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ILSE HERNANDEZ, and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO
(*UNLIMITED JURISDICTION*)

ILSE HERNANDEZ,

Plaintiff,

vs.

PAVILIONS MANAGEMENT, LLC; ALADDIN SAMMAKIEH; and DOES 1 to 25, inclusive,

Defendants.

Case No.: CU24-07673

DECLARATION OF HAROUT MESSRELIAN IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT

Action filed:	October 2, 2024
Hearing Date:	May 11, 2027
Hearing Time:	9:00 a.m.
Hearing Dept:	3, Hon. Stephen Gizzi

DECLARATION OF HAROUT MESSRELIAN IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR APPROVAL OF PAGA SETTLEMENT

I, HAROUT MESSRELIAN, declare and state as follows:

1. I am an attorney duly licensed to practice before all the Courts of the State of California. I am the managing attorney of Messrelian Law Inc. and the attorney of record for Plaintiff Ilse Hernandez (individually, "Hernandez" or "Plaintiff") in her lawsuit against Defendants Pavilions Management, LLC and Aladdin Sammakieh ("Defendants" or "PAVILIONS"). Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

2. I am experienced in handling employment law matters and specifically wage and hour representative and individual actions. My qualifications are as follows: I received my JD from Loyola Law School in 2010. In December of 2010, the Supreme Court for the State of California admitted me as an Attorney and Counselor at Law and licensed me to practice law in all the Courts of this State. Thereafter, I started my own law firm in 2011 – the Law Offices of Harout Messrelian. Since 2016, I have been the founder and principal attorney at Messrelian Law, Inc.

Since 2011, I have filed and handled over 350 civil actions and/or claims involving representative actions under the Private Attorneys General Act ("PAGA") and/or wage and hour claims on behalf of my clients and have been appointed Class Counsel in various class action cases, including:

a. *Zohrab Mekhitarian v. Triple Play Motors dba Bob Smith Toyota*, Los Angeles Superior Court Case No. 19STCV22411 (ADR Services, Inc., Case Number 20-2668-RWT)

b. *Carina Camberos, on behalf of herself and others similarly situated, v. Great American Chicken Corp, Inc*., Los Angeles Superior Court Case No. 21STCV32015

c. *Robert Garcia, on behalf of himself and others similarly situated v. HD Supply Management Inc*., San Bernardino Superior Court Case No. CIVSB2028067

d. *Alfredo Betancourt v. L3 Technologies, Inc.*, San Mateo County Superior Court, Case no. 23-CIV-05704

e. *Mario Cabral v. Sentry Insurance Company*, Los Angeles County Superior Court, Case No. 22STCV21484

f. *Jenica Cole et al v. Strategic Green Partners LLC, et al.*, Yolo County Superior Court, Case No. CV2021-0426

g. *Thomas Brown, et al. v. Fidelity Security Services, Inc.*, Los Angeles County Superior Court, Case No. 21STCV31617

h. *Steven Arreola, et al. v. JBT Aerotech Corporation, et al.*, San Bernardino County Superior Court, Case No. CIVSB2407032

i. *Noe Sandoval-Orozco v. Northwest Landscape Maintenance Company*, Santa Clara County Superior Court, Case No. 24CV445484

j. *Gregorio Regalado, et al. v. R.A.H. Industries, Inc.*, Los Angeles County Superior Court, Case No. 24STCV00839

k. *Michael Walker, et al. v. Life Alert Emergency Response, Inc.*, Los Angeles County Superior Court, Case No. 23VECV02182

l. *Joanna Ramirez v. The Village Family Services, Inc.*, Los Angeles County Superior Court, Case No. 24STCV07214

m. *Aurora Garcia Jimenez, et al. v. Kind Op Corp., et al.*, Monterey County Superior Court, Case No. 22CV001723

n. *Guadalupe Perez v. Spacetel LLC*, Santa Clara County Superior Court, Case No. 22CV397513

o. *Tannia Ayala v. RHR California Services, L.L.C., et al.*, San Mateo County Superior Court, Case No. 23-CIV-02830

I have a practice that encompasses cases in the Los Angeles Superior Courts, the Orange County Superior Courts, the Riverside County Superior Courts, the San Bernardino County

Superior Courts, the Alameda County Superior Courts, Santa Clara County Superior Courts, San Mateo County Superior Courts, and the Monterey County Superior Courts.

3. Except as otherwise indicated, I have personal knowledge of all matters set forth herein and, if called as a witness, could and would competently testify thereto under oath.

4. A true and correct copy of the PAGA Settlement Agreement (the "Settlement" or "Agreement") is attached hereto as **Exhibit 1**. A true and correct copy of the parties agreed upon notice to the below-defined Aggrieved Employees (the "Notice of PAGA Settlement") is attached hereto as **Exhibit 2**.

Factual and Procedural Background

5. Plaintiff started working for Defendants in or around June 2021 as a crew member at their McDonald's restaurant located at 1602 E. 2nd Street, Benicia, California 94510. Plaintiff's employment with Defendants ended on or around June 19, 2024.

6. Plaintiff complied with the procedures of Labor Code § 2699.3 for bringing suit under the PAGA. On June 28, 2024, Plaintiff, on behalf of herself and Defendants' other California non-exempt hourly employees (hereafter collectively the "Aggrieved Employees") gave written notice by electronic submission to the California Labor and Workforce Development Agency ("LWDA") and via certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations (the "PAGA Notice" or "LWDA Letter"). A true and correct copy of Plaintiff's letter to the LWDA is attached hereto as **Exhibit 3**.

7. On October 2, 2024, Plaintiff filed a representative action under PAGA against Defendants alleging various wage and hour violations, including failure to pay minimum wages and for all hours worked (including "off the clock" work), failure to provide reporting time pay, failure to pay overtime and double time, failure to provide meal and rest breaks, failure to timely pay wages owed, failure to provide accurate itemized wage statements, failure to keep accurate payroll records, failure to timely pay wages due upon separation of employment, failure to reimburse for necessary business expenses, unlawful collection of tips and gratuities, failure to provide accurate sick pay, and failure to provide suitable rest break facilities. Specifically,

Plaintiff sought civil penalties under California Labor Code section 2698, et seq. premised on alleged violations of California Labor Code sections 201, 202, 203, 204, 204b, 226, 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699 et seq., 2800, 2802, and the IWC Wage Order No. 5-2001 (the "PAGA Complaint," "Lawsuit," or "Action"). A true and correct copy of Plaintiff's Lawsuit is attached hereto as **Exhibit 4**. On January 29, 2025, Defendants filed their Answer to Plaintiff's Lawsuit. A true and correct copy of Defendants' Answer is attached hereto as **Exhibit 5**. Defendants contended that Plaintiff was bound by an arbitration agreement signed during her employment, and on August 6, 2025, the Court ordered the Action stayed pending arbitration of Plaintiff's individual claims. Prior to Plaintiff filing her Demand for Arbitration, the Parties agreed to attempt to resolve Plaintiff's claims through private mediation.

8. The parties met and conferred and agreed that it may be in their mutual interests to discuss Plaintiff's allegations informally, rather than through litigation, and scheduled private mediation.

9. On November 4, 2025, the parties attended a full day mediation session with mediator Hon. David Brown (Ret.) of JAMS. At the mediation, the parties agreed to settle Plaintiff's PAGA Claim for violation of Labor Code § 2698, et seq. Before agreeing to the terms of the Settlement, the Parties engaged in informal discovery regarding Defendants' policies, practices, operations, time and payroll information and other topics. In advance of mediation, Defendants produced Plaintiff's personnel file, including time and payroll data. Moreover, prior to the mediation, Defense counsel provided Plaintiff's counsel with information and documents relating to other Aggrieved Employees, including time and payroll data for a substantial sample of Aggrieved Employees. Through extensive arm's length negotiations at the mediation and only after discovery and investigation were performed, the parties agreed to settlement terms. At all times, the negotiations were adversarial and contentious, although still professional in nature. Now that the parties have finalized the PAGA Settlement, Plaintiff submits it to this Court for approval.

10. Defendants deny any liability or wrongdoing of any kind whatsoever associated

with the lawsuit. It is the desire of the parties to fully, finally, and forever compromise, and discharge all claims known or unknown related to those alleged in Plaintiff's lawsuit.

11. Counsel for the Parties have further investigated the applicable law as applied to the facts discovered regarding Plaintiff's claims, the defenses thereto, and the Labor Code violations claimed by Plaintiff. I am experienced in prosecuting PAGA lawsuits. Counsel for the Defendants are experienced in defending PAGA cases. Based on the parties' own independent investigations and evaluations, the parties and their respective counsel are of the opinion that the Settlement for the consideration and on the terms set forth in the Agreement are fair, reasonable and adequate and are in the best interests of Plaintiff, the Aggrieved Employees, the State, and Defendants in light of all known facts and circumstances and the risks inherent in litigation, particularly given the ongoing challenges facing the restaurant industry, where businesses are struggling to remain afloat, much less prosper and make a large profit.

12. The Settlement of a PAGA claim requires court approval. Lab. Code § 2699(s)(2). The Court necessarily has broad discretion in making the decision to approve or reject a settlement for civil penalties as the statutory scheme authorizes the Court to determine whether, in certain circumstances, penalties should be assessed and, if so assessed, the appropriate amount of penalties based on the facts and circumstances of the particular case. Although the PAGA does not set forth the particular standards against which a PAGA settlement should be evaluated, the LWDA has provided guidance for approval that mirrors the standards for evaluating class action settlements.

