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County of Alameda

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA – UNLIMITED JURISDICTION

MARY LYN TEODORO,

Plaintiff,

vs.

SILVERMAN & LIGHT, INC., a California
Corporation; CHRIS SILVERMAN, an
Individual; CARROLL BURDETT, an
Individual; and DOES 1 – 10, inclusive,

Defendants.

CASE NO.: 24CV063449

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR ORDER APPROVING PAGA
SETTLEMENT**

Reservation No. 431635626722

[Filed concurrently with Notice of Motion and
Motion; Declaration of Joe Bautista in Support of
Motion; Proposed Order]

Date: April 23, 2025

Time: 3:00 p.m.

Dept.: 17

Complaint Filed: February 9, 2024

Trial Date: January 19, 2026

Assigned for all Purposes to the
Honorable Sarah Sandford-Smith (Dept. 17)

1 **I. INTRODUCTION AND STATEMENT OF FACTS**

2 **A. Introduction**

3 Silverman & Light, Inc. (“Silverman & Light”) is an engineering and lighting consulting
4 firm headquartered in Emeryville, California. Defendant Chris Silverman is Silverman & Light’s
5 Chief Executive Officer and owner (“Silverman”), and Defendant Carole Burdett is Silverman &
6 Light’s Financial Officer (“Burdett”) (collectively “Defendants”). Mary Lyn Teodoro (“Teodoro”)
7 worked as an office manager at Silverman & Light from August 1, 2022 until February 15, 2023,
8 when she was terminated.

9 Representative Plaintiff Mary Lyn Teodoro moves this Court for an order approving the
10 settlement of Plaintiff’s representative claims under the Private Attorneys General Act of 2004
11 (“PAGA”), Labor Code section 2698, *et seq.*¹ Pursuant to Labor Code section 2699, this proposed
12 settlement must be approved by the Court. (Lab. Code § 2699(s)(2), former subd. (l)(2).)

13 The settlement before this Court was reached after significant pre-resolution informal
14 discovery, extensive negotiations, and mediation before Michael J. Loeb, Esq. of ADR Services,
15 Inc. As demonstrated below, the proposed settlement warrants the Court’s approval, and Plaintiff
16 respectfully seeks an Order approving the settlement.

17 **B. Procedural History**

18 On November 8, 2023, Plaintiff notified the California Labor and Workforce and
19 Development Agency (“LWDA”) and served via certified mail upon Defendants notice of
20 Defendants’ violations pursuant to Labor Code section 2699.3. (Declaration of Joe Bautista
21 (“Bautista Dec.”) ¶ 2.) That same day, Plaintiff timely filed a complaint with California’s Civil
22 Rights Department and received a Right to Sue with respect to her claims under the California Fair
23 Employment and Housing Act (“FEHA”) (Gov. Code § 12900, *et seq.*) (Bautista Dec. ¶ 3.) On
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25
26 ¹ This action was filed on February 9, 2024. As the filing date was prior to June 19, 2024, the
27 provisions of Labor Code Section 2699(v) limiting the applicability of the changes made to section
28 2699 by AB 2288 apply. Accordingly, the 2022 version of PAGA Statutes apply. (Lab. Code §
2699(v); 2024 Cal AB 2288; *Stone v. Alameda Health System* (2024) 16 Cal.5th 1040, 1075 fn 18.)

February 9, 2024, Plaintiff filed her complaint in Alameda Superior Court against Defendants.
(Bautista Dec. ¶ 4.)

C. Summary of Plaintiff's Individual Claims

In addition to her representative claims, Ms. Teodoro's complaint alleged the following causes of action in her individual capacity:

- Discrimination on the basis of her disability and/or medical condition (Gov. Code § 12940(a));
- Failure to provide a reasonable accommodation for Plaintiff's known physical disability and/or medical condition (Gov. Code § 12940(m)(1));
- Failure to engage in a timely, good faith, interactive process with Plaintiff to determine effective reasonable accommodations for her disability and/or medical condition (Gov. Code § 12940(n));
- Retaliation against Plaintiff for requesting a reasonable accommodation for her disability and/or medical condition (Gov. Code § 12940(m)(2));
- Breach of Contract on the basis that Defendant Silverman & Light breached its contractual obligations to Plaintiff;
- Failure to Pay Minimum Wages;
- Failure to Pay Overtime Wages;
- Failure to Provide Rest Periods;
- Failure to Provide Meal Periods;
- Failure to Reimburse;
- Failure to Reimburse Failure to Provide Accurate Wage Statements; and
- Failure to Pay Wages Due at Termination.

