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ELECTRONICALLY FILED
Superior Court of California
County of Marin
08/07/2025

James M. Kim, Clerk of the Court
By: J. Miller, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MARIN**

ARBAK MKHITARYAN, individually, and
on behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act;

Plaintiff,

vs.

NAUTILUS HYOSUNG AMERICA, INC.,
a Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: CV0002545

Honorable Andrew E. Sweet
Department E

**DECLARATION OF ANI MENEDJIAN IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND
RELEASE, AWARD OF ATTORNEYS'
FEES AND COSTS, INDIVIDUAL
RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act Settlement
Agreement and Release, Attorneys' Fees and
Costs, Individual Release Fee, and Settlement
Administration Costs; and Declaration of Plain-
tiff (Arbak Mkhitarian) filed concurrently here-
with]

Reservation ID:
Hearing Date: 11/07/2025, 2025
Hearing Time: 1:30
Department: E

Complaint Filed: April 12, 2024
Trial Date: None Set

**DECLARATION OF ANI MENEDJIAN IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF
PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE, AWARD OF
ATTORNEYS' FEES AND COSTS, INDIVIDUAL RELEASE FEE, AND SETTLEMENT
ADMINISTRATION COSTS**

DECLARATION OF ANI MENEDJIAN

I, **Ani Menedjian**, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Arbak Mkhitarian (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief and, if called as a witness, I could and would competently testify thereto.

LITIGATION AND REPRESENTATIVE AND CLASS ACTION EXPERIENCE

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, Lawyers *for* Justice, PC is the attorney of record in well over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. Lawyers *for* Justice, PC has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. In association with other law firms, Lawyers *for* Justice, PC, sometimes in association with other law firms, has recovered millions of dollars on behalf of thousands of individuals in California.

3. Edwin Aiwarzian is a Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the Ninth

1 Circuit. From approximately June 2002 to approximately August 2002, he served as a Judicial
2 Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second
3 Appellate District. In December of 2004, he obtained a license to practice law from the
4 California State Bar. Since in or around October of 2008, through his work at Lawyers *for*
5 Justice, PC, he has almost exclusively focused on the prosecution of consumer and employment
6 class actions. While employed by Lawyers *for* Justice PC, he has argued over one hundred (100)
7 motions, taken or defended over one hundred fifty (150) depositions, prepared dozens of expert
8 witnesses for deposition or trial, and attended over one hundred seventy-five (175) mediations.
9 Together with other attorneys at the firm, and in some cases in conjunction with co-counsel, he
10 has successfully litigated cases involving the executive, administrative, and other overtime
11 exemptions to the State of California and federal overtime compensation requirements. Under
12 his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by
13 contested motion practice in approximately sixteen (16) cases in the last decade, and litigated
14 over 1,000 class action or representative action cases.

15 4. Arby Aiwarzian is a Member and Shareholder of Lawyers for Justice, PC. He
16 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
17 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
18 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to
19 the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate
20 District. From approximately August 2008 to approximately December 2008, he served as a
21 Judicial Extern to the Honorable Kim McLane Wardlaw of the United State Court of Appeals
22 for the Ninth Circuit. He was admitted to practice law in California in 2010 and was admitted
23 to practice before all courts of the State of California and all United States District Courts in the
24 State of California. He has worked on many wage-and-hour class action and representative
25 action cases, taken the lead in taking and defending depositions, arguing motions, and attending
26 mediations. He played an integral role in preparing matters for class certification, including and
27 not limited to, successful certification of a class in *Upson v. Sur La Table* (Los Angeles County
28 Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County

1 Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County
2 Superior Court Case No. RG13680477). Under his supervision, dozens of class action or
3 representative action cases have resulted in settlements that have been granted court approval.
4 He has handled over one hundred and fifty (150) mediations and worked on over two hundred
5 and fifty (250) class action or representative action cases, which have resulted in settlement.

6 5. Joanna Ghosh is a Managing Member of Lawyers for Justice, PC. She received a
7 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
8 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
9 Georgetown University Law Center in 2010. She is admitted to practice in California (since
10 2010) and in New York (since 2013) and is also admitted to practice in all U.S. District Courts
11 in California, the U.S. Bankruptcy Court for the Central District of California, and the U.S.
12 Supreme Court. She has taken and defended dozens of depositions and successfully handled
13 motion practice in class action cases regarding discovery (including and not limited to, regarding
14 class contact information), class certification (both contested class certification and stipulated
15 class certification), arbitration agreements, coordination, and intervention. She has successfully
16 handled briefing and oral argument on appeal and obtained notable decisions regarding the
17 Private Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v.*
18 *Prudential Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal.,
19 May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175
20 (2019). She has significant experience with class actions, including and not limited to working
21 on cases to obtain class certification through contested motion practice and working on cases in
22 the post-certification stage (e.g., post-certification discovery, appeal, statistical sampling and
23 pilot study, and trial preparation in conjunction with co-counsel in a case involving a certified
24 class consisting of approximately 2,600 individuals). She also has extensive experience with
25 class action and/or representative action settlements, and has handled this process in over three
26 hundred (300) cases. Under her, Edwin Aiwazian, Arby Aiwazian's supervision, Lawyers for
27 Justice, PC has handled the class certification and court approval process for hundreds of class
28 action and/or representative action matters that have successfully resolved. She is a member of

1 the California Employment Lawyers Association and, on several occasions, has been a speaker
2 regarding topics in wage and hour law at the organization's continuing legal education events.

3 6. Elizabeth Parker-Fawley is the Senior Director of Litigation at Lawyers *for*
4 Justice, PC. She earned her Bachelor of Arts in History at Chapman University in 2011 and her
5 Juris Doctor from the UCLA School of Law in 2014. In December 2014, she obtained a license
6 to practice law from the California State Bar. She is admitted to practice in all courts in the State
7 of California, as well as the Central, Southern, Northern, and Eastern District Courts of
8 California and the Ninth Circuit Court of Appeal. Since December 2014, she has worked at
9 Lawyers *for* Justice, PC, and her practice has almost exclusively focused on the prosecution of
10 employment class actions and representative actions, handling cases in all stages of litigation
11 from initial pleadings to assisting with class action trial matters, attending mediations, and
12 preparing class action settlements. In her role, she oversees approximately between 15 and 25
13 attorneys working on hundreds of employment class actions and representative actions and
14 provides internal training for our litigation practice group and post-bar law clerks. In addition,
15 she oversees the litigation practices of the firm, reviews and advises attorneys on work product
16 and practices, provides training, and supervises cases from their inception to final accounting.
17 She is a member of the California Lawyers Association Labor & Employment Group and the
18 California Employment Lawyers Association.

19 7. I am a member of Lawyers *for* Justice, PC. I received my Bachelor of Arts in
20 English from the University of La Verne in 2019, and I earned my Juris Doctor degree from
21 Southwestern Law School in 2024. In February 2025, I obtained a license to practice law from
22 the California State Bar. I am admitted to practice before all courts of the State of California. I
23 have worked on many wage-and-hour class action and PAGA representative cases, and my work
24 on these cases has included preparing pleadings and motions, making court appearances, and
25 drafting and finalizing settlement agreements. I am a member of the Armenian Bar Association.

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THE LAWSUIT

8. Defendant is a manufacturer of Automated Teller Machines (ATMs) and Teller Cash Recyclers (TCRs) headquartered in Irving, Texas. Defendant offers distribution of ATMs for financial and retail industries, recycling, branch transformation, software solutions and maintenance services to customers across the United States. Plaintiff Arbak Mkhitarian is a former employee of Defendant.