13. PAGA imposes two requirements for the settlement of a PAGA claim. Both are met here. First, since this action was brought after the PAGA reform effective on June 19, 2024, any civil penalties recovered, whether by judgment or settlement, must be distributed as follows: 65 percent to the LWDA, and the remaining 35 percent to the Aggrieved Employees. See Cal. Lab. Code § 2699(m). The parties' Settlement so provides (See **Exhibit 1**). Second, the LWDA must be given notice of the settlement so that it may be heard before the Court decides whether to grant approval. Cal. Lab. Code § 2699(s)(2). Here, notice is being given to the LWDA

concurrently with the filing of this motion. A true and correct copy of Plaintiff's submission with the LWDA and a confirmation email is attached as **Exhibit 7**. As a result, Plaintiff has met all procedural statutory requirements for settling a PAGA action.

14. The PAGA Settlement warrants a presumption of fairness for several reasons: (1) The parties reached the Settlement through arm's-length bargaining with the aid of a respected mediator; (2) The parties conducted sufficient investigation and discovery to allow Counsel and the Court to act intelligently. Plaintiff requested and Defendants provided the number Aggrieved Employees, the number of total pay periods during the PAGA Period, all policies in effect during the PAGA Period, and pay and time records; and (3) Counsel for the Parties are experienced with PAGA cases. Moreover, neither Plaintiff nor I have any conflicts of interest with the absent Aggrieved Employees and there are no issues of ascertainability.

15. I considered various sources of information in the lead-up to the mediation of November 4, 2025 that enabled Plaintiff to achieve the Settlement at issue. Among other things, Plaintiff considered the following:

- Defendants produced and Plaintiff's counsel reviewed Plaintiff's personnel file.
- Plaintiff's counsel requested that Defendants provide any and all policies regarding overtime and double-time wages, off the clock work, expense reimbursement, meal periods, rest breaks, meal period waivers and agreements, compensation plans, and complaints about working conditions in effect during the relevant time period beginning in June of 2023. Defendants produced those policies as part of its employee handbook.
- Plaintiff's counsel requested that Defendants provide the total number of employees, paychecks, and the pay cycles during the relevant period. Defendants provided the answers to each of these questions.
- Defendants provided Plaintiff's counsel with a sampling of time and payroll data of its California non-exempt employees who worked during the PAGA Period.
- Plaintiff's counsel then retained a professional data analyst, James Toney, to examine the records and determine the meal period violation rates, if there was any pay discrepancy in timesheet hours versus paid hours, and if there was any rounding/time shaving issues. Plaintiff is prepared to provide the Court with the data analysis for *in camera* inspection upon its request.
- Plaintiff's counsel analyzed the state of caselaw on PAGA claims, meal and rest break

violations, claims for "off the clock" work and business expense reimbursement, especially as it relates to "manageability" arguments brought up by the defense.

16. Defendants estimated for purposes of mediation there were approximately 474 Aggrieved Employees who worked approximately 19,763 pay periods during the PAGA Period. Based on this information and the time and payroll data produced by Defendants, Plaintiff's counsel's retained data analyst examined punch records spanning June 28, 2023 through August 31, 2025 for a sample of 93 employees, covering 20,247 shifts and 5,127 workweeks, and Plaintiff's counsel prepared an estimate of the maximum possible civil penalties under the PAGA. The maximum possible civil penalties under the PAGA is the total number of pay periods with one or more violations multiplied by the maximum possible civil penalty amount per pay period.

17. Plaintiff's strongest disputed claims are her claims for failure to provide meal and rest periods. Plaintiff's analysis, which Defendants vehemently dispute, revealed a shift violation rate of 12.6% for short, late, or no meal breaks for shifts that were 6 hours or greater. The data revealed that 67.6% of shifts in the sample were 6 hours or greater. As such, we are dealing with alleged violations covering 13,360 pay periods [19,763 total pay periods x 67.6%]. If you extrapolate the 12.6% shift violation rate, it amounts to 33.4% of pay periods having at least one meal period violation. As such, the maximum exposure for meal period violations in the PAGA period, which Plaintiff understands Defendants dispute, would be $223,100, which is calculated as follows: 13,360 pay periods x 33.4% equals 4,462 affected pay periods; 4,462 pay periods x $50/pay period (civil penalty) amounts to $223,100 in exposure. As it relates to Plaintiff's argument for rest break violations, rest breaks are owed for shifts of 3.5 hours or greater, and Plaintiff's data analysis revealed that 95.6% of shifts in the sample were 3.5 hours or greater. Rest periods are not subject to the meal period waivers and are triggered for shifts over 3.5 hours. Defendant's records reflect that no rest period premiums were ever paid to any Aggrieved Employee, and rest breaks were not tracked. As such, we are dealing with alleged violations covering 18,893 pay periods [19,763 total pay periods x 95.6%]. Because Defendants did not track rest periods, and applying the same pay-period violation rate reflected in the meal period

analysis, approximately 33.4% of those pay periods would have at least one rest period violation. As such, the maximum exposure for rest period violations in the PAGA period, which Plaintiff understands Defendants dispute, would be $631,000, which is calculated as follows: 18,893 pay periods x 33.4% equals 6,310 affected pay periods; 6,310 pay periods x $100/pay period (civil penalty) amounts to $631,000 in exposure. As such, the combined maximum exposure for Plaintiff's strongest claims is approximately $854,100. Assuming that Plaintiff's calculations and analysis are accurate, the maximum exposure presumes that the Court will not reduce the penalty award as unjust, arbitrary, oppressive, or confiscatory. For the rest period violations, it also presumes that the meal and rest period violation rates were identical.

18. There are risks to Plaintiff's meal and rest period claims. Defendants contend that, to establish a violation for missed meal periods, a plaintiff must do more than show that a meal break was not taken. *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004. So long as an employer provides employees with a "reasonable opportunity" to take a duty-free meal period, it has no further duty to "police meal breaks and ensure no work thereafter is performed." *Id.* at 1040-41. Instead, a plaintiff must show the employer impeded, discouraged, or prohibited the employee from taking a proper break, or otherwise failed to release the employee of all control. Id. "Thus, the crucial issue with regard to the meal break claim is the reason that a particular employee may have failed to take a meal break." *Washington v. Joe's Crab Shack* (N.D. Cal. 2010) 271 F.R.D. 629, 641. Determining by a review of Defendants' time records the exact reasons why a meal period appears to be short or late would be difficult and pinpointing those days in which Plaintiff and the Aggrieved Employees worked during their meal periods will be a challenge. Additionally, Defendants provided evidence that they provide employees with the opportunity to take meal and rest breaks and paid meal premium payments during the PAGA Period. Moreover, meal period premium payments were observed in the sample records (178 hours of premium payments totaling approximately $3,515). In addition, Defendants contend that their policies regarding meal periods and rest breaks are legally compliant and that valid meal period waivers were in effect during the PAGA Period. Defendants further argued that the bulk of the apparent meal period violations reflected in the time records

were situations where an employee was finishing his or her shift and simply clocked out for the day a few minutes late, rather than true meal period violations.

19. Defendants contend they provided their non-exempt employees with the opportunity to take rest periods in accordance with California law, and, accordingly, Plaintiff's rest break claim has no support. Additionally, there are other risks to Plaintiff's rest period claim. Employers are not required to record rest periods and such periods are paid. Unlike meal periods, where there are often records showing whether an employee clocked out or not, there is no such evidence to prove a missed rest period or that the employer refused to authorize and permit one.

20. There are also risks to Plaintiff's claim for unreimbursed expenses. Plaintiff alleges that Defendants did not reimburse her or the other Aggrieved Employees for uniform items, including work shoes. Defendants, however, contended that they provided all required uniform items to employees. Moreover, there is a risk that the Court may consider Plaintiff's claims as to Defendants' alleged failure to indemnify for business expenses to be individual in nature. As such, Plaintiff's Counsel had to significantly discount the value of this claim during settlement negotiations. As it relates to Plaintiff's other claims, and unlike the arguments for meal/rest period violations, there would be issues with proof. The time and pay records did not reveal any rounding as hours were paid to the second decimal point. As it relates to any overtime issues, the data showed the average workday was 6.8 hours, and the records showed that when employees worked over 8.0 hours, they were paid 1.5 times their regular rate and that daily and weekly overtime were paid correctly. Moreover, Defendants provided overall strong written policies as it related to wage and hour practices. Plaintiff's other claims for violations of Labor Code sections 203, 204, and 226 (for not being paid all wages owed every pay period or at the end of employment as well as not receiving accurate, itemized wage statements) would largely not be triggered since they are derivative claims, and no rounding/overtime issues were identified. Plaintiff's counsel further estimates a 50% likelihood of success on the meal and rest period claims at trial, reducing the estimated realistic value of the strongest claims from approximately $854,100 to approximately $427,050. This estimate assumes the accuracy of Plaintiff's calculations and further assumes that the Court would not exercise its discretion to

reduce any civil penalties as unjust, arbitrary, oppressive, or confiscatory. In light of these considerations, the gross settlement amount of $292,000 represents approximately 34% of the maximum exposure of $854,100 for the strongest claims (the meal and rest period claims), and approximately 68% of the risk-adjusted value of $427,050 for those claims, and supports approval of the settlement as fair, reasonable, and adequate.

21. Moreover, I am unaware of any California State court decision awarding a plaintiff and the other Aggrieved Employees she represents multiple civil penalties for the same pay period under different Labor Code provisions. As such, one of the risks Plaintiff faces is that the Court would refuse to "stack" civil penalties arising under the various Labor Code statutes. Plaintiff's counsel had to substantially discount the value of these claims in the settlement negotiations for this and a variety of other reasons. At best, Plaintiff could hope to recover one penalty for each pay period (regardless of the different Labor Code violations that potentially occurred for the same employee, during the same pay periods).