D. Summary of Plaintiff's PAGA Claims

With respect to her representative claims, Plaintiff asserted wage and hour claims individually and on behalf of all similarly situated aggrieved employees of Defendant Silverman &

1 Light. Plaintiff seeks to recover unpaid wages and civil penalties under PAGA. Plaintiff's complaint
2 alleged the following substantive claims under PAGA:

- 3 • Failure to Pay Minimum Wages;
- 4 • Failure to Pay Overtime Wages;
- 5 • Failure to Provide Rest Periods;
- 6 • Failure to Provide Meal Periods;
- 7 • Failure to Reimburse;
- 8 • Failure to Reimburse Failure to Provide Accurate Wage Statements; and
- 9 • Failure to Pay Wages Due at Termination.

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11 **E. Relevant Time Period**

12 As noted above, Plaintiff notified the LWDA on November 8, 2023. Accordingly, the date
13 on which the statute of limitations commenced is November 8, 2022, as the limitations period for a
14 PAGA claim extends back one (1) year from the date the PAGA notice was submitted to the LWDA
15 and served on Defendants. Plaintiff's PAGA claims covers Defendants' former and current
16 employees who worked from November 8, 2022 to the present.

17 **F. Plaintiff's Counsel's Investigation**

18 Plaintiff and Defendants agreed to informal pre-litigation and pre-mediation discovery as
19 part of the investigation of Plaintiff's claims and Defendants' defenses. (Bautista Dec. ¶ 5.) This
20 informal discovery contained payroll, timekeeping and other employment data pertaining to
21 Defendants' current and former employees within the relevant time period, as well as documents
22 regarding Defendants' employment practices. (*Id.*) This information allowed Plaintiff to determine
23 the size of the class of aggrieved employees², as well as the strength and value of the PAGA claim.

24 ///

25 ///

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27 ² There are 24 aggrieved former and current employees, including the Plaintiff.
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1 **G. Settlement Negotiations**

2 The proposed settlement is a result of extensive negotiations that began in November 2023
3 and culminated in a mediation held on November 7, 2024. (Bautista Dec. ¶ 6.) The mediation was
4 successful and the parties have agreed to resolve Plaintiff’s individual claims and the claims brought
5 by Plaintiff on behalf of other aggrieved employees, conditioned upon this Court’s approval of the
6 PAGA portion of the settlement. (Bautista Dec. ¶ 7.) A settlement conditioned upon court approval
7 was executed on December 25, 2024. (*Id.*) The California Labor and Workforce and Development
8 Agency was notified of this application for approval on February 21, 2025 at the same time this
9 motion was filed with the Court. (Bautista Dec. ¶ 10.)

10 **H. Summary of the Proposed PAGA Settlement**

11 **1. Settlement Sum and Allocation**

12 To resolve Plaintiff’s PAGA claim against Defendants, the parties have agreed to the
13 following:

14 A payment of Ten Thousand Dollas and Zero Cents (\$10,000.00) for the settlement
15 of the PAGA Claim asserted in the Action, for payments to the Aggrieved
16 Employees including Plaintiff and to the State of California, and for attorneys’ fees,
17 litigation costs, and administration costs under the California Labor Code Private
18 Attorneys General Act of 2004 (“PAGA”) (hereinafter “the Gross Settlement
19 Amount” or “GSA”). The Gross Settlement Amount shall be all-in with no
20 reversion to Defendants. (Bautista Dec. ¶ 8.)