9. Plaintiff has satisfied the prerequisites under California Labor Code section 2699.3(a), including, and not limited to, providing the California Labor and Workforce Development Agency ("LWDA") and the employer with written notice of the specific provisions of the California Labor Code that are alleged to have been violated, including the facts and theories to support the alleged violations, by way of written correspondence on behalf of Plaintiff Arbak Mkhitarian that was dated February 7, 2024 ("PAGA Notice"). The PAGA Notice was sent by U.S. Certified Mail to the employer and submitted to the LWDA by way of online submission on the LWDA's website. Aside from confirmation of receipt of the PAGA Notice, the LWDA did not respond to the PAGA Notice. A true and correct copy of the PAGA Notice is attached hereto as "EXHIBIT 2."

10. On April 12, 2024, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Operative Complaint") against Defendant in the Marin County Superior Court ("Court"), Case No. CV0002545 (the "Action").

11. Plaintiff's core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and other Aggrieved Employees, of, *inter alia*, for failure to pay minimum, regular, and overtime wages, to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802

1 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001
2 and 4-2001.

3 12. Defendant maintained, and continues to maintain, that it had, and continues to
4 have, legally-compliant employment policies and practices throughout the time period at issue.
5 Defendant denies that it ever violated any provision of the California Labor Code, including,
6 but not limited to, those sections for which Plaintiff seeks civil penalties under PAGA.

7 13. On September 6, 2024, Defendant filed its Notice of Petition and Petition to
8 Compel Arbitration; and Application to Stay Proceedings, and supporting documents.

9 14. On June 26, 2024, the Parties entered into a Joint Stipulation to Submit Individual
10 Claims to Arbitration.

11 THE SETTLEMENT REACHED IN THE ACTION

12 15. Marked and attached hereto as “EXHIBIT 1” is the Private Attorneys General
13 Act Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement
14 Agreement”), entered into between Plaintiff Arbak Mkhitarian, for himself and on behalf of the
15 State of California with respect to Aggrieved Employees pursuant to the Private Attorneys
16 General Act, and Defendant Nautilus Hyosung America, Inc. (“Defendant”). The Parties have
17 also drafted and agreed to the form and content of the proposed informational cover letter
18 (“Cover Letter”) for mailing to Aggrieved Employees when Individual Settlement Shares are
19 distributed to them, in substantially the form attached as “EXHIBIT A” to the [Proposed] Order
20 and Judgment Granting Approval of Private Attorneys General Act Settlement Agreement and
21 Release, Award of Attorneys’ Fees and Costs, Individual Release Fee, and Settlement
22 Administration Costs. The Court is respectfully requested to approve the proposed Cover Letter.

23 16. The Settlement pertains to the following allegedly aggrieved employees: to all
24 current and former hourly-paid or non-exempt employees who worked for Defendant in the
25 State of California during the PAGA Period (“Aggrieved Employees”). The “PAGA Period”
26 means the period from February 7, 2023 through May 25, 2025. Based on information provided
27 by Defendant, it is estimated that during the PAGA Period there are approximately 166
28 Aggrieved Employees who are credited with 5,560 Compensable Pay Periods.

17. Defendant has agreed to pay the gross amount of \$400,000.00 (“Total Settlement Amount”), subject to possible increase under Section 3(b) of the Settlement Agreement, to settle this matter. The Settlement Agreement provides that the “Net Settlement Amount” will be the Total Settlement Amount less the following amounts: (1) Attorneys’ Fees and Costs in the amount of \$140,000.00 for attorneys’ fees and up to \$20,000.00 for reimbursement of litigation costs and expenses to Lawyers for Justice, PC (“Plaintiff’s Counsel”); (2) Individual Release Fee in the amount of \$10,000.00 to Plaintiff; and (3) Settlement Administration Costs of up to \$4,000.00 to the PAGA Settlement Administrator. Plaintiff’s Counsel only seeks an award of reimbursement of litigation costs and expenses in the amount of \$9,201.18, and assuming that the requested Attorneys’ Fees and Costs, Individual Release Fee, and Settlement Administration Costs, are approved by the Court, the Net Settlement Amount is estimated to be approximately \$236,798.82. The Net Settlement Amount will be distributed to the LWDA and the Aggrieved Employees pursuant to California Labor Code section 2699(i). 75% of the Net Settlement Amount will be distributed to the LWDA, which is estimated to be \$177,599.12 (“LWDA Payment”), and 25% of the Net Settlement Amount, which is estimated to be \$59,199.71 (“Employees’ Portion”), will be distributed to the Aggrieved Employees on a *pro rata* basis, based upon the number of pay periods they each worked between February 7, 2023, through May 25, 2025 (“Compensable Pay Periods”). The parties have agreed to retain Simpluris, Inc. (“Simpluris” or “PAGA Settlement Administrator”) to handle the administration of the Settlement, and the Court is respectfully requested to appoint Simpluris to serve as the PAGA Settlement Administrator.

THE LITIGATION AND WORK PERFORMED BY PLAINTIFF’S COUNSEL

18. The effectiveness of Plaintiff’s Counsel, Lawyers for Justice, PC in prosecuting this case has translated into tangible monetary benefits for Plaintiff, Aggrieved Employees, and the State of California in the following respects: (1) their recoveries over a reasonably short period of time as opposed to waiting additional years for the same, or possibly, a worse, result; (2) a guaranteed result that compares favorably with other similar representative action settlements; and (3) significant savings in fees and costs which would have only increased

significantly had the case progressed through trial and/or appeals.

19. After engaging in extensive investigations, informal discovery, and exchange of information, data, and documents, the parties participated in extensive settlement discussions and negotiations to try to resolve the above-captioned lawsuit. These efforts included participating in a formal full-day mediation on February 24, 2025, conducted by Honorable Ronald Prager (Ret.), a well-respected mediator experienced in mediating complex labor and employment matters. With the aid of the mediator, the Parties reached the Settlement described herein. In the course of mediation and settlement discussions, the parties discussed all aspects of the case, including the risks and delays of further litigation and proceeding with trial, as well as the law relating to representative PAGA actions, off-the-clock theory, meal and rest periods, meal waivers, regular rate of pay calculations, reporting time pay, Industrial Welfare Commission Wage Orders, arbitration agreements, wage-and-hour enforcement, the evidence produced and analyzed, and the possibility of bifurcation of discovery and/or trial and appeals, among other things. During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.

20. Prior to reaching the Settlement, the parties investigated the veracity, strength, and scope of the PAGA claim and allegations, and were preparing for trial. Plaintiff conducted significant investigation and informal discovery and exchange of information, documents, and data regarding the facts of the case, including and not limited to, the review, consideration, and analysis of a volume of information, documents, and data obtained from Plaintiff, Defendant, and other sources. The information, documents, and data that were reviewed and analyzed by Plaintiff's Counsel included, and were not limited to, Plaintiff's employment records; a detailed sampling of Aggrieved Employees' time and pay data; Defendant's Employee Handbook; job descriptions; various forms, agreements, and acknowledgments (such as, Defendant's Acknowledgement of Receipt of Employee Handbook and Dispute Resolution Agreement); and Defendant's operations and employment practices, policies, and procedures (such as, Defendant's Reporting-Time Pay Policy, Pay Checks Policy, Timekeeping and Payroll Policy, Overtime Policy, On-Call Policy, Meal and Rest Periods Policy, Meal Period Waiver Policy,

Cellphone Policy, and Reimbursement Policy), among other documents. Counsel for the parties undertook significant investigation and evaluation of the PAGA claims and related allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. Other work performed by Plaintiff's Counsel included, but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, case management, discovery, arbitration, mediation, and settlement negotiations, among other issues; case strategy and analysis; researching, drafting, reviewing, and revising pleadings, court filings, motion-related papers (e.g., with respect to settlement approval motion papers), briefs for settlement negotiations and mediation, and the settlement agreement; claims evaluation and analysis; preparing for and participating in settlement negotiations and the mediation; and appearing for court proceedings. Counsel for the parties have further invested time to research the applicable law, which is evolving as it relates to representative PAGA action, off-the-clock theory, meal and rest periods, meal waivers, regular rate of pay calculations, reporting time pay, Industrial Welfare Commission Wage Orders, arbitration agreements, wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.