22. Additionally, PAGA states a court has discretion to award a lesser amount than the maximum penalty. *See* Lab. Code § 2699(e)(2) ("…a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory."); *see also Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1135 (reducing PAGA award). There is a substantial risk that the Court could reduce civil penalties to an insignificant amount if it is unpersuaded by Plaintiff's evidence of willful and intentional conduct. *Carrington v. Starbucks* (2018) 30 Cal.App.5th 504 ("*Carrington*") illustrates this. In that case, the Court of Appeal affirmed a trial court's heavily discounted award of only $5 per violation because it was within the Court's discretion to significantly reduce PAGA penalties even when there is a finding that a violation of the California Labor Code occurred. The plaintiff in *Carrington* had requested penalties in excess of $70 million and was successful in proving the PAGA claim during a bench trial. However, the trial court reduced the total award after trial to only $150,000 (30,000 violations x $5) and stated that this reduction was warranted because imposing the maximum penalty would be "unjust,

arbitrary, and oppressive", based on Starbucks's "good faith attempts" to comply with meal break obligations and because the Court found the violations were minimal. Applying the same formula here and assuming there was one violation during each pay period, the award of civil penalties could not exceed $98,815.00 in PAGA penalties (19,763 violations x $5). As such, this Settlement is a great result based solely on the risk the Court chooses to apply the *Carrington* formula. Moreover, because this action is governed by the PAGA as amended effective June 19, 2024, Defendants would also argue that any civil penalties should be capped at 15% or 30% of the applicable penalty amounts upon a showing that they took "all reasonable steps" to comply with the Labor Code. See Lab. Code § 2699(g)(1), (h)(1). Defendants have also posed formidable defenses to the Labor Code claims underlying Plaintiff's allegations. Thus, the chance of Plaintiff recovering a higher amount than the Gross Settlement Amount is uncertain.

23. The Parties further recognize that the issues presented in the representative PAGA claim are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the maximum potential benefits to the Aggrieved Employees and Plaintiff from continued litigation.

24. The settlement of the representative PAGA claim involves monetary relief to all Aggrieved Employees, Plaintiff, her attorneys, and the State of California. The Settlement is reasonable given the uncertainties this lawsuit entails. It is also reasonable given the structure and purpose of the PAGA, since the PAGA is not a restitution statute. Rather, it is essentially a punishment statute. It provides for civil penalties only. Within the PAGA framework she is bound by, Plaintiff, considering the evidence she faced, achieved a great result for the employees concerned. Furthermore, any employees who are dissatisfied with the amount they received in civil penalties can pursue any damages they believe they are owed by the Defendants. The Settlement does not require them to opt out to do so.

25. Furthermore, Plaintiff recognizes that continued litigation presents significant risks that support a significant downward departure from Plaintiff's estimated civil penalties amount. In view of the risks, the Settlement represents a fair, adequate, and reasonable

compromise amount for these claims and is in the best interest of Plaintiff and Aggrieved Employees and thus, warrants approval. The PAGA settlement and its terms are fair, just, reasonable, adequate, and equitable to Defendants, Plaintiff, and the State, especially in light of the current economic climate, and are the product of good faith, and informed arms-length negotiations between the Parties consistent with public policy and fully comply with applicable provisions of law.

26. As such, the settlement of PAGA penalties in the gross sum of $292,000.00, of which 65% of the net amount after attorney's fees, litigation costs, Plaintiff's Enhancement Payment, and settlement administration costs ($113,613.62), will be paid to the LWDA and 35% ($61,176.57) will be distributed to the Aggrieved Employees, is reasonable and appropriate under the circumstances.

Individual PAGA Payments

27. Defendants represent that at the time of mediation there were approximately 474 Aggrieved Employees during the PAGA Period. After deducting the requested Court-approved PAGA Counsel's Fees ($102,200.00), PAGA Counsel's Litigation Costs ($7,259.81), the Settlement Administrator's Costs ($5,750.00), and Plaintiff's Enhancement Payment ($2,000.00), the NSA will be approximately $174,790.19. Sixty five percent (65%) of the NSA will be paid to the Labor and Workforce Development Agency ("LWDA Payment") ($113,613.62), and thirty five percent (35%) ($61,176.57) of the NSA will be paid to the Aggrieved Employees on a pro-rata basis based upon their respective number of pay periods during the PAGA Period. Agreement, ¶¶ 3.1-3.2. With a total of 474 Aggrieved Employees, the average estimated individual PAGA payment for each Aggrieved Employee is approximately $129.06 ($61,176.57 [35% of the estimated PAGA Penalties] / 474 Aggrieved Employees). This is a great result given the uncertainties this lawsuit entails. Prior to the filing of this Motion, Defendants notified Plaintiff's counsel that the Agreement's escalator clause has been triggered and that they elect to increase the Net Settlement Amount proportionally rather than shorten the release period. The resulting increase to the Net Settlement Amount will be confirmed by the Settlement Administrator.

Attorneys' Fees and Costs

28. I represent Plaintiff on a straight contingency basis. My firm's request for $102,200.00 in attorney fees (35% of the Gross Settlement Amount) and $7,259.81 in litigation costs is fair and reasonable. "[R]egardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery." (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn.11 ("*Chavez*")); *In re Pacific Enter. Sec. Litig.* (9th Cir. 1995) 47 F.3d 373, 379 ("*Pacific*") [affirming 33% fee award]; *Williams v. MGM-Pathe Communications Co.* (9th Cir. 1997) 129 F.3d 1026, 1027 ("*MGM*") (awarding 33% of total fund amount).) This is also consistent with my experience in wage and hour class and PAGA settlements.

29. To date, I have investigated and prosecuted this matter vigorously, including initial investigation, drafting the initial PAGA notice and evidence preservation letter; reviewing Defendant's informal document production, including wage and hour policies; sending and receiving emails on the case with defense counsel, including substantive discussions; reviewing the expert's findings/conclusions; preparing for and attending a full day mediation, reviewing the settlement agreement, and reviewing this PAGA Approval Motion. I will make detailed copies of such time records available to the Court for inspection upon its request. I also expect to perform additional work on this case if the Court grants final approval of the Settlement, including supervision of the Settlement Administrator's disbursement of the settlement funds to the Aggrieved Employees.

30. My previous experience in litigating wage and hour actions also supports the reasonableness of the fee request. Based on past experience with similar matter, I was able to evaluate the strengths and weaknesses of this case and the reasonableness of the Settlement. Because it is reasonable to compensate me commensurate with my skill, reputation, and experience, attorney's fees of 35% of the Gross Settlement Amount is reasonable. Likewise, the caliber and experience of opposing counsel in labor and employment litigation, Theodore E. Bacon and Claudia M. Coleman of FBT Gibbons LLP, also supports the fairness and reasonableness of the requested fee award.

31. The award of attorney's fees sought is also justified by the contingency nature of the attorney-client relationship, my experience in litigating wage and hour cases, the number of attorney and staff hours my firm has spent on this lawsuit, the high caliber of defense counsel, the risks of non-payment and non-reimbursement, the delay in payment and cost reimbursement, and the great results Plaintiff's Counsel has achieved for the Aggrieved Employees.

32. In addition, my firm incurred substantial costs, $7,259.81 to date, which consist of mediator fees, data analysis fees, filing fees and attorney service fees. A true and correct summary of my firm's costs and expenses incurred to date is attached as **Exhibit 6** to this declaration. As the evidence submitted herewith shows, all of these costs are documented and reasonably incurred. Accordingly, they warrant the Court's approval.

Plaintiff's Enhancement Payment

33. Plaintiff's Enhancement Payment is being paid to Plaintiff for her service to the State of California and the Aggrieved Employees in prosecuting the Lawsuit and for her General Release. Agreement, ¶¶ 1.13, 3.2.1. *See generally* Declaration of Ilse Hernandez ("Hernandez Decl.").

34. The PAGA statute does not forbid enhancement payments. California federal district court decisions recognize that incentive awards may be awarded in PAGA-only representative actions. In *Mancini v. W.&S. Life Ins. Co.,* the court noted that the plaintiff had "asserted no non-PAGA claims." *Mancini v. W.&S. Life Ins. Co.* (S.D. Cal. 2018) U.S. Dist. LEXIS 160320 at *7. The settlement agreement under consideration provided for $5,000 as "an incentive award to Plaintiff for his status as the PAGA representative." *Id.* at *7. The district court took no issue with the fact that the case involved claims solely under PAGA, instead holding that the terms of the settlement agreement – including "the provision[] for incentive awards" – were "reasonable." *Id.* at *5. Further, in *Bruce v. Del Monte Foods, Inc.*, the district court granted an incentive award to the named plaintiff out of a settlement sum "treated exclusively as a civil penalty under PAGA." *Bruce v. Del Monte Foods, Inc.* (N.D. Cal. 2018) U.S. Dist. LEXIS 53800 at *1. Although the court ultimately reduced the named plaintiff's requested incentive award, cautioning that "enhancement or incentive awards are to be treated

with skepticism[,]" the court nonetheless granted an additional award to the named plaintiff, noting that the named plaintiff had made representations about "possible injury and expense above and beyond" that sustained by other Plaintiff. *Id.* at *7.

35. Plaintiff's Enhancement Payment of $2,000 for her service to the State of California and the Aggrieved Employees in prosecuting the Lawsuit is entirely reasonable given Plaintiff's efforts in the Lawsuit and the risks she undertook on behalf of the Aggrieved Employees. *See generally* Hernandez Decl. Plaintiff devoted many hours advancing the interests of the Aggrieved Employees. *Id*. The work Plaintiff has done on this case includes hiring my firm, speaking with our office on many occasions by phone, explaining what her employment at PAVILIONS was like, explaining what her employment at PAVILIONS had in common with other employees who worked for PAVILIONS, explaining her claims to me and my staff, and communicating with me and my staff about the settlement agreement and related documents. In doing this, Plaintiff has been exposed to significant risks, including the risk of an order to pay Defendant's attorneys' fees and costs if this action had been unsuccessful and in bad faith (*See* Labor Code §§ 218.5-218.6). The efforts and risks that Plaintiff undertook on behalf of the Aggrieved Employees show that the proposed Enhancement Payment to Plaintiff is fair, adequate, and reasonable, and thus warrants approval. *See generally* Hernandez Decl.

