Defendant appears to round up in favor of employees often, but not always, and the rounding practice is not consistent throughout the PAGA period.

30. Moreover, Defendant's records show that it did not pay any overtime premium wages until November 2023, following its receipt of Plaintiff's PAGA notice. In Plaintiff's case, for example, she did not receive any overtime premium wages at any point during her employment, even though her regular schedule included 10-hour shifts on two days per week (8:00 a.m. to 6:00 p.m.). Rather, she and the other employees received the same straight-time hourly rate of pay, regardless of the number of daily and/or weekly overtime hours worked.

31. **Unlawful Meal and Rest Periods:** Plaintiff also alleges that Defendant failed to provide off-duty meal and rest periods, requiring employees to remain at the premises and on-call to help customers during their break if needed. Defendant's records also reflect short and late meal periods and short rest periods (less than 10 minutes) taken by employees during the PAGA Period, with no premium pay provided to employees for such noncompliant breaks.

32. Defendant, for its part, disputes that employees were required to remain on-call during breaks and denies the existence of a common policy that required employees to miss, delay, or interrupt their breaks to perform work-related tasks. Notably, the applicable Meal and Rest Breaks policy produced by Defendant does not authorize or charge employees with the responsibility to take timely breaks. On the contrary, it says, "Your supervisor will let you know when you should take your breaks." The policy is also facially noncompliant regarding

meal breaks, in that it limits the right to take a 30-minute breaks to employees "who work at least 8 hours in a day."

33. **Failure to Reimburse Business Expenditures:** Plaintiff further alleges that Defendant regularly and consistently violated Labor Code section 2802 by failing to reimburse employees for expenses incurred in the performance of their duties, including expenses associated with the use of personal phones for mandatory work-related phone calls. Plaintiff produced documents affirming that her direct supervisor regularly communicated work-related instructions and questions to Plaintiff via text message to Plaintiff's personal cell phone, without reimbursement. Defendant denies that this practice extended to other employees and denies the existence of a common policy that required employees to use their cell phones for work.

34. **Wage Statements:** With respect to Plaintiff's wage statement claim, as a further consequence of Defendant's failure to record the actual hours worked by Plaintiff and the employees, Defendant failed to provide the employees with complete and accurate itemized wage statements.

35. **The Potential Value of the PAGA Claims:** Due to the discretionary nature of PAGA penalties, the probable value of claims for PAGA civil penalties is often difficult to evaluate. Assuming a $100.00 civil penalty for each of the estimated 401 pay periods worked by the 16 employees at issue, Defendant's maximum exposure for civil penalties under PAGA is approximately $41,000.00. As such, the gross settlement amount of $10,000.00 equates to approximately 24% of the maximum potential value of the PAGA penalties at issue.

36. Although Plaintiff's Counsel believes Plaintiff's allegations have merit, counsel acknowledges that the claims are disputed, as described above. In addition, settling for nearly a quarter of the maximum potential PAGA penalties was reasonable, particularly given the small number of affected employees (16), the early stage in litigation, and the likelihood that attorneys' fees could quickly become a significant barrier to resolution if the matter proceeded to formal litigation. It is also notable that, upon receiving Plaintiff's PAGA Notice, Defendant

appeared to be diligently working with its counsel to remedy its noncompliant practices and address the asserted PAGA claims.

37. Lastly, Plaintiff's Counsel recognizes that Defendant could make a compelling argument that the award of PAGA penalties would be confiscatory and that a full penalty award, especially when coupled with the cost of defense, would cripple Defendant's business and potentially result in bankruptcy.

38. Based on the foregoing, and in consideration of the due process concerns related to penalizing Defendant disproportionately to the amount of damages at issue, and the discretionary nature of awarding penalties, it is reasonable to assume for resolution purposes, that a violation occurred in approximately one-fifth (or 0.2) of all pay periods resulting in a realistic, risk-adjusted exposure of $8,200.00 ($41,000.00 maximum exposure x 0.2).

39. Here, the proposed settlement of $10,000.00 exceeds the realistic, risk-adjusted exposure of $8,200.00 and amounts to approximately 24% of the maximum potential exposure ($10,000.00 ÷ $41,000.00).