21. Based on investigation and information discovered, Plaintiff's Counsel believes that there is sufficient evidence to support the allegations that Defendant violated the California Labor Code. While Plaintiff's Counsel believes that the PAGA claim have merit and that Plaintiff will ultimately succeed in this litigation and prevail at trial, Plaintiff and Plaintiff's Counsel also recognize Defendant's defenses, the costs of further litigation, and multiple risks to recovery. For example, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff, including, and not limited to, the issues of non-compliant meal periods, non-compliant rest periods, and unreimbursed business expenses, raise individualized issues and/or are not suitable for adjudication as to a group of employees.

22. Plaintiff and his counsel have also considered the uncertainty and risk of the outcome of further litigation, including the difficulties and delays inherent in such litigation. In order to prevail on the PAGA claim, Plaintiff would have to prove that Defendant engaged in

the alleged California Labor Code violations and demonstrate that Defendant's conduct warrants the imposition of penalties.

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THE STRENGTHS AND WEAKNESSES OF THE PAGA CLAIM, AND THE RANGE OF POSSIBLE OUTCOMES

23. In order for Plaintiff to prevail on the PAGA claim, he would have to prove that Defendant engaged in the alleged California Labor Code violations and demonstrate that Defendant's conduct warrants the imposition of penalties. Furthermore, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff raise individualized issues and/or are not suitable for adjudication as to a group of employees.

24. From the inception of this litigation, Defendant indicated that it would aggressively litigate this case and contended that it would ultimately succeed in the action. Defendant maintained several defenses to Plaintiff's allegations, which, if successfully argued and proven, had the potential to eliminate or substantially reduce recovery. Throughout this litigation, Defendant maintained, and continues to maintain, that it did not engage in a uniform policy and systematic scheme of wage abuse against any of its employees, and that it had, and continues to have, legally-compliant employment policies and practices throughout the time period at issue. Defendant denies that it ever violated any provision of the California Labor Code. Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative adjudication for any purpose other than the Settlement.

25. Defendant also challenged Plaintiff's standing as an aggrieved employee and denied that any of its other employees, with respect to whom Plaintiff seeks to represent, are aggrieved. Also, multiple courts have taken an approach requiring a plaintiff to establish standing and face the possibility of bifurcation of discovery and/or trial of the PAGA claim. *See Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court*. (2009) 46th Cal.4th 993, 1001 (noting that PAGA "require[s] a plaintiff to have suffered an injury resulting from an unlawful action"); *Stafford v. Dollar Tree Stores, Inc.* (E.D. Cal. Nov. 21, 2014) 2014 WL

6633396, at *4 (finding that judicial economy supported bifurcation because of the difficulties and inherent uncertainties of being able to establish liability with respect to a large number of potentially aggrieved employees and noted that “PAGA’s public purpose would be ill-served if the court finds [the plaintiff] has not been aggrieved by a Labor Code violation”); *Grappo v. Coventry Fin. Corp.* (1991) 235 Cal.App.3d 496, 504 (Trial courts have “broad discretion to determine the order of proof in the interest of judicial economy”); *see also* Cal. Code Civ. Proc. § 598 (The court may “when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby, on motion of a party, after notice and hearing, make an order. . . that the trial of any issue or any part thereof shall precede the trial of any other issue or any part thereof in the case[.]”); Cal. Code Civ. Proc. § 1048(b) (Court can separate trial of any cause of action or of any separate issue in the interest of convenience or to avoid prejudice); Cal. Code Civ. Proc. § 2019.020(b) (Courts have the power to “establish the sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice”); *Horton v. Jones* (1972) 26 Cal.App.3d 952, 955 (stating that bifurcation and sequencing of litigation is allowed to avoid wasting time and money on trial when litigation of issues could be rendered moot).

26. Defendant pointed to case law that held that, given the derivative nature of the PAGA claim, it would stand or fall based on whether Plaintiff could successfully demonstrate the requisite elements to establish the various alleged violations of the California Labor Code that the PAGA claim is predicated on and derives from, and the success of showing, *inter alia*, failure to properly pay wages, failure to provide compliant meal and rest periods, failure to reimburse for expenses, etc.

27. Further, Defendant also maintained that, in addition to its strong arguments against the underlying claims, taking the current unsettled state of law, it would be unjust to award the maximum potential PAGA penalties. There was also a dearth of law and guidance regarding trials and/or assessment of penalties under the PAGA statute, there is no clearly established methodology for the valuation and/or assessment of PAGA penalties, and case outcomes (such as those discussed below) have shown that the actual amount of civil penalties

1 actually assessed by trial courts is far less than the amount sought.

2 28. Defendant also argued that an important feature of PAGA is that the Court retains
3 discretion to lower the penalties if, based on the facts and circumstances of the particular case,
4 to do otherwise would result in an award that is “unjust, arbitrary and oppressive, or
5 confiscatory.” *See* Cal. Lab. Code § 2699(e)(2); *see also Thurman v. Bayshore Transit*
6 *Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (holding that a court may reduce the
7 amount of PAGA penalties awarded to an employee based upon discretionary factors).
8 Defendant maintained, and continues to maintain, that it had and continues to have, legally-
9 compliant employment policies and practices throughout the time period at issue. Even if,
10 arguendo, such violations occurred, which Defendant denies, Defendant contended that said
11 violations would only be considered “initial violations” and thus heightened “subsequent
12 violation” penalties were not warranted. *See* Cal. Lab. Code § 2699(f)(2); *see also Amaral v.*
13 *Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1208-09 (“Until the employer has been
14 notified that it is violating a Labor Code provision [...], the employer cannot be presumed to be
15 aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”).
16 Defendant argued that it would be able to show a lack of willfulness in the violations, such that
17 the alleged California Labor Code violations would not be considered “willful.” Defendant
18 contended that, at best, even if a violation giving rise to a penalty was shown for each pay period,
19 only the lower civil penalty associated with initial violations would apply. As discussed above,
20 Defendant denied and continues to deny that it ever violated any provision of the California
21 Labor Code. However, assuming, arguendo, that any violations occurred, Defendant argued the
22 violations would not be viewed as subsequent violations giving rise to heightened penalties.
23 Defendant also argued that the Court was unlikely to assess cumulative penalties for the
24 maximum number of possible, separate California Labor Code violations, because it would be
25 unjust, arbitrary, oppressive, and/or confiscatory—especially where certain conduct may be
26 regulated by multiple provisions of the California Labor Code that are interrelated and work in
27 tandem. As such, Defendant contended that cumulative penalties and heightened penalties
28 would be unjust, arbitrary, oppressive, and confiscatory.