Settlement Administration Costs

36. With regard to the settlement administration costs provision, it is reasonable. The Parties sought and reviewed bids from other reputable third-party administrators and ILYM Group, Inc.'s bid was the lowest ($5,750.00 – the Settlement provides up to $6,000.00). Agreement, ¶¶ 1.2, 1.3, 3.2.3, 7.1. Thus, the settlement administration costs provision should be given approval.

37. Furthermore, the Declaration of Lisa Mullins with attached exhibits, filed under separate cover, sets forth ILYM's qualifications and costs to administer the settlement, including its "not to exceed" bid. Agreement, ¶ 6.1. *See generally* Declaration of Lisa Mullins. Thus, the settlement administration costs provision should be given approval.

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Notice of Settlement to the LWDA

38. Pursuant to Lab. Code § 2699(s)(2), Plaintiff submitted a copy of the Settlement with the LWDA at the same time the Settlement is being filed with the Court. True and correct copies of Plaintiff's submission with the LWDA and the confirmation email are collectively attached as **Exhibit 7** to this declaration.

I declare under the penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on October 12, 2026, at Glendale, California.



HAROUT MESSRELIAN,
Declarant

EXHIBIT 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (the "Agreement") is made by and between plaintiff Ilse Hernandez ("Plaintiff Hernandez") and defendants Pavilions Management, LLC and Aladdin Sammakieh (collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" or "PAGA Action" means the action entitled *Ilse Hernandez v. Pavilions Management, LLC, et al.*, Case No. CU24-07673, pending in the Superior Court of the State of California, County of Solano.

1.2. "Administrator" means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross PAGA Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.

1.4. "Aggrieved Employees" means all individuals who are or were employed by Defendant Pavilions Management, LLC, in California and classified as a non-exempt employee at any time during the period from June 28, 2023 through December 4, 2025.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.8. "Court" means the Superior Court of California, County of Solano.

1.9. "Defendant" means named defendant Pavilions Management, LLC.

1.10. "Defendants" means named defendants Pavilions Management, LLC, and Aladdin Sammikieh.

1.11. "Defense Counsel" means Theodore E. Bacon and Claudia M. Coleman of the law firm of Frost Brown Todd, LLP, 235 Pine Street, Suite 1150, San Francisco, CA 94104.

1.12. "Effective Date" means the date when all of the following events have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) when the period for filing any appeal, writ or other appellate proceeding opposing the settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (b) when an appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (c) when any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief. If the Court declines to approve the Settlement, the Parties will work in good faith to address the Court's concerns. If, after the Parties have exhausted all good faith efforts to obtain approval of the Settlement Agreement, the Court declines to approve the Settlement, the entire Settlement Agreement is seemed void and unenforceable as if no Settlement of any claim was ever reached.

1.13. "Enhancement Payment" means the amount Plaintiff Hernandez will receive (up to $2,000) for her service as lead named plaintiff in the Action.

1.14. "Gross PAGA Settlement Amount" means the total sum of Two Hundred Ninety Two Thousand Dollars and Zero Cents ($292,000.00), which is the total maximum amount Defendant agrees to pay under the Settlement, except as provided in paragraph 8 below. The Gross PAGA Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Enhancement Payment, and the Administration Expenses Payment. Defendant will not be obligated to pay any additional amounts in connection with the PAGA Settlement.

1.15. "Individual PAGA Payment" means each Aggrieved Employee's pro rata share of 35% of the Net Settlement Amount, calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.16. "Judgment" means the judgment entered by the Court based upon the Approval Order.

1.17. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled under Labor Code section 2699, subd. (i).

1.18. "LWDA PAGA Payment" means the 65% of the Net Settlement Amount, paid to the LWDA under Labor Code section 2699, subd. (i).

1.19. "Net Settlement Amount" means the Gross PAGA Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, the General Release and Enhancement Payment, and the Administration Expenses Payment. The remainder is to be paid to the Aggrieved Employees as Individual PAGA Payments.

1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698, *et seq*.).

1.21. "PAGA Counsel" means Harout Messrelian and Maralle Messrelian, Of Counsel, of the law firm Messrelian Law Inc., the attorneys representing the Plaintiff in the Action [101 N. Brand Blvd., Suite 1450, Glendale, CA 91203].

1.22. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.23. "PAGA Notice" means Plaintiff Hernandez's June 28, 2024 letter to Defendants and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.24. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross PAGA Settlement Amount, allocated at 35% to the Aggrieved Employees and 65% to the LWDA in settlement of PAGA claims.

1.25. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.26. "PAGA Period" means the period from June 28, 2023 through December 4, 2025.

1.27. "Plaintiff" mean Ilse Hernandez ("Plaintiff Hernandez"), the named plaintiff in the Action.

1.28. "Plaintiff's Release Claims" means the claims being released by Plaintiff Hernandez as described in Section 5.1 below.

1.29. "Released PAGA Claims" means the claims being released by Plaintiff Hernandez, the Aggrieved Employees, and PAGA Counsel as described in Section 5 below.

1.30. "Released Parties" means Defendant Pavilion Management, LLC, its present, former, or future owners, officers, members, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, subsidiaries, affiliates, related entities, and managing agents (including but not limited to Defendant Aladdin Dino Sammakieh), and any and all of their respective agents, legal representatives, and/or attorneys.

1.31. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS

2.1. On June 28, 2024, Plaintiff, by and through her counsel of record, filed PAGA Notice with the LWDA, asserting various violations of California's Labor Code.

2.2. On October 2, 2024, Plaintiff Hernandez filed a Complaint ("Operative Complaint") against Defendants for damages alleging a single cause of action for recovery of penalties under the PAGA. The lawsuit alleged violations of California Labor Code sections 201, 202, 203, 204, and/or 204b, 226, 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, 2800, 2802, and the applicable Industrial Welfare Commission Wage Order No. 5-2001. Specifically, the Operative Complaint asserted claims for: (1) failure to pay for all hours worked, including off-the-clock work (*e.g.*, rounding down hours and minimum wage); (2) failure to provide proper and accurate reporting time pay; (3) failure to pay overtime and doubletime; (4) failure to include bonuses, incentive payments, and/or shift differentials in calculating regular rate of pay and overtime and doubletime pay; (5) failure to provide uninterrupted rest breaks; (6) failure to provide uninterrupted meal breaks; (7) failure to pay meal and/or rest break premiums; (8) failure to keep accurate and complete payroll records; (9) failure to pay wages upon separation; (10) failure to indemnify for business expenses; (11) taking tips meant for employees, deducting tips from employee earned wages, deducting credit card fees from employee tips, providing credit card or cash tips to employees; (12) failure to provide correct or accurate sick pay; and (13) failure to provide suitable rest break facilities in violation of IWC Wage Order No. 5.

2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Hernandez gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.4. On November 4, 2025, the Parties participated in an all-day mediation presided over by the Honorable David Brown (Ret.), which led to this Agreement to settle the Action.

2.5. Prior to mediation, Plaintiff Hernandez obtained, through informal discovery, documents and information relating to Defendant's policies, practices, and procedures regarding paying non-exempt employees for all hours worked, overtime, meal and rest period policies, payroll and operations policies, and more, at all of Defendants' locations in California included within this Settlement.

2.6. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross PAGA Settlement Amount. Except as provided in Section 8 below, Defendants promise to pay Two Hundred Ninety Two Thousand Dollars ($292,000.00), and no more, as the Gross PAGA Settlement Amount. The Gross PAGA Settlement Amount includes the Individual PAGA Payments to the Aggrieved Employees, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Enhancement Payment, and the Administration Expenses Payment. Defendants have no obligation to pay the Gross PAGA Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross PAGA Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. The Gross PAGA Settlement Amount shall be all-in and none of the Gross PAGA Settlement Amount will revert to Defendants.

3.2. Payments from the Gross PAGA Settlement Amount. The Administrator will make and deduct the following payments from the Gross PAGA Settlement Amount, in the amounts specified by the Court in the Approval Order:

3.2.1 To Plaintiff: The Enhancement Payment will be no more than $2,000 to Plaintiff. Defendant will not oppose requests for Court approval of the Enhancement Payment, provided that it does not exceed this amount. Plaintiff Hernandez and/or PAGA Counsel will seek approval of Plaintiff's Enhancement Payment in conjunction with seeking approval of this settlement agreement. If the Court approves an Enhancement Payment in amount less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel arising from any claim to any portion any PAGA Counsel Fee

Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the payment using one or more IRS 1099 Forms. Plaintiff Hernandez assumes full responsibility and liability for any taxes owed on the representative payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of this payment.

3.2.2 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than Thirty Five Percent (35%), or $102,200.00, of the Gross PAGA Settlement Amount and PAGA Counsel Litigation Expenses Payment of not more than Seven Thousand Five Hundred Dollars($7,500.00). Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment in an amount less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administration Expenses Payment not to exceed Six Thousand Dollars $6,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $6,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4 To the LWDA and Aggrieved Employees: Net Settlement Amount of PAGA Penalties in the approximate amount of One Hundred Seventy Four Thousand Three Hundred Dollars (approximately $174,300, to be paid from the Gross PAGA Settlement Amount, with 65% (approximately $113,295.00) allocated to the LWDA PAGA Payment and 35% (approximately $61,005) allocated to the Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 35% share of PAGA Penalties ($61,005) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. If the

Court approves the PAGA Penalties (*i.e.*, Individual PAGA Payments and LWDA PAGA Payment) in an amount less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates that as of the date of mediation (November 4, 2025), there were 474 Aggrieved Employees who had worked a total of 19,763 PAGA Pay Periods during the PAGA Period.