21 The parties have agreed to a distribution of the gross settlement amount as follows:

- 22 • Payment to the Labor and Workforce Development Agency of Three Thousand Four
23 Hundred Eighty-Eight Dollars and Fifty Cents (\$3,488.50), an amount which
24 represents 75% of the \$4,651.33 in penalties (net settlement amount) paid by
25 Defendants;
26 • Payment to the Aggrieved Employees in the amount of One Thousand One Hundred
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Sixty-Two Dollars and Eighty-Three Cents (\$1,162.83), an amount which represents 25% of the \$4,651.33 in penalties (net settlement amount) paid by Defendants;

- Payment to the settlement administrator in the amount of One Thousand Nine Hundred Fifty Dollars and Zero Cents (\$1,950.00) for administration and distribution of the settlement payments to the aggrieved employees; and
- Payment of attorneys' fees in the amount of Three Thousand Dollars and Zero Cents (\$3,000.00) and payment of Three Hundred Ninety-Eight Dollars and Sixty-Seven Cents (\$398.67) in litigation costs (which is less than the lodestar and expenses incurred).

(Bautista Dec. ¶ 8.)

2. Scope of the Release

The Settlement would release PAGA claims for all current and former hourly or non-exempt employees that worked for Defendants from November 8, 2023 until the date on which the Court enters an order and judgment approving the Settlement ("Aggrieved Employees"). (Bautista Dec. ¶ 8.)

In exchange for the payments described above, Plaintiff, the State of California, and the Aggrieved Employees will release Defendants from liability for all claims for civil penalties related to PAGA. The proposed release will release the following claims:

all claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA that arose during the PAGA Period, that were alleged in the Action and PAGA Claim, including but not limited to the following claims: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime and/or double time wages owed; (c) failure to pay all overtime and/or double time wages owed at the correct rate(s) of pay due to bonus payments, incentive compensation, or otherwise; (d) failure to provide compliant meal periods, or premium pay for non-compliant meal periods; (e) failure to authorize and permit complaint rest periods, or premium pay

1 for non-complaint rest periods; (f) failure to provide accurate, itemized wage
2 statements; (g) failure to timely pay wages during employment and/or upon
3 separation of employment; (h) failure to reimburse for all necessary business expenses; (i)
4 failure to indemnify for business losses; (j) failure to comply with IWC Wage Orders; (k)
5 failure to provide one day of rest per workweek; (l) all claims for PAGA penalties
6 that could have been premised on the facts, claims, causes of action or legal
7 theories described above; (m) failure to provide paid sick time; (n) failure to implement a
8 lawful alternative workweek schedule through a secret ballot election; and (o) all other
9 claims under PAGA that could have been premised on the facts, claims, causes of
10 action or legal theories described above and in the complaint, including but not
11 limited to California *Labor Code* sections §§ 98.6, 201, 202, 203, 204, 210, 218.5,
12 218.6, 226, 226(a), 226.3, 226.7, 245, 245.6, 246, 246.5, 510, 511, 512, 558, 558.1,
13 1174(d), 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802, 2698, *et seq.*,
14 and IWC Wage Order No. 4-2001.

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16 (Bautista Dec. ¶ 8.)

17 **II. THE PAGA SETTLEMENT IS REASONABLE AND SHOULD BE APPROVED**

18 **A. PAGA Overview**

19 The PAGA allows aggrieved employees, on behalf of the LWDA and other aggrieved
20 employees, to bring suit against their employers for alleged violations of the California labor laws
21 and to obtain penalties that, prior to PAGA, could only be obtained by the State. The California
22 Legislature, in enacting PAGA, determined that it was “in the public interest to allow aggrieved
23 employees, acting as private attorneys general, to recover civil penalties for Labor Code violations,”
24 since the State had not been able to fully or adequately enforce its labor laws. (*Arias v. Superior*
25 *Court* (2009) 46 Cal.4th 969, 980; *see also Ochoa-Hernandez v. Cjaders Foods, Inc.* (N.D. Cal.
26 2010) 2010 U.S. Dist. LEXIS 32774, *12 (“The act’s declared purpose is to supplement
27 enforcement actions by public agencies, which lack adequate resources to bring all such actions
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1 themselves. Unlike class actions, these civil penalties are not meant to compensate unnamed
2 employees because the action is fundamentally a law enforcement action” [citations omitted].)