29. Plaintiff's Counsel was also aware of case law indicating that courts have attributed little separate value to PAGA claims, for example, allowing them to be resolved for \$0 where the other underlying California Labor Code claims are being (or have been) resolved, or, assessing much lower amounts of civil penalties against employers than are sought. *See e.g., Magadia v. Wal-Mart Assocs.* (N.D. Cal. 2019) 384 F. Supp. 3d 1058, 1100-1101, 1103-1104, 1111 (finding that, under Labor Code § 2699(e)(2), "the Court has broad discretion to award PAGA penalties the Court sees fit" and reducing the PAGA penalty award significantly from the maximum penalties possible); *Morales v Bridgestone Retail Operations LLC*, Orange County Superior Court No. 30-2017-00900244 (Aug. 2, 2018) (of \$7 million PAGA penalties requested, the court awarded \$425,000); *Carrington v Starbucks Corp.* (2018) 30 Cal.App.5th 504, 517, 529 (of \$75 million in penalties sought, the court affirmed the trial court's \$150,000 PAGA penalty award based on 30,000 violations, which reduced the penalty rate to \$5 per violation); *Arnold v San Diego Second Chance Program*, San Diego County Superior Court No. 37-2016-00018375 (Dec. 18, 2017) (no PAGA penalties awarded); *Felczer v Apple Inc.*, San Diego County Superior Court No. 37-2011-00102593 (Sept. 13, 2017) (no PAGA penalties awarded); *In re Taco Bell Wage and Hour Actions* (E.D. Cal. Apr. 8, 2016) No. 1:07-cv-01314-SAB, 2016 U.S. Dist. LEXIS 48557 at *41 (the court declined to award PAGA penalties after trial); *Allen v American Multi-Cinema*, Alameda County Superior Court No. RG11585502 (July 24, 2016) (no PAGA penalties awarded); *Atempa v Pama*, San Diego County Superior Court (July 31, 2015) (of PAGA penalties of \$456,133 sought, the court awarded \$197,434.00); *Driscoll v Granite Rock*, Santa Clara County Superior Court No. 1-08-cv-103426 (Sept. 20, 2011) (the court declined to award PAGA penalties); *Fleming v Covidien, Inc.*, No. ED CV10-01487 RGK (OPx) (C.D. Cal. Aug. 12, 2011) 2011 U.S. Dist. LEXIS 154590 at **8-9 (of \$2,800,000 PAGA penalties requested, the court awarded \$500,000); *Aguirre v Genesis Logistics*, No. SACV 12-00687-JVS (ANx) (C.D. Cal. Dec. 30, 2013) 2013 U.S. Dist. LEXIS 189820 at **6-7 (of \$1,800,000 PAGA penalties requested, the court awarded \$500,000); *Halevi v Aroma Bakery Café, Inc.*, Los Angeles County Superior Court No. 468146 (Aug. 30, 2013) (the court declined to award PAGA penalties after trial awarding wages to class on the basis

1 that, inter alia, the lawsuit was not prompted by availability of PAGA penalties, penalties were
2 not necessary to remedy ongoing or future violations, corporate defendants corrected violations
3 and were no longer in business, and plaintiffs did not offer evidence establishing imposition of
4 penalties on individual defendants would not be confiscatory).

5 30. Importantly, Defendant also contended that the claims of Plaintiff and other
6 Aggrieved Employees are subject to enforceable binding arbitration agreements. Defendant
7 contended that, taken together, these agreements would have a claim preclusive impact, or
8 otherwise, could effectively be used to require Aggrieved Employees to engage in individual
9 arbitration of their individual claims on which the PAGA claim is predicated. There is also
10 uncertainty regarding PAGA claims due to decisions of the high courts and recent amendment
11 of the PAGA statute. For example, as a result of a recent United States Supreme Court decision,
12 it is more likely that employer agreements containing arbitration terms will impact the viability
13 of adjudication of PAGA claims in the judicial forum. *Viking River Cruises, Inc. v. Moriana*,
14 (2022) 142 S. Ct. 1906, 2022 U.S. LEXIS 2940. Although the substantive statutory right to
15 pursue a PAGA claim has not been eviscerated and has been preserved, arbitration agreements
16 may be used to select the forum and procedure to be used to resolve PAGA claims to some
17 extent. Somewhat recently, the California Supreme Court confirmed that an aggrieved employee
18 who has been compelled to arbitrate claims under PAGA that are premised on California Labor
19 Code violations that were sustained by the aggrieved employee still maintains statutory standing
20 to pursue a PAGA claim arising out of events involving other employees through a PAGA
21 representative claim. *Adolph v. Uber Technologies* (2023) 14 Cal.5th 1104. Nevertheless, while
22 the arbitrable and non-arbitrable components of an action are not severed from one another, it
23 is still possible that trial courts will stay the representative/non-individual PAGA claims pending
24 arbitration of a plaintiff's individual PAGA claims and if a plaintiff is determined to not be an
25 "aggrieved employee" for PAGA purposes, issue preclusion may apply and, once reduced to a
26 final judgment, trial courts are bound by the arbitrator's determination and the plaintiff may lose
27 standing to pursue non-individual PAGA claims. *Id.* at 693.

28 31. Unless otherwise specified, all citations and references to the PAGA statute

1 contained herein are to the version of the statute prior to the recent amendment effective July 1,
2 2024; the amended statute does not apply to the above-captioned action and the Settlement
3 pursuant to California Labor Code § 2699(v)(1), as amended, because the above-captioned
4 action was filed prior to June 19, 2024. It is worth noting that the recent amendment of the
5 PAGA statute enacted on July 1, 2024, adopting, *inter alia*, modified standing requirements,
6 codifying a manageability requirement, capping civil penalties that can be assessed against an
7 employer if an employer meets certain conditions, and allowing an employer to cure violations
8 to avoid the assessment of civil penalties if an employer meets certain conditions, has created
9 uncertainty regarding the future of claims for civil penalties under PAGA. As such, at the time
10 that the Parties reached the settlement, and also now, there is uncertainty regarding the PAGA
11 claim.

12 32. While Plaintiff disagrees with Defendant's contentions and maintains that his
13 PAGA claim has merit, in reaching the settlement, Plaintiff and his counsel took into account
14 the strengths and weaknesses of each side's position and the uncertainty of how the case might
15 have concluded as litigation continued, at trial, and/or upon appeal.

16 33. The Parties had the opportunity to review extensive information, documents, and
17 data regarding Plaintiff's and Aggrieved Employees' employment with Defendant in an effort
18 to determine the potential value and strength of the PAGA claim. Counsel for the Parties
19 invested time reviewing and analyzing the relevant information, documents, and data, and this
20 information made it possible to calculate the potential value of the PAGA claim (as discussed
21 below). Accordingly, the Parties have conducted sufficient investigation and review of data,
22 documents, and information to be sufficiently apprised of the nature and extent of the PAGA
23 claim asserted in this lawsuit, and to enable both sides to fully evaluate the Settlement for its
24 fairness, adequacy, and reasonableness. The Parties have also considered the settlement
25 negotiations and the recommendations of the mediator Honorable Ronald Prager (Ret.), who is
26 highly experienced in mediation complex labor and employment matters. The Parties have
27 agreed that this case is well-suited for settlement given the legal issues relating to the PAGA
28 claim, as well as the costs, risks, and delays to both sides that would attend further litigation.

1 The Settlement takes into account the strengths and weaknesses of each side's position and the
2 uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon
3 appeal.