4.2. Aggrieved Employee Data. Within fifteen (15) days of when the Court enters the Judgment on its Order Approving the PAGA Settlement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross PAGA Settlement Amount. Defendant shall fully fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator no later fourteen (14) days after the Effective Date.

4.4. Payments from the Gross PAGA Settlement Amount. Within fourteen (14) days after Defendant funds the Gross PAGA Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment, and the Enhancement Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of the Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage

prepaid. The face of each check shall prominently state the void date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the State Controller Unclaimed Property Fund in the name of the Aggrieved Employee who failed to cash their check.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount, Plaintiff Hernandez and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release: Plaintiff Hernandez and her respective former and present spouses, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally release and discharge the Released Parties from all claims, transactions, or occurrences arising from all PAGA claims that were, or reasonably could have been alleged, based on facts contained in the PAGA Notice ("Plaintiff's Release").

5.2 Release by Aggrieved Employees:

All other Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all "Released

PAGA Claims." "Released PAGA Claims" means all claims for PAGA penalties that were alleged, based on the alleged violations of the California Labor Code, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notice submitted by Plaintiff Hernandez to the LWDA, which occurred during the PAGA Period. The Released PAGA Claims expressly excludes all other claims, including Plaintiff's Individual Settlement Payment which is subject to a separate release, and PAGA claims outside of the PAGA period.

5.3 Release by PAGA Counsel:

Except as otherwise provided in this Agreement, PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. PAGA Counsel shall prepare and, following review and approval by Defendants' counsel, file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff Hernandez will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff Hernandez and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel are responsible for

expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

6.4 Dismissal. The Parties shall file a stipulation for dismissal with prejudice of the Action promptly after Court approval of this Settlement.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, IYLM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **AGGRIEVED EMPLOYEE AND PAY PERIOD SIZE ESTIMATES AND ESCALATOR CLAUSE** Based on its records, Defendant estimates that, as of the date of the mediation on November 4, 2025, there are 474 Aggrieved Employees who worked 19,763 Pay Periods during the PAGA Period. In the event the actual number of PAGA Pay Periods is 22,727 or greater, the Net Settlement Amount will increase proportionally. For example, if the PAGA Pay Periods number is 22,910 or 16% higher, then the Net Settlement Amount will be increased by 1%. In the alternative, the Defendant may elect to shorten the release period to stay within the 15% cushion, *i.e.*, by revising the end date of the PAGA Period so that the PAGA Period includes no more than 22,727 PAGA Pay Periods. Defendant shall confirm the PAGA Pay Periods and notify Plaintiff's counsel whether the escalator clause has been triggered and its election prior to the filing of Plaintiff's motion for approval.

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement pursuant to Code of Civil Procedure section 664.6, solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-Judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. **ADDITIONAL PROVISIONS.**

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff Hernandez that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. Defendants expressly deny all liability for any wrongdoing alleged by Plaintiff. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff Hernandez reserves the right to

contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff Hernandez and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of the mediator, the Hon. David Brown (Ret.) and/or the Court, for resolution.

10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendants, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11 Confidentiality. Other than information necessary to secure Court approval of this settlement, the Parties agree to keep confidential all matters relative to this Settlement, including the terms of the Settlement and the facts and circumstances leading up to it. If asked about the disputes between the Parties, the Parties shall provide no other statement than "the matter has been resolved" or "the matter has settled." The Parties may, however, discuss the terms of this Settlement with their spouses, attorneys, financial advisors, tax advisors, and accountants, or upon a valid court order, at which time the individual receiving information about the terms of this Settlement shall be informed that the terms of this Settlement are confidential, and the individual may not reveal or disclose to any third party the terms of the Settlement. Except as set forth above, neither Plaintiff Hernandez nor PAGA Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or social media, respond to any press inquiries, or otherwise publicize the settlement or communicate its terms in public or in private.

10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to California Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff Hernandez shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by U.S. mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

MESSRELIAN LAW INC.

Harout Messrelian
hm@messrelianlaw.com
Maralle Messrelian, Of Counsel
maralle@messrelianlaw.com
101 N. Brand Blvd., Suite 1450
Glendale, CA, 91203
Telephone: (818) 484.6531
Facsimile: (818) 956.1983

To Defendant:

FBT GIBBONS LLP
Theodore E. Bacon
tbacon@fbtgibbons.com
Claudia M. Coleman
ccoleman@fbtgibbons.com
235 Pine Street, Suite 1150
San Francisco, CA 94104
Telephone: (415) 624-8665
Facsimile: (415) 391-1751

10.16 Execution in Counterparts. This Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17 Court Filings. The Parties agree not to object to any Court filings consistent with this Agreement.

10.18 No Other Pending Claims. Plaintiff Hernandez represents that she does not have any other pending claims, complaints, charges, or lawsuits of any kind whatsoever with any court, governmental agency, or other regulatory body with

respect to any matter arising out of her employment with Defendant or otherwise related to Defendants.

10.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall continue to be stayed pursuant to the August 6, 2025, Court's order, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330, to extend the date to bring a case to trial under Code of Civil Procedure section 583.310, for the entire period of this settlement process. In the event the settlement is not finally approved, or is terminated, cancelled or fails to become effective for any reason, the Parties shall revert back to their respective positions as of before entering into the settlement, and per the Court's August 6, 2025, Court Order, the case will be stayed pending arbitration of Plaintiff's individual claims. The Parties shall cooperate in good faith to all deadlines, pending implementation of the settlement. If the Court denies approval of the settlement, the Parties will resume litigation.

11. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 05/06/2026

Ilse Hernandez (May 6, 2026 12:42:40 PDT)

Plaintiff Ilse Hernandez

Dated: 5/19/26

Aladdin Sammakieh
For Defendant Pavilions Management LLC

Dated: 5/19/26

Defendant Aladdin Sammakieh

Dated: 5/6/2026

Harout Messrelian
Maralle Messrelian, Of Counsel, Messrelian Law Inc.
Attorneys for Plaintiff

Dated: 5/19/2026

Theodore E. Bacon
Claudia M. Coleman, FBT Gibbons LLP
Attorneys for Defendant

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

ILSE HERNANDEZ, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 et seq., Plaintiff, v. PAVILIONS MANAGEMENT, LLC; ALADDIN SAMMAKIEH; and DOES 1 to 25, inclusive, Defendants.	Case No. CU24-07673 **NOTICE OF SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIM (CAL. LABOR CODE § 2698 *ET SEQ.*)**

You have been identified as an individual who worked for Defendant Pavilions Management, LLC ("Defendant") in California as a non-exempt employee between June 28, 2023, and December 4, 2025 ("Aggrieved Employee").

On October 2, 2024, Plaintiff Ilse Hernandez (the "Plaintiff") commenced a lawsuit in the Solano County Superior Court, case number CU24-07673 (the "Lawsuit"). Plaintiff alleges in the Lawsuit that Defendant failed to pay for all hours worked, including all minimum and overtime wages due, failed to provide reporting time pay, failed to provide all meal and rest periods, failed to pay meal and rest break premiums, failed to issue complete and accurate wage statements, failed to maintain records, failed to provide accurate sick pay, failed to reimburse necessary business expenses, failed to timely pay wages owed during and upon separation of employment, unlawfully collected tips and gratuities, and failed to provide suitable rest break facilities. For these alleged violations, Plaintiff seeks penalties pursuant to the California Labor Code's Private Attorneys General Act of 2004, codified at Labor Code § 2698 et seq. ("PAGA").

Defendant maintains that it was in compliance with the California Labor Code at all times and enters into this Settlement with no admission of liability and solely for the purpose of compromising and settling the action to avoid the cost and operational burden of continued litigation.

The Court approved the settlement on _____ and has determined that the settlement is fair and reasonable. The payment which accompanies this notice is made to you pursuant to the terms of the Settlement.

The Court-approved settlement contains the following release of claims, to which you are bound:

> Effective on the date when Defendant fully funds the entire Gross PAGA Settlement Amount, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all "Released PAGA Claims." "Released PAGA Claims" means all claims for PAGA penalties that were alleged, based on the alleged violations of the California Labor Code, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notice submitted by Plaintiff Hernandez to the LWDA, which occurred during the PAGA Period. The Released PAGA Claims expressly excludes all other claims, including Plaintiff's Individual Settlement Payment which is subject to a separate release, and PAGA claims outside of the PAGA Period.
>
> The "Released Parties" are Defendant Pavilions Management, LLC, its present, former, or future owners, officers, members, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, subsidiaries, affiliates, related entities, and managing agents (including but not limited to Defendant Aladdin Dino Sammakieh), and any and all of their respective agents, legal representatives, and/or attorneys.

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by the Settlement will be barred from proceeding with any claim released by this Settlement.

Please be advised that checks that are not cashed within 180 days of issuance will be transmitted to the State of California Unclaimed Property Fund in the name of the Aggrieved Employee who did not cash his/her check. Regardless of what you do with the check issued to you, by law and Court order, you have released the Released Parties from the Released Claims described herein. Your payment under this settlement is subject to taxation and will be reported to the IRS and state tax authorities. You will receive appropriate tax forms pertaining to your individual settlement payment and you are responsible for payment of any taxes that are due as a result of this payment.

If you have any questions, please contact the Settlement Administrator, ILYM Group, Inc., at (___) ___-____.

