

1 John K. Landay (257573)
2 jlanday@landayroberts.com
3 **LANDAY ROBERTS LLP**
4 600 W. Broadway, Suite 700
5 San Diego, CA 92101
6 Tel: (619) 230-5712

7 Attorneys for Plaintiffs David Harris, Khaleehan
8 Curtis, Marisol Olivera, and Fabiola Delgado

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF RIVERSIDE**

11 David Harris, an individual; Khaleehan
12 Curtis, an individual; Marisol Olivera, an
13 individual; and Fabiola Delgado, an
14 individual, individually and on behalf of all
15 similarly situated and aggrieved employees of
16 Defendants in the State of California,

17 Plaintiffs,

18 vs.

19 Colony Palms, LLC, a California limited
20 liability company, and DOES 1 through 10,
21 inclusive

22 Defendants.

Case No. CVPS2400946

**DECLARATION OF WADDY
STEPHENSON IN SUPPORT OF
PLAINTIFF FABIOLA DELGADO'S
MOTION TO APPROVE (1) PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AND (2) CLASS ACTION
SETTLEMENT**

Date: December 10, 2026
Time: 8:30 A.M.
Dept: 1
Judge: Hon. Harold Hopp

Complaint Filed: February 14, 2024
Trial Date: Not Set

1 I, Waddy Stephenson, Esq. do hereby declare and state as follows:

2 1. I am over the age of eighteen.

3 2. I make this declaration of my own personal knowledge and, if called upon to testify,
4 could and would competently testify to the facts set forth herein below.

5 3. I have been licensed to practice law in California for fifteen years and am of counsel
6 with Landay Roberts, LLP, counsel for Plaintiffs in the above-captioned matter. My practice
7 includes wage-and-hour litigation, and I personally performed the damages and penalty analysis
8 described below.

9 **PROCEDURAL HISTORY**

10 4. On February 14, 2024, Plaintiff David Harris filed a complaint in the Superior Court
11 of California, County of Riverside against Colony Palms alleging individual labor code violations,
12 seeking actual, statutory, liquidated, and special damages. *Harris et al. v. Colony Palms*, Case
13 Number CVPS2400946.

14 5. On October 28, 2024, Plaintiff David Harris amended that complaint, adding named
15 Plaintiffs Marisol Olivera, Fabiola Delgado, and Khaleehan Curtis, each of whom alleged
16 individual claims against Colony Palms, and also added the PAGA Claims and the Class Action
17 Claims for (1) failure to pay minimum wage in violation of Labor Code §§ 1194, 1197, 1198; (2)
18 failure to pay overtime wage in violation of Labor Code §§ 510, 1194, 1198; (3) failure to provide
19 meal and rest periods in violation of Labor Code §§ 226.7, 512, 1198; (4) failure to reimburse
20 employee for necessary expenditures in violation of Labor Code § 2802; (5) failure to furnish
21 timely and accurate wage statements in violation of Labor Code § 226; (6) failure to timely pay
22 wages in violation of Labor Code § 204; and (7) failure to pay all wages due upon discharge in
23 violation of Labor Code §§ 201, 202. This first amended complaint is the operative complaint in
24 this action.

25 6. Colony Palms denies the allegations in the Operative Complaint, denies any failure
26 to comply with the laws identified in the Operative Complaint, and denies any liability for the
27 causes of action alleged.

28 7. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written
29 notice to Colony Palms and the California Labor and Workforce Development Agency (“LWDA”)
30 by submitting the PAGA Notice through the LWDA’s online filing system, and by serving it on
31 Colony Palms by certified mail, on February 14, 2024. Attached as Exhibit 1 is a true and correct
32

1 copy of the PAGA Notice, together with proof of submission to the LWDA and proof of service
2 on Colony Palms. More than 65 calendar days elapsed after submission of the PAGA Notice, and
3 the LWDA did not provide notice of its intent to investigate the alleged violations. Because the
4 PAGA Notice was submitted before June 19, 2024, the pre-amendment version of PAGA governs
5 this action, including the 75%/25% allocation of civil penalties.

6 8. Concurrently with the filing of this Motion, the Settlement Agreement was
7 submitted to the LWDA in accordance with Labor Code section 2699, subdivision (1)(2). Attached
8 as Exhibit 5 is a true and correct copy of the confirmation of that submission.
9

10 **SETTLEMENT**

11 9. On February 3, 2026, the Parties participated in mediation presided over by Kevin
12 Barnes. Although the Parties did not reach a Settlement at mediation, they ultimately reached a
13 Settlement through subsequent negotiations with Mr. Barnes's continued assistance.