4 34. The amount of the Settlement is adequate in light of the legal basis, facts,
5 evidence, and circumstances in connection with Plaintiff's allegations and the PAGA claim. The
6 conclusion to be drawn from the foregoing analysis is that neither liability nor the ability to
7 adjudicate and/or recover civil penalties on a representative basis is clear-cut, which is why the
8 Parties elected to settle this matter. Plaintiff's Counsel considered the defenses asserted,
9 information and evidence obtained, and circumstances in this case, which posed risks to
10 representative adjudication and monetary recovery. Plaintiff's Counsel also considered the fact
11 that, by law, the Court has the discretion to reduce and/or assess lower penalties, that it was not
12 clear that heightened penalties would apply, and that stacking and/or cumulative penalties may
13 not be allowed.

14 **ATTORNEYS' FEES REQUESTED BY PLAINTIFF'S COUNSEL**

15 35. As set forth more fully in the accompanying Motion, Plaintiff's Counsel seeks
16 attorneys' fees in the amount of \$140,000.00, which represents approximately thirty-five percent
17 (35%) of the Total Settlement Amount. Pursuant to the contingency-fee agreements entered into
18 by and between Plaintiff and Plaintiff's Counsel, Plaintiff has agreed to contingency-fees of at
19 least thirty-five percent (35%) of the recovery. The attorneys' fees sought are commensurate
20 with: (1) the risk that Plaintiff's Counsel took in commencing the case; (2) the time, effort, and
21 expense that Plaintiff's Counsel dedicated to the case; (3) the skill and determination that
22 Plaintiff's Counsel has shown; (4) the results that Plaintiff's Counsel has achieved throughout
23 the litigation; (5) value of the settlement that Plaintiff's Counsel has achieved in the case; and
24 (6) the other cases that Plaintiff's Counsel has turned down in order to devote its time and efforts
25 to this case.

26 36. While not necessarily required to be demonstrated because a percentage fee is
27 proper for this settlement, it should be noted that Plaintiff's Counsel has performed many hours
28 of work in connection with prosecuting this matter such that the requested attorneys' fees award

1 is also justified under a lodestar analysis. Attorneys at Lawyers for Justice, PC have spent a
2 total of 162.90 hours performing tasks to obtain a recovery on behalf of Plaintiff, the State of
3 California, and the Aggrieved Employees. Attached hereto as “EXHIBIT 3” is an Attorney
4 Task and Time Chart that sets forth in detail the nature of the legal services provided by attorneys
5 at Lawyers for Justice, PC and the time incurred in performing those services. These hours
6 include work done by several attorneys at the firm. Also, separate from the hours referenced
7 herein and in the chart, Lawyers for Justice, PC had litigation support personnel actively
8 engaged in assisting with the prosecution of the case.

9 37. The work performed in this particular case, the background of Lawyers for Justice
10 PC, as well as the individual backgrounds, training, and experience of the attorneys who worked
11 on this matter, in litigating complex wage-and-hour class and PAGA representative actions,
12 support a reasonable blended hourly rate of compensation of at least \$850 per hour for work
13 performed by Plaintiff's Counsel. Lawyers for Justice, PC has been awarded attorneys' fees,
14 compensating the firm at the rate of at least \$850 per hour for legal services performed, by courts
15 granting approval of wage and hour class action and/or representative action settlements in other
16 cases: final approval of the class and representative action settlement in *David Dugan v. TEC*
17 *Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on
18 July 8, 2021, and the award of attorneys' fees involved an hourly rate of \$936.47; final approval
19 of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan*
20 (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award
21 of attorneys' fees involved an hourly rate of \$919.57; final approval of the class and
22 representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior
23 Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees
24 involved an hourly rate of \$855.96; final approval of the class and representative action
25 settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court
26 Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys' fees
27 involved an hourly rate of \$831.38; final approval of the class and representative action
28 settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior

1 Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney's fees
2 involved an hourly rate of \$780.77; and final approval of the class and representative action
3 settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior
4 Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys'
5 fees involved an hourly rate of \$845.64.

6 **LITIGATION COSTS AND EXPENSES INCURRED BY PLAINTIFF'S COUNSEL**

7 38. The Settlement provides for reimbursement of litigation costs and expenses of up
8 to \$20,000.00. Plaintiff's Counsel seeks reimbursement of \$9,201.18 for litigation costs and
9 expenses incurred in this case, as reflected in the Case Cost Detail attached hereto as "EXHIBIT
10 4." It should be noted that Plaintiff's Counsel has borne all of the risks and costs of litigation to
11 date and will not receive any compensation until a recovery is obtained in this matter. These
12 costs and expenses were reasonable and necessary in the prosecution of this matter and to obtain
13 the Settlement. The amount sought for reimbursement is less than the maximum amount
14 (\$20,000.00) allocated under the Settlement Agreement for reimbursement of litigation costs
15 and expenses. The cost savings of \$10,798.82 will be part of the Net Settlement Amount.

16 **INDIVIDUAL RELEASE FEE TO PLAINTIFF**

17 39. For his broader individual waiver and release of claims with a California Civil
18 Code Section 1542 waiver (set forth in Section 8(b) of the Settlement Agreement), the
19 Settlement provides Individual Release Fee to Plaintiff in the total amount of \$10,000.00 to be
20 paid out of the Total Settlement Amount, subject to approval by the Court. The requested
21 Individual Release Fee is fair and appropriate. It is also worth noting that Plaintiff has
22 undertaken significant efforts and work to spearhead the pursuit of this matter. By initiating and
23 pursuing this matter, Plaintiff stepped into the shoes of the State of California and undertook the
24 responsibilities of serving in a representative capacity. Plaintiff has spent a substantial amount
25 of time and effort discussing his employment with his counsel, gathering and producing relevant
26 documents and information, and providing the facts and evidence necessary to attempt to prove
27 the allegations. Plaintiff was available whenever his counsel needed him and actively tried to
28 obtain and provide information that would facilitate the pursuit of the PAGA claim.

1 Accordingly, it is appropriate and just for Plaintiff to receive Individual Release Fee, in addition
2 to any individual penalties payment he will receive as an aggrieved employee.

3 40. Plaintiff's Counsel submits that the Settlement fulfills the purpose of the PAGA
4 statute, is within the accepted range of recoveries for this type of litigation, and is fair,
5 reasonable, and adequate given the substantial monetary benefits provided for by the Settlement,
6 the strengths and weaknesses of this case, and the inherent delay, costs, risks, and uncertainty
7 associated with continued litigation.

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

10 Executed this 7th day of August, 2025, at Glendale, California.

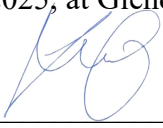
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EXHIBIT 1

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is entered into by and between Arbak Mkhitarian (“Plaintiff”), for himself and as a representative of the State of California with respect to the Aggrieved Employees (as defined in Section 3(a)(5) below), and Nautilus Hyosung America, Inc. (“Defendant”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from approximately December 2022 to approximately June 2023;

(b) On February 7, 2024, Lawyers *for* Justice, PC (“Plaintiff’s Counsel”), submitted a letter on behalf of Plaintiff to the California Labor and Workforce Development Agency (“LWDA”) and Defendant, to notify the LWDA and Defendant, pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001 and 4-2001, thereby initiating LWDA Case Number LWDA-CM-1009797-24 (the “PAGA Notice”);

(c) On April 12, 2024, Plaintiff filed his Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Operative Complaint”), commencing a representative action under PAGA against Defendant, entitled *Arbak Mkhitarian v. Nautilus Hyosung America, Inc.*, Superior Court of California for the County of Marin (“Marin County Superior Court” or “Court”) Case No. CV0002545 (the “Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA, for violations of multiple provisions of the California Labor Code and applicable Industrial Welfare Commission Wage Orders;

(d) On February 24, 2025, the Parties mediated the Action with Hon. Ronald S. Prager (Ret.), and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety;

(e) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Action and Released Claims (as defined in Section 8(a) below).