EXHIBIT 3

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Glendale, California 91203
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Fax: (818) 956-1983

VIA ELECTRONIC FILING **June 28, 2024**

California Labor & Workforce Development Agency (LWDA)
Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

PAVILIONS MANAGEMENT, LLC
ALADDIN SAMMAKIEH
1198 SAN PABLO AVE
BERKELEY, CA 94706

ILSE HERNANDEZ v. PAVILIONS MANAGEMENT, LLC; ALADDIN SAMMAKIEH

RE: PRIVATE ATTORNEYS GENERAL ACT NOTICE

To Whom It May Concern:

Please be informed that our client, Ms. Ilse Hernandez (hereinafter "Ms. Hernandez" or "our client") seeks penalties on behalf of the State of California and all current and former non-exempt or hourly paid California employees ("aggrieved employees") who worked for PAVILIONS MANAGEMENT, LLC and ALADDIN SAMMAKIEH (hereinafter collectively referred to as "PAVILIONS") **at all of their restaurant locations in the State of California**, during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA"). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same. Individual ALADDIN SAMMAKIEH is being included in this PAGA notice pursuant to Labor Code section 558.1 in that he was and is the managing agent, owner, and/or director of PAVILIONS MANAGEMENT, LLC, was involved in the day-to-day operations of the business, including the wage and hour practices and policies, and as such, controlled the wages, hours, and/or working conditions of Ms. Hernandez and other hourly employees.

Ms. Hernandez started working for PAVILIONS at a McDonald's restaurant location on or around June 2021 as a crew member. Ms. Hernandez was classified as an hourly, non-exempt employee. Ms. Hernandez's last rate of pay was $20.00 per hour. Ms. Hernandez generally worked 3 days per week and her shifts were generally more than 8 hours long. Ms. Hernandez stopped working for PAVILIONS on or around June 19, 2024.

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It is our position that due to personally suffering the below violations, Ms. Hernandez can equivocally bring the following labor code violations on behalf of all other employees, including ALL hourly, non-exempt employees who worked for PAVILIONS anywhere in the state of California (at all different restaurant locations) during the relevant PAGA period.

It is our position that PAVILIONS has violated the following Labor Code Sections against Ms. Hernandez and other similarly situated aggrieved employees, who include all non-exempt, hourly employees who worked for PAVILIONS at their various locations/restaurants in the State of California during the relevant PAGA period.

PAVILIONS violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to pay our client and other similarly situated aggrieved employees for all hours worked, including the statutory minimum wage for all hours worked and for "off the clock" work. This is so because PAVILIONS had a company policy wherein they would disproportionately round down the number of hours worked for Ms. Hernandez and others, resulting in "time shaving" and further resulting in aggrieved employees not being paid for all hours worked. Moreover, PAVILIONS failed to provide its employees, including Ms. Hernandez and others, with proper and accurate reporting time pay.

Due to the above "off the clock" violations, PAVILIONS also violated Labor Code §510 because it failed to pay our client and other aggrieved employees overtime compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment. Ms. Hernandez's and other aggrieved employees' actual work hours entitled them to overtime compensation, however, PAVILIONS did not compensate its hourly, non-exempt employees with the correct amount of overtime due to the "off the clock" work and time shaving as described above. Furthermore, PAVILIONS failed to include bonuses/incentive payments/shift differentials in calculating Ms. Hernandez's and other employees' regular rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive, shift differential, and bonus payments were also not factored into employees' regular rate for purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

PAVILIONS also violated Labor Code § 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide our client and other similarly situated aggrieved employees with 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their employment. PAVILIONS did not completely relieve our client and others of all duty during said rest periods. PAVILIONS did not pay to our client and others one additional hour of pay at our client's regular rate of compensation for each workday that one or more statutory rest periods was not provided. Ms. Henandez's rest breaks were interrupted during her employment tenure due to customers needing help or assistance while Ms. Hernandez was on her break. Management was unequivocally aware of the interruptions as they would see Ms. Hernandez aiding customers when she was supposed to be on her break. Moreover, there was a particular occasion wherein there was an unexpected inspection and management specifically ordered Ms. Hernandez to complete a task during a statutory break. Moreover, it would not have been possible for employees such as Ms. Hernandez to consistently take timely and UNINTERRUPTED rest breaks due to being understaffed and due to a heavy workload, especially in the fast-paced fast food

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restaurant environment. As such, the culture as well as the policies and procedures of PAVILIONS did not lend itself to the employees receiving consistent statutory rest breaks wherein they were relieved of all work duties. The environment at PAVILIONS was not conducive to receiving statutory rest breaks under California law and timely, statutory rest breaks were not authorized or enforced.

PAVILIONS violated Labor Code §§ 512 and 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt employees, including Ms. Hernandez and others, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment. PAVILIONS did not completely relieve Ms. Hernandez and other employees of all duty during said meal periods. PAVILIONS did not pay to Ms. Hernandez and its hourly, non-exempt employees one additional hour of pay at their regular rate of compensation for each workday that one or more statutory meal periods was not provided. Like the rest breaks, receiving a consistent thirty-minute uninterrupted and timely meal break was not part of the company culture and was not enforced by PAVILIONS. In fact, there were numerous occasions wherein Ms. Hernandez received her meal break after the 5th hour. The latter had to do with a specific manager being on duty and not being able to schedule properly so that employees would receive timely meal breaks. Consequently, it was the normal practice and custom of PAVILIONS not to authorize, permit, and enforce timely statutory meal periods. If PAVILIONS had our client sign a meal period waiver, it would not be valid and enforceable since our client and others generally worked more than a 5-hour shift. Furthermore, under California law, employees must make an affirmative decision every day regarding whether to waive their meal periods. August 13, 2003 DLSE Opinion Letter ("The decision to forego a meal period may not, therefore, be based on a specific requirement of the employer or on a policy or practice which could reasonably be perceived to be a condition of employment. Therefore, blanket "waivers" of meal periods …whether written or oral, will not be considered valid."). If PAVILIONS had our client sign an on-duty meal period agreement wherein our client agreed to work through the meal periods, it would be invalid and unenforceable because the nature of our client's job does not and did not prevent her from taking a meal period and the company could have hired "breakers" to relieve Ms. Hernandez of her job duties so that she can actually take a timely, uninterrupted meal period. Moreover, any such "on duty" meal period agreement did not allow for our client to revoke such an agreement even if it was signed. As such, our client and others did not always receive statutory, timely meal periods during their employment. To the extent that PAVILIONS argues that employees receive meal break premium pay for missed meal periods, that argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the violations themselves, irrespective of whether an employee received the premium payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice between providing *either* meal and rest breaks *or* an additional hour of pay." *See Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the violation; the employer has still committed a violation even if the remedy for the violation has been paid. *See Wert v. U.S. Bancorp*, (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work

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environment and culture at PAVILIONS was not conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover, any meal or rest break premiums paid were not compensated at the weighted average regular rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

Furthermore, during the relevant time period, and due to the above labor code violations, PAVILIONS failed to pay our client and other similarly situated aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. Since Ms. Hernandez was not compensated for her "off the clock" work and since Ms. Hernandez did not receive meal and rest break premiums, Ms. Hernandez would still be owed wages pursuant to Labor Code Section 204. PAVILIONS was also in violation of California Labor Code section 226(a) by failing to include pertinent information on the wage statements provided to Ms. Hernandez and others, including but not limited to, the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross wages earned, net wages earned, premium pay for missed meal and rest breaks, all deductions, the correct start and end of the pay period, all employee identifying information, the correct and complete name and address of the legal employer, and reimbursement for business expenses, among others. As such, PAVILIONS did not provide our client and other similarly situated aggrieved employees with complete, accurate itemized wage statements.

During the relevant time period, PAVILIONS also failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Ms. Hernandez and others pursuant to California Labor Code sections 1174(d).

PAVILIONS also violated Labor Code § 203 because it willfully failed to pay Ms. Hernandez and other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include compensation for all hours worked, including minimum wages, overtime compensation, and premium pay for missed meal and rest breaks.

During the relevant time period, Ms. Hernandez and other aggrieved employees incurred necessary, business-related expenses and costs that were not reimbursed by PAVILIONS. These costs include, but are not limited to uniforms, including shoes. Ms. Hernandez had to purchase three pairs of working shoes, ranging from $45 to $80 because the shoes that were provided by PAVILIONS were not of good quality. Accordingly, PAVILIONS was in violation of California Labor Code sections 2800 and 2802.

Additionally, PAVILIONS violated Labor Code Section 351 and 353 by taking some of the tips meant for employees such as Ms. Hernandez and also deducting the tips from employees' earned wages. PAVILIONS also deducted the credit card fee from employees' tips and did not timely provide the credit card and even cash tips to aggrieved employees. As such, aggrieved employees were not given accurate tips to which they were entitled.

Furthermore, PAVILIONS did not provide proper and correct/accurate sick pay (inclusive of all bonuses/shift differentials/incentive payments) to Ms. Hernandez and others that was also delineated on employee pay stubs and also failed to provide proper sick leave in violation of Labor

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Code sections 233 and 246. Moreover, there were no suitable seating/rest break facilities for Ms. Hernandez and other employees pursuant to Wage Order no. 5-2001 as Ms. Hernandez and other employees did not have a designated break area.

Each of the aforementioned violations, except the violations for inaccurate pay statements under Labor Code section 226(a), is among the enumerated violations set forth in Labor Code § 2699.5, for which there is no statutory right to cure.

Please take notice that, based upon the above-mentioned violations, and in addition to the penalties provided by those specific sections themselves, Ms. Hernandez also intends to seek penalties under the following Labor Code sections which themselves are inviolable but provide for recovery of penalties for violating one or more of the above-mentioned Labor Code sections: Labor Code §§ 558, 226.3, 1197.1.