40. **Experience/Qualifications:** I received my bachelor's degree with honors from the University of California, Riverside and my Juris Doctor degree from Monterey College of Law. I was admitted to the State Bar of California in 2012. My primary practice has been employment law throughout my legal career. Beginning in 2012, I practiced employment litigation and counseling and general civil litigation at Bohnen, Rosenthal & Kreeft in Monterey California, the same firm at which I had been employed in various litigation support staff roles during the preceding four years. As an associate at Bohnen, Rosenthal & Kreeft, I represented both plaintiffs and defendants in wage and hour class action cases. In January 2016, I continued my employment practice at the Salinas-based firm of L+G, LLP (now JRG Attorneys at Law), representing both public and private employers and employees. From July 2016 through January 2020, I practiced primarily employer-side employment litigation and counseling as an associate at Fenton & Keller in Monterey, California. Since January 2020, I have been an associate attorney at Fitzpatrick & Swanston, where I practice labor and employment litigation, primarily Plaintiff-side class and representative actions.

41. Over the past 12 years, I have litigated numerous wage and hour class actions, both as counsel for the plaintiff(s)/class and as defense counsel, and I have been certified as class counsel in numerous wage and hour class actions in California. The firm currently has wage and hour cases in Alameda County Superior Court, Monterey County Superior Court, Nevada County Superior Court, Santa Clara Superior Court, San Benito Superior Court, San Bernardino County Superior Court, San Joaquin County Superior Court Santa Cruz Superior Court, Ventura County Superior Court, and the United States District Courts for the Eastern and Northern District of California.

42. **The Settlement Administrator's Fees Should be Approved:** The Parties have agreed to an estimated payment of $1,500.00 to the Settlement Administrator, Phoenix Settlement Administrators, to send notices and administer this settlement, which shall be paid out of the Gross Settlement Amount. Phoenix Settlement Administrators is a well-recognized class action settlement administrator and submitted the lowest bid of the two potential settlement administrators solicited by Plaintiff's Counsel. The Parties believe that the administration fee is reasonable and should be approved.

43. The total settlement administration cost of $1,500—equating to $93.75 per aggrieved employee—is reasonable and appropriate given the size and nature of this case. While the per-person cost is higher than in large-scale class actions, this is expected in a representative PAGA action with only 16 aggrieved employees, where fixed administrative tasks (including notice preparation with Spanish translation, payment distribution, tracking, and reporting) do not scale proportionally with group size. The selected administrator's fee is within the standard range for small-group wage and hour settlements in California and reflects a fair and efficient use of settlement funds under the circumstances.

44. **Notice to the LWDA Has Been Provided:** Plaintiff uploaded the instant motion, the Settlement Agreement, and Proposed Order to the LWDA's portal. Attached hereto as **Exhibit B** is a true and correct copy of the LWDA submission confirmation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and if called as a witness I could and would competently testify to each of the matters stated herein, and I state that these matters are based upon my own personal knowledge acquired through first-hand observation, except where stated otherwise. This declaration was executed by me on July 9, 2025, in Salinas, California.

____
Laura L. Franklin

EXHIBIT A

EXHIBIT B

PROOF OF SERVICE

I am employed in the County of Monterey, State of California. I am over the age of 18 and not a party to the within action; my business address is FITZPATRICK & SWANSTON, 555 S. Main Street, Salinas, California 93901.

On the date written below, I served the foregoing document(s), described as **DECLARATION OF LAURA L. FRANKLIN IN SUPPORT OF PLAINTIFF'S MOTION TO APPROVE SETTLEMENT AGREEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT**

on the interested parties in this action as indicated below and by the following means:

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xx________________ **(BY ELECTRONIC SERVICE)** Pursuant to CCP § 1010.6 and Cal. Rules of Court, Rule 2.251, I caused the document(s) to be served, addressed to the person(s) at the e-mail address(es) listed above. I did not receive within a reasonable time after e-service, any electronic message or other indication that e-service was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 9, 2025, at Salinas, California.

/s/ Josie Favila
____
Josie Favila