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties (as defined in Section 8(a) below) of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of Four Hundred Thousand Dollars (\$400,000.00) (the “Total Settlement Amount”), subject to possible increase pursuant Section 3(b), to resolve the Action and Released Claims (as defined herein), which will be paid as follows:

(1) Attorneys’ fees in the amount of Thirty-Five Percent (35%) of the Total Settlement Amount, which is One Hundred Forty Thousand Dollars (\$140,000.00) if the Total Settlement Amount remains \$400,000.00, and reimbursement of litigation costs and expenses in the amount of up to Twenty Thousand Dollars (\$20,000.00) (collectively, “Attorneys’ Fees and Costs”) to Plaintiff’s Counsel, which Defendant will not contest.

(2) An individual release fee of up to the amount of Ten Thousand Dollars (\$10,000.00) (“Individual Release Fee”) to Plaintiff, which Defendant will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Four Thousand Dollars (\$4,000.00) (“Settlement Administration Costs”) to Simpluris, Inc. (the “PAGA Settlement Administrator”).

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the Total Settlement Amount. The balance remaining after these deductions is referred to as the “Net Settlement Amount.”

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA (“LWDA Payment”); and the remaining twenty-five percent (25%) will be distributed to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the PAGA Period (the “Aggrieved Employees”). The period from February 7, 2023, through the date of approval by the Court or May 25, 2025, whichever is sooner, is the “PAGA Period”. The 25% portion of the Net Settlement Amount payable to Aggrieved Employees is referred to as the “Employees’ Portion.” Unless otherwise specified, all citations and references to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”) are to the version of the statute prior to the amendment effective July 1, 2024; the amended statute does not apply to the Litigation and the Settlement pursuant to California Labor Code section 2699(v), as amended, because the *Mkhitarian* PAGA Notice was submitted to the LWDA before June 19, 2024.

(b) The Aggrieved Employees are estimated to consist of approximately 166 individuals who worked approximately 5,560 Compensable Pay Periods. If the actual number of Compensable Pay Periods during the PAGA Period is more than ten percent (10%) above 5,560, the Total Settlement Amount will be increased by the percentage that the actual number exceeds 6,116 Compensable Pay Periods.

(c) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One Hundred Percent (100%) of the payments for Attorneys’ Fees and Costs, Individual Release Fee, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section 3(a) above will be

treated and reported for tax purposes as non-wage payments and the PAGA Settlement Administrator will be responsible for issuing IRS Forms 1099 as required.

4. **Court Approval is Required.** Plaintiff understands and agrees that the State of California and Aggrieved Employees, including Plaintiff, would not receive the consideration specified in Section 3(a) above, except for Plaintiff's execution of this Settlement Agreement, and the fulfillment of the promises contained herein, as well as Court approval of the Settlement. If this Settlement Agreement is not approved by the Court, it shall be null and void.

5. **Disbursal of Settlement Funds.**

(a) Subject to Section 4 above, Defendant shall remit to the PAGA Settlement Administrator the sums described more fully in Section 3(a) above, after all of the following has occurred: (i) the Settlement Agreement is fully executed by all Parties and their counsel; and (ii) the Court has entered an order approving the Settlement Agreement.

(b) Upon complete distribution of the Total Settlement Amount by the PAGA Settlement Administrator in accordance with this Settlement Agreement, the PAGA Settlement Administrator will notify the Parties of distribution of the entire Total Settlement Amount.

6. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion to approve this Settlement Agreement to Brian Mills and Anne Dwyer of Snell & Wilmer and Kimberly Jones and Mark Haddad of Seyferth Blumenthal & Harris LLC ("Defendant's Counsel") for review; Defendant's Counsel will be given an opportunity to comment on the papers prior to their being filed with the Court, and such comments will be implemented to the extent reasonable.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of

the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

7. Payment of Total Settlement Amount / Notice to Recipients.

(a) Subject to Court approval of this Settlement Agreement, payment of the sums described in Section 3(a) above shall be made by Defendant by transmitting the required sums to a qualified settlement account established by the PAGA Settlement Administrator for administration of this Settlement, within twenty-one (21) calendar days of the Court's order granting approval of this Settlement Agreement. If the date by which payment by Defendant is due falls on a Saturday, Sunday or legal holiday in the State of California, then the due date shall be extended the next following day which is not a Saturday, Sunday or legal holiday in the State of California.

(b) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Amount (i.e., the Employees' Portion) based upon the number of pay periods they each worked between February 7, 2023, through the date of approval by the Court or May 25, 2025, whichever is sooner ("Compensable Pay Periods"). To calculate each Aggrieved Employee's share of the Employees' Portion ("Individual Settlement Share"), the PAGA Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Compensable Pay Periods he or she individually worked by the total aggregate number of Compensable Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees' Portion to arrive at each Aggrieved Employee's Individual Settlement Share.

(1) One Hundred Percent (100%) of all Individual Settlement Shares are to be considered penalties and the PAGA Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees' Individual Settlement Shares will be reported on an IRS Form 1099, as required by the IRS.

(c) The PAGA Settlement Administrator shall distribute each Individual Settlement Share by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties and approved by the Court, in substantially the form attached hereto as "Exhibit A", in the following manner:

(1) No later than seven (7) calendar days after the Court's order granting approval of the Settlement, Defendant shall provide the PAGA Settlement Administrator with a list of all Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) last known first and last name; (ii) last known address; (iii) last known telephone number; (iv) Social Security number; (v) dates of employment as an hourly-paid or non-exempt employee in California during the PAGA Period; (vi) the number of Compensable Pay periods worked; and (vi) the total number of Compensable Pay Periods worked by all Aggrieved Employees.

(2) The PAGA Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List, and update addresses for Aggrieved Employees to the extent updated addresses are located through the NCOA search, prior to mailing the below-referenced PAGA Settlement Package.

(3) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the agreed-upon Cover Letter and Individual Settlement Share checks (together, the “PAGA Settlement Package”) to all Aggrieved Employees by first-class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the PAGA Settlement Administrator shall promptly attempt to locate an alternate, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package if an alternate address is located as a result of the skip-trace.

(4) The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid for ninety (90) calendar days, and thereafter, shall be canceled. Funds associated with canceled checks shall be transmitted to the State Controller’s Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of his or her respective Individual Settlement Share(s).

(d) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(e) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Attorneys’ Fees and Costs to Plaintiff’s Counsel, unless instructed otherwise by Plaintiff’s Counsel. At the request of Plaintiff’s Counsel, the PAGA Settlement Administrator may purchase annuities, utilize United States Treasuries and bonds, or utilize any other attorney fee deferral vehicles and any additional expenses associated with doing so will be paid separately by Plaintiff’s Counsel.

(f) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Individual Release Fee to Plaintiff.

(g) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Settlement Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved Employees.