Should your agency choose not to pursue this matter, this law office intends to vigorously prosecute the aforementioned Labor Code violations on its behalf and vindicate the rights of all employees who have been subjected to these same Labor Code violations by PAVILIONS.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very Truly Yours,

Harout Messrelian, Esq.

EXHIBIT 4

Electronically Submitted on 10/02/2024 01:29 PM

MESSRELIAN LAW INC.
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Attorneys for Plaintiff,
ILSE HERNANDEZ, and all others similarly situated

ELECTRONICALLY FILED
Superior Court of California,
County of Solano
10/02/2024 at 01:29:13 PM
By: N. Shaw, Deputy Clerk

$435.00

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO
(*UNLIMITED JURISDICTION*)

ILSE HERNANDEZ,

Plaintiff,

vs.

PAVILIONS MANAGEMENT, LLC; ALADDIN SAMMAKIEH; and DOES 1 to 25, inclusive,

Defendants.

Case No.: CU24-07673

COMPLAINT FOR DAMAGES FOR:

1) **PRIVATE ATTORNEYS GENERAL ACT ("PAGA");**

COMES NOW, Plaintiff, ILSE HERNANDEZ (hereafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Solano in this judicial district because Defendants PAVILIONS MANAGEMENT, LLC; ALADDIN SAMMAKIEH; and DOES 1 to 25, inclusive (hereafter "PAVILLIONS" or "Defendants") do business in the County of Solano and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Solano is the subject of this action. Moreover, Plaintiff's damages sought herein exceed $35,000.

2. Plaintiff is a female resident of the city of Vallejo, county of Solano, California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant PAVILIONS MANAGEMENT, LLC is and was a California limited liability company, doing business in Solano County, California, and which employed Plaintiff.

4. Defendant ALADDIN SAMMAKIEH is a citizen of California based on Plaintiff's information and belief.

5. In relevant part, Labor Code section 558.1 states:

> (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
>
> (b) For purposes of this section, the term "other person acting on behalf of an employer" is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term "managing agent" has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

6. Plaintiff is informed and believes and thereon alleges that ALADDIN SAMMAKIEH is a natural person and an owner, director, officer, and/or managing agent of Defendant PAVILIONS MANAGEMENT, LLC, who directly or indirectly, or through an agent or any other person, employed or exercised control over the wages, hours, or working conditions of Plaintiff and the aggrieved employees (as defined below). Therefore, he is liable to Plaintiff and the aggrieved employees for his violations of, or causing Defendants to violate, Labor Code

sections 203, 226, 226.7, 1193.6, 1194, 2802, and the Wage Order (no. 5) pursuant to Labor Code section 558.1.

7. The "aggrieved employees" are all current and former non-exempt or hourly paid employees who worked for Defendants at any of their California restaurant locations during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA").

8. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

9. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

10. Plaintiff started working for PAVILIONS in or around June 2021 at a McDonald's restaurant located at 1602 E 2nd St, Benicia, CA 94510 as a crew member. Plaintiff was classified as an hourly, non-exempt employee. Plaintiff's last rate of pay was $20.00 per hour. Plaintiff generally worked 3 days per week and her shifts were generally more than 8 hours long. Plaintiff stopped working for PAVILIONS on or around June 19, 2024.

11. It is Plaintiff's position that due to personally suffering the below violations, Plaintiff can equivocally bring the following labor code violations on behalf of all other employees, including ALL hourly, non-exempt employees who worked for PAVILIONS anywhere in the state of California (at all different restaurant locations) during the relevant PAGA

period.

12. It is Plaintiff's position that PAVILIONS has violated numerous Labor Code Sections against Plaintiff and other similarly situated aggrieved employees, who include all non-exempt, hourly employees who worked for PAVILIONS at their various locations/restaurants in the State of California during the relevant PAGA period.

13. PAVILIONS violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked, including the statutory minimum wage for all hours worked and for "off the clock" work. This is so because PAVILIONS had a company policy wherein they would disproportionately round down the number of hours worked for Plaintiff and others, resulting in "time shaving" and further resulting in aggrieved employees not being paid for all hours worked. Moreover, PAVILIONS failed to provide its employees, including Plaintiff and others, with proper and accurate reporting time pay.

14. Due to the above "off the clock" violations, PAVILIONS also violated Labor Code §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment. Plaintiff's and other aggrieved employees' actual work hours entitled them to overtime compensation, however, PAVILIONS did not compensate its hourly, non-exempt employees with the correct amount of overtime due to the "off the clock" work and time shaving as described above. Furthermore, PAVILIONS failed to include bonuses/incentive payments/shift differentials in calculating Plaintiff's and other employees' regular rate of pay for use in deciphering the correct overtime rate of pay. Additionally, the incentive, shift differential, and bonus payments were also not factored into employees' regular rate for purposes of receiving meal and rest break premiums per the Ferra v. Loews case.

15. PAVILIONS also violated Labor Code § 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees with 10-minute rest periods for every four hours of work, or majority portion thereof, throughout their employment. PAVILIONS did not completely relieve

Plaintiff and others of all duty during said rest periods. PAVILIONS did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory rest periods was not provided. Ms. Henandez's rest breaks were interrupted during her employment tenure due to customers needing help or assistance while Plaintiff was on her break. Management was unequivocally aware of the interruptions as they would see Plaintiff aiding customers when she was supposed to be on her break. Moreover, there was a particular occasion wherein there was an unexpected inspection and management specifically ordered Plaintiff to complete a task during a statutory break. Moreover, it would not have been possible for employees such as Plaintiff to consistently take timely and UNINTERRUPTED rest breaks due to being understaffed and due to a heavy workload, especially in the fast-paced fast food restaurant environment. As such, the culture as well as the policies and procedures of PAVILIONS did not lend itself to the employees receiving consistent statutory rest breaks wherein they were relieved of all work duties. The environment at PAVILIONS was not conducive to receiving statutory rest breaks under California law and timely, statutory rest breaks were not authorized or enforced.

16. PAVILIONS violated Labor Code §§ 512 and 226.7 and the appropriate Industrial Welfare Commission Wage Order no. 5 because it failed to provide hourly, non-exempt employees, including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment. PAVILIONS did not completely relieve Plaintiff and other employees of all duty during said meal periods. PAVILIONS did not pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay at their regular rate of compensation for each workday that one or more statutory meal periods was not provided. Like the rest breaks, receiving a consistent thirty-minute uninterrupted and timely meal break was not part of the company culture and was not enforced by PAVILIONS. In fact, there were numerous occasions wherein Plaintiff received her meal break after the 5th hour. The latter had to do with a specific manager being on duty and not being able to schedule properly so that employees would receive timely meal breaks. Consequently, it was the normal practice and custom of PAVILIONS not to authorize, permit, and enforce timely statutory meal periods. If

PAVILIONS had Plaintiff sign a meal period waiver, it would not be valid and enforceable since Plaintiff and others generally worked more than a 5-hour shift.

17. Furthermore, under California law, employees must make an affirmative decision every day regarding whether to waive their meal periods. August 13, 2003 DLSE Opinion Letter ("The decision to forego a meal period may not, therefore, be based on a specific requirement of the employer or on a policy or practice which could reasonably be perceived to be a condition of employment. Therefore, blanket "waivers" of meal periods …whether written or oral, will not be considered valid."). If PAVILIONS had Plaintiff sign an on-duty meal period agreement wherein Plaintiff agreed to work through the meal periods, it would be invalid and unenforceable because the nature of Plaintiff's job does not and did not prevent her from taking a meal period and the company could have hired "breakers" to relieve Plaintiff of her job duties so that she can actually take a timely, uninterrupted meal period. Moreover, any such "on duty" meal period agreement did not allow for Plaintiff to revoke such an agreement even if it was signed. As such, Plaintiff and others did not always receive statutory, timely meal periods during their employment. To the extent that PAVILIONS argues that employees receive meal break premium pay for missed meal periods, that argument is inconsequential for PAGA penalty purposes since the PAGA penalties are for the violations themselves, irrespective of whether an employee received the premium payment for a missed, short, or interrupted meal period. In *Kirby v. Immoos Fire Protection, Inc.*, the Court stated, "section 226.7 does not give employers a lawful choice between providing either meal and rest breaks or an additional hour of pay." *See Kirby v. Immoos Fire Protection, Inc.*, (2012) 53 Cal.4th 1244, 1256 (emphasis in original). Thus, the extra hour of pay does not excuse the violation; the employer has still committed a violation even if the remedy for the violation has been paid. *See Wert v. U.S. Bancorp,* (S.D. Cal. Mar. 22, 2016, 2016 WL 1110302 at *4). As such, the work environment and culture at PAVILIONS was not conducive to receiving consistent, timely, statutory meal breaks under California law. Moreover, any meal or rest break premiums paid were not compensated at the weighted average regular rate, inclusive of bonuses and/or incentive payments as well as overtime compensation.

18. Furthermore, during the relevant time period, and due to the above labor code

violations, PAVILIONS failed to pay Plaintiff and other similarly situated aggrieved employees all wages due to them within any time period specified by California Labor Code section 204. Since Plaintiff was not compensated for her "off the clock" work and since Plaintiff did not receive meal and rest break premiums, Plaintiff would still be owed wages pursuant to Labor Code Section 204. PAVILIONS was also in violation of California Labor Code section 226(a) by failing to include pertinent information on the wage statements provided to Plaintiff and others, including but not limited to, the correct hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross wages earned, net wages earned, premium pay for missed meal and rest breaks, all deductions, the correct start and end of the pay period, all employee identifying information, the correct and complete name and address of the legal employer, and reimbursement for business expenses, among others. As such, PAVILIONS did not provide Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized wage statements.