3 Labor Code Section 2699(a) states that any Labor Code provision “that provides for a civil
4 penalty to be assessed and collected by the [LWDA] may, as an alternative, be recovered through a
5 civil action brought by an aggrieved employee on behalf of himself or herself and other current or
6 former employees pursuant to the procedures specified in Section 2699.3.” (Lab. Code § 2699(a).)
7 An “aggrieved employee” means “any person who was employed by the alleged violator and against
8 whom one or more of the alleged violations was committed.” (Lab. Code § 2699(c).) Prior to
9 commencing an action, the allegedly aggrieved employee must provide notice to the LWDA and the
10 employer setting forth the “specific provisions of [the Labor Code] alleged to have been violated,
11 including the facts and theories to support the alleged violation.” (Lab. Code § 2699.3(a)(1).) If the
12 LWDA decides not to investigate the allegations or issue a citation to the employer, the proposed
13 representative plaintiff is entitled to commence a PAGA action after 65 days. (Lab. Code §
14 2699.3(a)(2).)
15

16 The California Supreme Court has explained that a plaintiff who brings a PAGA claim
17 “represents the same legal right and interest as state labor law enforcement agencies” and brings
18 PAGA claims “as the proxy or agent” of the State. (*Arias, supra*, 46 Cal.4th at 986.) Of the civil
19 penalties recovered, 75 percent (75%) goes to the LWDA, and the remaining 25 percent (25%) goes
20 to the aggrieved employees for collecting the penalties on behalf of the State. (Lab. Code § 2699(m),
21 former subd. (i)); *see also Baumann v. Chase Inv. Servs. Corp.* (9th Cir. 2014) 747 F. 3d 1117, 1123
22 fn 15 (PAGA representative’s recovery is “an incentive to perform a service to the state, not
23 restitution for wrongs done to members of the class”).)

24 **B. Class Action Settlement Standards do not Govern the Settlement Approval**
25 **Process for PAGA Claims**

26 In class action cases, the decision to approve a proposed class action settlement lies within
27 the trial court’s discretion and trial courts consider a number of well recognized factors in evaluating
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1 the reasonableness of a settlement, including “the strength of plaintiffs’ case, the risk, expense,
2 complexity and likely duration of further litigation, the risk of maintaining class action status
3 through trial, the amount offered in settlement, the extent of discovery completed and the stage of
4 the proceedings, the experience and views of counsel, the presence of a governmental participant,
5 and the reaction of the class members to the proposed settlement.” (*Kullar v. Foot Locker Retail,*
6 *Inc.* (2008) 168 Cal.App.4th 116, 128.) Once the court is satisfied that a proposed class action
7 settlement meets this standard, class members receive notice as directed by the court, and the court
8 conducts a final approval hearing to inquire into the fairness of the proposed settlement. (*See* Cal. R.
9 Ct. 3.769(c), (e)-(f).)

10
11 By contrast, court approval of PAGA settlements is governed by section 2699(1) of the
12 Labor Code, which provides, in relevant part: “The court shall review and approve any penalties
13 sought as part of a proposed settlement agreement pursuant to this part.” (Lab. Code § 2699(s)(2),
14 former subd. (1)(2).) The Parties are not obligated to “satisfy class action requirements,” including
15 the standards for class action settlement approval. (*Arias*, *supra*, 46 Cal. 4th at 980-988 (affirming
16 lower court’s holding that “plaintiff need not satisfy class action requirements” to assert a PAGA
17 claim).)

18 Notably, unlike the class action settlement approval process, there is no statutory mechanism
19 for this Court to conduct a two-step settlement approval review. (Lab. Code § 2699(s)(2), former
20 subd. (1)(2).) In addition, “[u]nnamed employees need not be given notice of the PAGA claim, nor
21 do they have the ability to opt-out of the representative PAGA claim.” (*Ochoa-Hernandez*, *supra*, at
22 *13.)