8. **Release of Claims by Plaintiff, Aggrieved Employees, and the State of California.**

(a) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged Defendant, including Defendant’s parent corporation, affiliates, subsidiaries, divisions, predecessors, owners, third-party administrators, insurers, reinsurers, successors and assigns, and their current and former employees, attorneys, officers, directors, board members, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs (collectively, the “Released Parties”), to the full extent permitted by law, from the Action and from

all claims, arising during the PAGA Period, for civil penalties under all versions of the California Labor Code section 2698, *et seq.*, as amended, as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint or the 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 during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001 and 4-2001 (collectively, the “Released Claims”). With respect to Plaintiff, the Released Claims exclude claims arising from the allegations in Plaintiff’s arbitration demands alleging wrongful termination against Defendant and discrimination case against Defendant before the State of California Civil Rights Division, CRD No. 202405-24899129, to the extent they could arise under PAGA, which are the subject of a separate settlement.

(b) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of his heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged the Released Parties, to the full extent permitted by law, from all claims of every nature whatsoever, known or unknown, suspected or unsuspected, which Plaintiff has or may have as of the date the Court has entered an order approving the Settlement Agreement, excluding claims arising from the allegations in Plaintiff’s arbitration demands alleging wrongful termination against Defendant and discrimination case against Defendant before the State of California Civil Rights Division, CRD No. 202405-24899129, which are the subject of a separate settlement. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges that he has been fully advised by his attorneys of the contents of Section 1542 of the Civil Code of the State of California and waives all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by him to exist may hereafter be discovered. It is Plaintiff’s intention to, upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, settle fully and release all claims he now has against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the release by Plaintiff shall not extend to claims for workers’ compensation benefits, claims for unemployment benefits, or other claims that may not be released by law, nor does it extend to the claims arising from the allegations in Plaintiff’s arbitration demands alleging wrongful termination against Defendant and discrimination case

against Defendant before the State of California Civil Rights Division, CRD No. 202405-24899129, discussed *supra*.

9. **Governing Law and Interpretation.**

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

10. **Amendment.** This Settlement Agreement may not be modified, altered or changed except in writing and signed by both Parties' counsel, wherein specific reference is made to this Settlement Agreement, subject to approval by the Court.

11. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, *et seq.*, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator, Hon. Ronald S. Prager (Ret.). In the event of vagueness, ambiguity or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

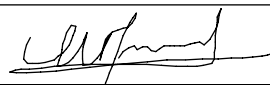
(e) If Plaintiff or Defendant fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

(f) Plaintiff and Plaintiff's Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the Action and/or the fact, amount, or terms of this Settlement Agreement. In addition, Plaintiff and Plaintiff's Counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement, including but not limited to any postings on any websites maintained by Plaintiff's Counsel. Nevertheless, Plaintiff's Counsel will undertake the submission of the Settlement Agreement, Settlement-related documents, and Settlement-related information to the LWDA in accordance with the requirement of the PAGA statute.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: 06/03/2025, 2025

Electronically Signed 2025-06-03 18:31:46 UTC - 174.194.129.161

NitroX AssureSign® a2e112c3-389d-45b9-b302-b2ec01195e04

Arbak Mkhitarian
Individually and On Behalf of
the State of California with Respect to Aggrieved
Employees

NAUTILUS HYOSUNG AMERICA, INC.

Date: _____, 2025

Name: _____
Title: _____

Approved as to form and content.

LAWYERS *FOR* JUSTICE, PC

Date: June 3, 2025



Arby Aiwanian
Joanna Ghosh
Melissa LeBlanc-Mansell
Attorneys for Plaintiff Arbak Mkhitarian

(f) Plaintiff and Plaintiff's Counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the Action and/or the fact, amount, or terms of this Settlement Agreement. In addition, Plaintiff and Plaintiff's Counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement, including but not limited to any postings on any websites maintained by Plaintiff's Counsel. Nevertheless, Plaintiff's Counsel will undertake the submission of the Settlement Agreement, Settlement-related documents, and Settlement-related information to the LWDA in accordance with the requirement of the PAGA statute.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

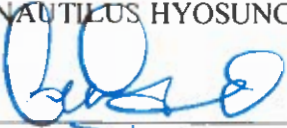
IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: _____, 2025

Arbak Mkhitarian
Individually and On Behalf of
the State of California with Respect to Aggrieved
Employees

NAUTILUS HYOSUNG AMERICA, INC.

Date: 5/29/, 2025


Name: Peter Gerard
Title: Chief Administrative People Officer

Approved as to form and content.

LAWYERS FOR JUSTICE, PC

Date: _____, 2025

Arby Aiwazian
Joanna Ghosh
Melissa LeBlanc-Mansell
Attorneys for Plaintiff Arbak Mkhitarian

SNELL & WILMER



Date: May 29, 2025

Brian Mills
Anne Dwyer
Attorneys for Defendant
Nautilus Hyosung America, Inc.

Exhibit A

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Arbak Mkhitarian v. Nautilus Hyosung America, Inc.*, Marin County Superior Court Case No. CV0002545

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> ("Individual Settlement Share"). This check is your payment from the settlement in the lawsuit entitled *Arbak Mkhitarian v. Nautilus Hyosung America, Inc.*, Marin County Superior Court Case No. CV0002545 ("Action").

The lawsuit was filed on April 12, 2024 by Arbak Mkhitarian ("Plaintiff") against his former employer, on behalf of the State of California, with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* ("PAGA"), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to filing the lawsuit, on February 7, 2024, Plaintiff submitted a letter to the California Labor and Workforce Development Agency ("LWDA"), pursuant to PAGA, to provide notice of his intent to seek civil penalties under PAGA for Defendant's alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001 and 4-2001, thereby initiating LWDA Case Number LWDA-CM-1009797-24 (the "PAGA Notice").

Defendant denies all of Plaintiff's allegations and denies any wrongdoing of any kind associated with Plaintiff's allegations.

A settlement was reached between Plaintiff and Defendant Nautilus Hyosung America, Inc. ("Defendant").

On << date>>, the Court entered the order approving the Settlement Agreement, thereby ordering that the Net Settlement Amount to be paid 75% to the LWDA and 25% to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the period from February 7, 2023, through <<date>> ("Aggrieved Employees"). The period from February 7, 2023, through <<date>>, is the "PAGA Period".

On <<date>>, Defendant fully funded the Total Settlement Amount. You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods that you worked for Defendant in California during the PAGA Period. The Individual Settlement Share is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, upon the date the Court entered the order approving the Settlement Agreement and full funding of the Total Settlement Amount, the Released Parties were fully released and forever discharged from any and all Released Claims.

"Released Parties" means Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, owners, third-party administrators, insurers, reinsurers, successors and assigns, and their current and former employees, attorneys, officers, directors, board members, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

"Released Claims" means any and all claims, arising during the PAGA Period, 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 Operative Complaint and the 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 during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, and failure to reimburse necessary business-related expenses and costs, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001 and 4-2001.

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be canceled, and the funds associated with the canceled check will be transmitted to the State Controller's Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact [PAGA Settlement Administrator] at [toll-free phone number].

EXHIBIT A – COVER LETTER

EXHIBIT 2



February 7, 2024

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAFilings@dir.ca.gov

Re: NAUTILUS HYOSUNG AMERICA, INC.

Dear Representative:

We have been retained to represent Arbak Mkhitarian against Nautilus Hyosung America, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, agents, and executive employees) (collectively referred to as “Nautilus Hyosung”) for violations of California wage-and-hour laws. Mr. Mkhitarian seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”) and all other remedies available under PAGA.

Mr. Mkhitarian seeks these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Nautilus Hyosung employed Mr. Mkhitarian as an hourly-paid, non-exempt employee from approximately December 2022 to approximately June 2023, in the State of California.

The “aggrieved employees” that Mr. Mkhitarian may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Nautilus Hyosung has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 1-2001, and 4-2001.