14 10. On August 31, 2026, Fabiola Delgado in her representative capacity, and Colony
15 Palms, LLC ("Defendant"), entered into the Agreement, subject to this Court's approval, to settle
16 the Private Attorney General Act ("PAGA") and class action claims in the above-captioned matter
17 on behalf of herself and approximately 254 other employees for \$150,000, the terms of which are
18 detailed in the *JOINT STIPULATION OF PAGA AND CLASS ACTION SETTLEMENT*
19 *AGREEMENT AND RELEASE* (hereinafter, the "Settlement Agreement") filed concurrently
20 herewith.

21 11. Of this amount, \$50,000 is allocated to the PAGA claims (the "PAGA Action
22 Settlement Amount") and \$100,000 is allocated to the class action claims (the "Class Action
23 Settlement Amount"). Settlement Agreement §§ 4.a-4.c. These amounts are based on Defendant's
24 estimate that its employees worked approximately 7,131 Pay Periods during the Settlement Period,
25 and will be increased by \$7.00 and \$14.00, respectively, for each additional Pay Period. *Id.* § 5.a.
26 No portion of the Gross Settlement Amount will revert to Defendant; any amount the Court
27 declines to award is added to the Net Settlement Amount and distributed to Employees. *Id.* §§
28 4.d.i-4.d.iii, 5.h. The Gross Settlement Amount shall be distributed as follows:
29

30 **Gross Settlement**

\$150,000

Attorneys' Fees	(\$50,000)
Litigation Expenses	(\$5,000)
Administration Fees	(\$7,500)
Class Representative Service Payment	(\$10,000)
Net Settlement	\$77,500
Net PAGA Settlement	\$25,833
PAGA Penalties to LWDA	\$19,375
PAGA Penalties to Aggrieved Employees	\$6,458
Net Class Action Settlement Amount	\$51,667

12. The Parties, Plaintiffs' Counsel, and Defendant's Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement Agreement. Another labor-related class action is pending in this Court, but it involves persons incorrectly classified as independent contractors. Such claims are not extinguished here. Attached as Exhibit 4 is a true and correct copy of the complaint filed in that action.

13. The parties arrived at the Settlement after extensive arm's-length negotiations, including a half-day mediation and subsequent settlement negotiations with the assistance of the mediator, and have considered all relevant factors, both present and potential.

14. Plaintiff and Plaintiff's Counsel are of the opinion that the Settlement is fair, reasonable, and adequate and in the best interests of Plaintiff, Class Members, and the Aggrieved Employees considering all known facts and circumstances and the risks inherent in litigation. The Settlement Agreement considers all relevant factors, including the risks, expense, and complexity of further litigation.

CASE EVALUATION

15. In preparation for the mediation, Defendant produced, and I reviewed and analyzed, time and payroll records covering approximately 207 pay periods (1,329 workdays) for a sample of five employees, the four named defendants and one additional employee. Defendant estimates that the total number of Pay Periods during the Settlement Period is 7,131. I analyzed the following claims:

- a. Failure to provide meal and rest periods in violation of Labor Code §§ 226.7, 512, 1198;
- b. Failure to pay minimum wage in violation of Labor Code §§ 1194, 1197, 1198;
- c. Failure to pay overtime wage in violation of Labor Code §§ 510, 1194, 1198;
- d. Failure to furnish timely and accurate wage statements in violation of Labor Code § 226
- e. Failure to timely pay wages in violation of Labor Code § 204; and
- f. Failure to pay all wages due upon discharge in violation of Labor Code §§ 201, 202.

16. The claims for (a) were analyzed under two scenarios – days in which an employee worked over five hours and was not provided a meal break at all, and days in which an employee worked over five hours and was provided a meal break.

17. For days when the employee received a meal break, the analysis examined whether the break was untimely and a premium wage was due. Based on the claims alleged, the analysis also treated all meal breaks as interrupted—that is, as time during which the employee remained under Defendant’s control—so the meal period was compensable and unpaid wages were also due.

18. The claims for (b) and (c) are derivative in nature, based on the claim that unpaid wages for the interrupted meal breaks violated minimum wage and overtime regulations.

19. The claims for (d), (e), and (f) are also derivative in nature, based on the same interrupted meal breaks and on the claims for premium wages for missing or non-compliant meal breaks.

20. Defendant maintained its payroll records in a computerized system that tracked when employees clocked in and out for meal periods and, for non-compliant or missing meal periods where the employee worked more than six hours, automatically added one hour of premium pay. A meal period is owed once an employee works more than five hours, but under Labor Code section 512 it may be waived by mutual consent where the shift does not exceed six

hours. Accordingly, of the 630 workdays on which a meal period was not provided or was non-compliant, premium pay was already paid for 252. On 365 of those 630 days, the employee worked six hours or less, so the meal period was waivable, and, if waived, no premium was owed.