23 **C. The Proposed PAGA Settlement is Reasonable and Effectuates PAGA’s**
24 **Objectives**

25 The Court’s focus in reviewing a proposed PAGA settlement is not the amount that
26 “aggrieved employees” will ultimately receive as a result of a settlement, but instead, on whether the
27 total settlement amount achieves PAGA’s objectives. Under PAGA, the penalties recovered are
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1 meant to supplement agency funding for education and enforcement purposes. (*See* Lab. Code §
2 2699(m), former subd. (i).) Here, the Settlement provides a recovery to be distributed to the State
3 and the aggrieved employees, and thus the Settlement effectuates PAGA’s purpose.

4 Additionally, the proposed PAGA settlement is fair, adequate, and reasonable because the
5 settlement reflects the informed views of experienced counsel and was the product of serious, arms-
6 length negotiations conducted over a period of months and after investigation, discovery and
7 mediation. (*Hernandez v. Dutton Ranch Corp.* (N.D. Cal. 2021) 2021 U.S. Dist. LEXIS 212745, at
8 *14.) Furthermore, given the limited number of aggrieved employees and the fact that Plaintiff’s
9 complaint primarily seeks relief for Plaintiff’s individual claims, the Parties’ agreed-upon allocation
10 of settlement proceeds is fair and reasonable.

11 The Settlement is also consistent with the State’s public policy favoring resolution of
12 disputes. “California law favors the settlement of disputes as our high court clarified in *Neary*[].
13 Settlement is efficient; it reduces costs, saves resources, and minimizes court congestion. [] The
14 parties are best positioned to understand their interests and resolve a dispute in a mutually beneficial
15 manner without court intervention into the settlement.” (*Consumer Advocacy Group, Inc. v. Kintetsu*
16 (2006) 141 Cal.App.4th 46, 62-63 (citing *Neary v. Regents of Univ. of Cal.* (1992) 3 Cal.4th 273,
17 277- 278).)

18 Finally, the Settlement accomplishes PAGA’s objectives in that it puts California businesses
19 on notice that they will be held liable for potential violations of the California Labor Code. (*See*
20 *Baumann v. Chase Inv. Servs. Corp., supra*, 747 F.3d 1117 at 1123 (PAGA actions “primarily seek
21 to vindicate the public interest in enforcement of California’s labor law”); *See also O’Connor v.*
22 *Uber Techs, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1132 (noting that deterring noncompliance
23 with the Labor Code is one of PAGA’s objectives).)
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1 **D. The Distribution Formula is Appropriate**

2 The distribution formula proposed by the Parties is also appropriate. Section 2699 instructs
3 that of the civil penalties recovered, 75 percent (75%) goes to the LWDA, and the remaining 25
4 percent (25%) goes to the aggrieved employees. (Lab. Code § 2699(m), former subd. (i).)

5 Here, the gross settlement amount of Ten Thousand One Hundred Dollars and Zero Cents
6 (\$10,000.00) will be used to pay penalties to the LWDA, the Aggrieved Employees, the settlement
7 administrator, and attorneys' fees and costs. (Bautista Dec. ¶ 8.) The total cost of the settlement
8 administrator and attorneys' fees and costs is Five Thousand Three Hundred Forty-Eight Dollars
9 and Sixty-Seven Cents (\$5,348.67), leaving a net settlement amount of Four Thousand Six Hundred
10 Fifty-One Dollars and Thirty-Three Cents (\$4,651.43). (*Id.*) Three Thousand Four Hundred Eighty-
11 Eight Dollars and Fifty Cents (\$3,488.50) of the net settlement amount, which represents 75 percent
12 (75%) of the net settlement amount, will be sent to the LWDA. (*Id.*) One Thousand One Hundred
13 Sixty-Two Dollars and Eight-Three Cents (\$1,162.83), which represents 25 percent (25%) of the net
14 settlement amount, will be allocated to the aggrieved employees. (*Id.*) Each of the aggrieved
15 employees will receive a prorated share of the penalties allotted to aggrieved employees based on
16 the duration of their employment with Defendants. (*Id.*) This allocation formula is fair and
17 reasonable and accounts for the length of each aggrieved employees' tenure with Defendants.
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19 **E. The Scope of the Release is Appropriately Limited**