Nautilus Hyosung required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, responding to work-related inquiries.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-

and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Mkhitarian and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Mkhitarian and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, Nautilus Hyosung required Mr. Mkhitarian and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 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 if an employee quits 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' 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. During the relevant time period, Nautilus Hyosung failed to pay Mr. Mkhitarian and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Nautilus Hyosung failed to pay Mr. Mkhitarian and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Nautilus Hyosung did not provide Mr. Mkhitarian and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Nautilus Hyosung were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Mkhitarian and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above, and the naming of the incorrect business entity on Mr. Mkhitarian's records.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause

his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Mkhitarian and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Mkhitarian and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Mkhitarian and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Mkhitarian and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Nautilus Hyosung failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Mkhitarian and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Nautilus Hyosung did not provide Mr. Mkhitarian and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 1-2001, and 4-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Nautilus Hyosung failed to pay Mr. Mkhitarian and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Mkhitarian and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Nautilus Hyosung failed to pay Mr. Mkhitarian and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Mkhitarian and the other aggrieved

employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Mkhitarian and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Nautilus Hyosung. These costs include, but are not limited to, the use of a personal phone for work-related tasks, the use of mileage on a personal vehicle for work-related tasks, and the purchasing and maintenance of clothing and footwear in compliance with the dress code.

Therefore, on behalf of all aggrieved employees, Mr. Mkhitarian seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

A handwritten signature in dark blue ink that reads "Gabriella Sole". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Gabriella Sole, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Nautilus Hyosung America, Inc.
c/o C T Corporation System
Agent for Service of Process
330 N Brand Blvd, Ste 700
Glendale, CA 91203

EXHIBIT 3

ARBAK MKHITARYAN V. NAUTILUS HYOSUNG AMERICA, INC.
Marin County Superior Court Case No. CV0002545
ATTORNEY TASK AND TIME CHART

TASK	LAWYERS <i>for</i> JUSTICE, PC
Investigation and Research / Due Diligence	
Meet and Communicate with Plaintiff Arbak Mkhitaryan (“Plaintiff”) during the Case	45.00
Investigate, Communicate with, and/or Interview Aggrieved Employees and Percipient Witnesses	7.00
Pleadings and Court Filings	
Investigate the Merits of Plaintiff’s Claims, Legal Research and Analysis of All Claims Involved, Draft Plaintiff’s Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (filed on April 12, 2024)	5.80
Review Court’s Notice – Case Management Conference and Notice – Judicial Assignment (filed on April 17, 2024)	0.20
Meet and Confer with Defendant Nautilus Hyosung America, Inc.’s (“Defendant”) Counsel, and Draft, Review, and Revise Joint Stipulation to Submit Individual Claims to Arbitration and Stay Proceedings; [Proposed] Order (submitted on June 18, 2024)	3.50
Review Court’s Order Re: Joint Stipulation to Submit Individual Claims to Arbitration and Stay Proceedings (filed on June 26, 2024)	0.20
Draft Plaintiff’s Case Management Statement (filed on September 9, 2024)	0.50
Review Defendant’s Case Management Statement (served on September 9, 2024)	0.10

Draft Plaintiff's Notice of Change of Address or Other Contact Information (filed on December 31, 2024)	0.20
Draft Plaintiff's Case Management Statement (filed on April 28, 2025)	0.50
Review Defendant's Case Management Statement (served on April 28, 2025)	0.10
Appearances	
Prepare for and Remotely Attend Case Management Conference (September 24, 2024)	1.10
Prepare for and Remotely Attend Case Management Conference (May 13, 2025)	0.40
Prepare for and Attend Hearing on Plaintiff's Motion for PAGA Approval (Anticipated)	1.00
Discovery and Deposition	
Review Materials and Draft Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Arbak Mkhitarian (served on November 17, 2023)	1.20
Draft Follow Up Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Arbak Mkhitarian (served on January 10, 2024)	0.10
Review and Analyze Documents Produced by Defendant in Response to the Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Arbak Mkhitarian (served on January 18, 2024)	3.40
Letters and Correspondence	
Review Materials and Draft Notice of California Labor and Workforce Development Agency re: Claims of Plaintiff under the Private Attorneys General Act (served on February 7, 2024)	1.00
Meet with, Draft Correspondence to, and/or Respond to Correspondence from, Defendant's Counsel	15.00

Mediation/Settlement	
Review and Analyze Information, Data, and Documents Obtained from Plaintiff, Defendant, and Other Sources Prior to Mediation	15.00
Prepare for Mediation, Including Researching Settlement Related Issues and Merits-Related Issues, Drafting the Mediation Brief, Compiling the Mediation Exhibits in Support of Plaintiff's Mediation Brief, and Performing Penalties Analysis and Calculations (submitted on February 18, 2025)	21.00
Attend Mediation Session (February 24, 2025; Zoom Video Conference)	8.00
Engage in Additional Settlement-Related Discussions	5.60
Draft, Review, Revise, and Negotiate Private Attorneys General Act Settlement Agreement and Release (executed on June 3, 2025), and Draft Cover Letter	5.50
Coordinate Settlement Administration with Settlement Administrator, Ongoing Monitoring of Settlement Administration, and Respond to Aggrieved Employees' Inquiries	1.50
Law and Motion	
Review Defendant's Notice of Petition and Petition to Compel Arbitration; and Application to Stay Proceedings; Memorandum of Points and Authorities in Support Thereof; Declaration of Peter Simon-Gerard in Support Thereof; Declaration of Brian J. Mills in Support Thereof; and [Proposed] Order Thereon (served on June 5, 2024)	5.00
Research and Draft Plaintiff's Motion for Approval of Private Attorneys General Act (Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys' Fees, Attorneys' Costs, Service Award, and Settlement Administration Costs, Declaration of Ani Menedjian in Support Thereof, Declaration of Plaintiff in Support Thereof, and [Proposed] Order and Judgment (filed on August 7, 2025)	15.00
Total Hours:	162.90

EXHIBIT 4

LAWYERS *for* JUSTICE, PC CASE COST DETAIL
Mkhitaryan vs. Nautilus Hyosung America, Inc. (PAGA)

<u>Date</u>	<u>Payee</u>	<u>Expense Description</u>	<u>Amount</u>
11/17/2023	U.S. Postmaster	Postage	\$17.12
1/10/2024	U.S. Postmaster	Postage	\$17.12
2/7/2024	U.S. Postmaster	Postage	\$8.73
2/7/2024	Labor & Workforce Development Agency	PAGA Filing Fee	\$75.00
4/17/2024	Legal Document Server, Inc.	Attorney Service	\$45.13
4/17/2024	Marin Superior Court	Complaint Filing Fee	\$435.00
5/2/2024	Elite Litigation Support	Attorney Service	\$130.00
5/28/2024	Legal Document Server, Inc.	Attorney Service	\$135.00
5/30/2024	Legal Document Server, Inc.	Attorney Service	\$16.15
8/27/2024	Legal Document Server, Inc.	Attorney Service	\$17.70
9/10/2024	Legal Document Server, Inc.	Attorney Service	\$17.70
1/2/2025	Legal Document Server, Inc.	Attorney Service	\$18.70
1/30/2025	Signature Resolution LLC	Mediation Fee	\$3,645.00
2/24/2025	Alicia Brush	Travel Reimbursement	\$18.38
4/8/2025	CPAnalytics	Data Analysis of Sampling of Time Records	\$4,580.00
4/28/2025	Legal Document Server, Inc.	Attorney Service	\$24.45
Total:			<u>\$9,201.18</u>