21. Based on the above, the following is a summary of the analysis:

Meal Period Analysis

Pay Periods	207
Workdays	1329
Meal Period Not Required	363
Compliant Meal Periods Provided	336
Meal Periods Not Provided > Six Hours	236
Non-Compliant Meal Periods Provided	29
Premium Wages Paid	252
Meal Periods Not Provided <= Six Hours	365

22. Based on the above, the following is an estimate of the damages.

Unpaid Wages (Interrupted Meal Periods)	\$77,818
Liquidated Damages on Unpaid Wages	\$77,818
Premium Wages (Missing or Non-Compliant Meal Periods)	\$279,248
Statutory Damages on Inaccurate Wage Statements subject to Good Faith Defense	\$405,729
Waiting Time Penalties for Terminated Employees Subject to Good Faith Defense	\$426,505
Civil Penalties	\$2,224,710

23. The above assumes that every single meal period provided was interrupted and, thus, the employee was entitled to be paid for the meal period. The above also assumes that the employee did not waive any fifth-hour meal period.

24. Under Labor Code § 226, inaccurate wage statement statutory damages require that the employer's conduct be intentional and subject to a good faith defense. Plaintiff contends that

1 Defendant's employees were owed but not paid premium wages due to mostly fifth-hour meal
2 period violations and that all meal periods were interrupted. Defendant denies this contention and
3 denies that its conduct was intentional. Because fifth-hour meal breaks are waivable, a good-faith
4 dispute defense applies to whether its conduct was intentional.

5 25. Notably, under Labor Code § 203, waiting-time penalties require willful conduct
6 and are subject to a good-faith defense. Plaintiff contends that Defendant's employees were owed
7 but not paid premium wages due to mostly fifth-hour meal period violations and that all meal
8 periods were interrupted. Defendant denies this contention and denies that its conduct was willful.
9 Because fifth-hour meal breaks are waivable, a good-faith dispute defense applies to whether its
10 conduct was intentional.

11 26. Approximately fifty-three (53) employees were terminated during the Settlement
12 Period.
13

14 15 **ADMINISTRATION**

16 27. The Parties have agreed that Phoenix Class Action Administration Solutions (the
17 "Administrator") will administer the Settlement Agreement, the terms of which are identified in
18 the Settlement Agreement. The Administrator has quoted a fee not to exceed \$7,500.00 to
19 administer the Settlement. Attached as Exhibit 2 is a true and correct copy of that quote, and
20 attached as Exhibit 3 is a true and correct copy of the proposed Class Notice. Pursuant to the
21 Settlement Agreement:
22

- 23 a. The Administrator shall send the Class Notice to all Class Members.
- 24 b. After funding of the Gross Settlement Amount from Defendant is received, but in no
25 event sooner than the expiration of the Class Notice Response Deadline, the
26 Administrator will mail checks for all Individual PAGA Payments, Individual Class
27 Action Payments (collectively, the "Individual Payments"), the LWDA PAGA
28 Payment, the Administration Expenses Payment, the Counsel Expenses Payment, and
29 Plaintiff's Incentive Award. Disbursement of the Counsel Litigation Expenses Payment
30 shall not precede disbursement of Individual Payments.
31
32

- 1 c. The Administrator will issue checks for the Individual Payments and send them to the
2 Employees via First Class U.S. Mail, postage prepaid. The face of each check shall
3 prominently state the date (not less than 180 days after the mailing date) when the check
4 will be voided.
- 5 d. The Administrator will cancel all checks not cashed by the void date. Before mailing
6 any checks, the Settlement Administrator must update the recipients' mailing addresses
7 using the National Change of Address Database. Additionally, before sending the
8 Employee's Individual Settlement Checks, the Administrator must conduct a skip trace
9 through Accurant or substantially similar software. Along with the Individual
10 Payments, the settlement administrator will mail a brief letter explaining the settlement.
- 11 e. The Administrator must conduct an Employee Address Search for all Employees whose
12 checks are returned undelivered and who do not have a USPS forwarding address.
13 Within 7 days of receiving a returned check, the Administrator must remail the check
14 to the USPS forwarding address provided or to an address ascertained through the
15 Employee Address Search. The Administrator need not take further steps to deliver
16 checks to Employees whose re-mailed checks are returned as undelivered. The
17 Administrator shall promptly send a replacement check to any Employee whose
18 original check was lost or misplaced, upon the Employee's request prior to the void
19 date.
- 20 f. For any Employee whose Individual Payment check is uncashed and canceled after the
21 void date, the Administrator shall transmit the funds represented by such checks to the
22 California Controller's Unclaimed Property Fund in the name of the Employee.

23
24 I declare under penalty of perjury under the laws of the State of California that the foregoing is
25 true and correct.

26
27 Executed this ____ day of September 2026 at Escondido, California.

28
29 Dated:

By: _____
Waddy Stephenson