20 If approved, the Settlement will release Defendants and other releasees from all PAGA
21 claims related to claims under PAGA that could have been premised on the facts, claims, causes of
22 action or legal theories alleged in the complaint. Apart from Plaintiff, who is executing a general
23 release, the Settlement will not impact any other employee's ability to pursue individual non-PAGA
24 Labor Code claims. Because an aggrieved employee's PAGA action is a substitute for an action
25 brought by the government, "judgment in [a PAGA] action is binding not only on the named
26 employee plaintiff but also on government agencies and any aggrieved employee not a party to the
27 proceeding." (*Arias, supra*, 46 Cal.4th at 986.) However, "the nonparty employees, because they
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1 were not given notice of the action or afforded any opportunity to be heard, would not be bound by
2 the judgment as to remedies other than civil penalties.” (*Id.* at 987; *see also* Lab. Code § 2699(k)(1),
3 former subd. (g)(1) (non-party aggrieved employees retain all rights “to pursue or recover other
4 remedies available under state or federal law, either separately or concurrently with an action taken
5 under this part”).)

6 Accordingly, the PAGA Settlement Group Members will be subject to only a limited release
7 strictly confined to the statutory penalties available under PAGA. The release appropriately covers
8 only the PAGA claims brought by Plaintiff and those that could have been brought based on the
9 facts underlying Plaintiff’s complaint. The release is therefore appropriately tailored, and the limited
10 scope of the release supports approval.

11 **F. The Settlement Recognizes the Inherent Risk of Litigation**

12 Although Plaintiff is confident that she would prevail at trial, proceeding in litigation entails
13 significant risk given Defendants’ denial of liability and potential defenses. If Plaintiff were to
14 prevail, a recovery under PAGA could potentially be subject to substantial reduction. (Lab. Code §
15 2699(e)(2).)

16 **G. Attorney’s Fees and Costs are Reasonable**

17 Labor Code section 2699(g)(1) provides for the recovery of attorney’s fees and costs in any
18 successful action brought under PAGA. (Lab. Code § 2699(k)(1), former subd. (g)(1).) The
19 requested attorney’s fees of Three Thousand Dollars and Zero Cents (\$3,000.000) are thirty percent
20 (30%) of the gross settlement amount, which is reasonable and in line with the recovery authorized
21 by PAGA. (Bautista Dec. ¶ 9.) The requested costs of Three Hundred Ninety-Eight Dollars and
22 Sixty-Seven Cents (\$398.67) represents the filing fee with the LWDA and one-half of the costs
23 incurred by Plaintiff for filing the complaint and the jury fee deposit. (*Id.*) Plaintiff is not requesting
24 reimbursement of costs for mediation out of the PAGA settlement. (*Id.*)
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1 **III. RELIEF REQUESTED**

2 Plaintiff requests the following relief in accordance with the Parties' Stipulation, attached
3 hereto as Exhibit A:

- 4 1. Approval of the PAGA settlement as to Plaintiff and a mutual release of associated
5 costs pursuant to Labor Code section 2699(s)(2), former subd.(1)(2);
6 2. Setting an OSC re: dismissal sometime after July 1, 2025 when the terms of the
7 Agreement are to have been satisfied; and
8 3. Entry of the Proposed Order submitted with this motion.
9

10 **IV. CONCLUSION**

11 For the reasons stated above and the supporting documentation submitted with this motion,
12 Plaintiff respectfully submits that good cause exists for entry of the proposed order and requests that
13 the Court grant the relief requested herein. Should the Court grant the present motion, Plaintiff will
14 submit a copy of the Court's Order approving the settlement in this action to the LWDA within ten
15 (10) days after its entry.

16 Dated: February 21, 2025

SEIBERT • BAUTISTA • MONTOYA

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19 Joe Bautista

20 Attorneys for Plaintiff Mary Lyn Teodoro
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