19. During the relevant time period, PAVILIONS also failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

20. PAVILIONS also violated Labor Code § 203 because it willfully failed to pay Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include compensation for all hours worked, including minimum wages, overtime compensation, and premium pay for missed meal and rest breaks.

21. During the relevant time period, Plaintiff and other aggrieved employees incurred necessary, business-related expenses and costs that were not reimbursed by PAVILIONS. These costs include, but are not limited to uniforms, including shoes. Plaintiff had to purchase three pairs of working shoes, ranging from $45 to $80 because the shoes that were provided by PAVILIONS were not of good quality. Accordingly, PAVILIONS was in violation of California Labor Code sections 2800 and 2802.

22. Additionally, PAVILIONS violated Labor Code Section 351 and 353 by taking some of the tips meant for employees such as Plaintiff and also deducting the tips from

employees' earned wages. PAVILIONS also deducted the credit card fee from employees' tips and did not timely provide the credit card and even cash tips to aggrieved employees. As such, aggrieved employees were not given accurate tips to which they were entitled.

23. Furthermore, PAVILIONS did not provide proper and correct/accurate sick pay (inclusive of all bonuses/shift differentials/incentive payments) to Plaintiff and others that was also delineated on employee pay stubs and also failed to provide proper sick leave in violation of Labor Code sections 233 and 246. Moreover, there were no suitable seating/rest break facilities for Plaintiff and other employees pursuant to Wage Order no. 5-2001 as Plaintiff and other employees did not have a designated break area.

24. Accordingly, Plaintiff now seeks civil penalties on behalf of herself and the aggrieved employees based on Defendants' alleged violations of the California Labor Code and the Wage Order.

FIRST (AND ONLY) CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

Representative Claim for PAGA penalties under California Labor Code sections 201, 202, 203, 204 and/or 204b, 226, 226.3, 226.7, 233,246, 351, 353, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, 2800, 2802, and the applicable Industrial Welfare Commission Wage Order No. 5-2001

(Against All Named Defendants and all DOE Defendants)

25. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 24, inclusive, of this Complaint as though fully set forth herein.

26. Pursuant to law, on June 28, 2024, Plaintiff provided the required written notice to the California Labor & Workforce Development Agency (LWDA) and Defendants of the specific violations of the California Labor Code that Defendants and DOE defendants have violated and continue to violate.

27. Pursuant to California Labor code section 2699.3, no response was received from the LWDA within 65 days of the postmark date of the above-alleged letter.

28. Plaintiff therefore has exhausted all administrative remedies required of her under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor

Code.

29. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions, commissions, boards, agencies, or employees for violation of the code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in California Labor Code section 2699.3.

30. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged violator and had one or more of the alleged violations committed against her, and therefore is properly suited to represent the interests of all current and former non-exempt or hourly paid employees who worked for Defendants at any of their California locations during the relevant time period.

31. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks penalties under California Labor Code sections 2698 and 2699 because of Defendants' violations of numerous provisions of the California Labor Code as alleged in this Complaint.

32. Plaintiff therefore has exhausted all administrative remedies required of her under California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

33. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants for violating the Labor Code.

34. California Labor Code section 558 establishes a civil penalty as follows: Any employer or other person action on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission (including the "Hours and Days of Work" section of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid …; (2) for each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay

period for which the employee was underpaid …;

35. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not seeking individual/victim specific relief or underpaid wages under this particular cause of action.

36. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for the following:

Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 226, 226.3, 226.7, 233, 246, 351, 353, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802 via 2698 and 2699, and any other Labor Codes and Wage Order no. 5 violated on the facts alleged in this Complaint.

37. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of Plaintiff and other current and former Aggrieved Employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For the imposition of civil penalties;
2. For maximum civil penalties available under Labor Code Section 2699 against Defendants in a manner and amount authorized by that statute, as described more particularly in the Complaint and representative PAGA claims;
3. For all costs and disbursements incurred in this suit;
4. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, and/or other applicable laws; and

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5. For such other and further relief as this Court may deem proper.

Respectfully submitted,

MESSRELIAN LAW INC.

Dated: October 2, 2024

By _____
Harout Messrelian, Esq.
Maralle Messrelian, Esq., Of Counsel
Attorneys for Plaintiff, ILSE HERNANDEZ

EXHIBIT 5

THEODORE E. BACON (CA Bar No. 115395)
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Attorneys for Defendants
PAVILIONS MANAGEMENT, LLC;
ALADDIN SAMMAKIEH

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

ILSE HERNANDEZ

Plaintiff,

v.

PAVILIONS MANAGEMENT LLC
ALADDIN SAMMAKIEH; and DOES 1 to 25,

Defendants.

CASE NO.: CU24-07673

JUDGE: Hon. Stephen Gizzi
DEPT: 3

ANSWER TO COMPLAINT FOR VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT

ACTION FILED: October 2, 2024

Defendants Pavilions Management LLC ("Pavilions Management LLC") and Aladdin Sammakieh ("Mr. Sammakieh") (collectively, "Defendants"), respectively answer the causes of action asserted in the Complaint of plaintiff Ilse Hernandez ("Plaintiff") as follows:

GENERAL DENIAL

Pursuant to California *Code of Civil Procedure* § 431.30(d), Defendants generally deny each and every allegation in the Complaint and further denies that Plaintiff has sustained any of the damages alleged in the Complaint. Defendants deny every allegation of the purported causes of action asserted against it in the Complaint.

As separate and distinct affirmative defenses to the Complaint on file in this action, Defendants allege as follows:

FROST BROWN TODD LLP
SANTA ANA

FIRST AFFIRMATIVE DEFENSE

(Failure to State of Cause of Action)

1. Defendants allege the Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against it.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

2. Plaintiff's claims and those of the individuals on whose behalf Plaintiff seeks relief are barred in whole or in part by all applicable status of limitation, including but not limited to, California *Code of Civil Procedure* § 340.

THIRD AFFIRMATIVE DEFENSE

(Waiver)

3. Plaintiff's claims, and the claims of the individuals on whose behalf Plaintiff seeks relief, are barred in whole or in part because the asserted claims have been waived, discharged, settled, and/or abandoned as a result of their own actions and course of conduct.

FOURTH AFFIRMATIVE DEFENSE

(Compensation Received)

4. Plaintiff's claims and those of the individuals on whose behalf Plaintiff seeks relief are barred in whole or in part because Defendants have timely paid all income, compensation and pay, including minimum and overtime wages, if applicable, to which they are entitled by applicable law.

FIFTH AFFIRMATIVE DEFENSE

(No Other Compensation)

5. Plaintiff's claims and those of the individuals on whose behalf Plaintiff seeks relief are barred in whole or in part because they are not entitled to any additional wages or other compensation, including but not limited to minimum and overtime wages, or penalties under the California Labor Code, the applicable wage orders of the California Industrial Welfare Commission and/or any other law beyond that which they have already received.

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SIXTH AFFIRMATIVE DEFENSE

(Reliance on Administrative Rules)

6. The causes of action contained in the Complaint, in whole or in part, are barred since Defendants relied in good faith in conformity with and in reliance upon written guidelines, interpretations, and ruled promulgated by the DLSE, Industrial Welfare Commission ("IWC"), LWDA, United States Department of Labor ("DOL"), and upon the administrative practice and enforcement policies of the DLSE, IWC, DOL, and LWDA.

SEVENTH AFFIRMATIVE DEFENSE

(Standing)

7. Defendants allege Plaintiff lacks standing to bring claims, on behalf of herself and the individuals on whose behalf Plaintiff seeks relief, as to all or a portion of the causes of action alleged in the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

(Release)

8. Plaintiff's claims and of the individuals on whose behalf Plaintiff seeks relief are barred to the extent that any of the Plaintiff and/or purported class or collective members have released, settled and/or discharged Defendants from any actionable claims.

NINTH AFFIRMATIVE DEFENSE

(Overpayment and Set Off)

9. To the extent Defendants overpaid Plaintiff and those of the individuals on whose behalf Plaintiff seeks relief, Defendants are entitled to offset by the amount of any such overpayment(s) of any sums that might be awarded for the claims asserted in the Complaint.

TENTH AFFIRMATIVE DEFENSE

(PAGA – Insufficient Notice/Exhaustion Requirements)

10. The Complaint and each and every purported cause of action contained therein is barred to the extent Plaintiff, and any person on whose behalf relief is sought, failed to satisfy the notice and exhaustion requirements under California's Private Attorney General Act ("PAGA"), and to the extent that they otherwise have failed to exhaust administrative remedies.

ELEVENTH AFFIRMATIVE DEFENSE

(PAGA – Due Process)

11. Although Defendants deny it committed or has responsibility for any acts that could support recovery under the PAGA, if and to the extent any such liability is found, recovery against Defendants under PAGA is unconstitutionally excessive and violates Defendants' due process rights.

TWELFTH AFFIRMATIVE DEFENSE

(PAGA – California Labor Code § 2699(f)(2))

12. Plaintiff's purported Cause of Action under the PAGA is barred to the extent Plaintiff, and the individuals on whose behalf Plaintiff seek relief, seek penalties beyond the "initial" violation as described in California Labor Code § 2699(f)(2).

THIRTEENTH AFFIRMATIVE DEFENSE

(PAGA – Unlawful Delegation of Authority)

13. Plaintiff's purported cause of action under the PAGA is barred to the extent private actions seeking PAGA penalties manifest an unlawful delegation of executive authority.

FOURTEENTH AFFIRMATIVE DEFENSE

(PAGA – Improper Penalties)

14. Plaintiff's purported Cause of Action under the PAGA is barred to the extent it seeks to recover penalties on behalf of individuals who are not "aggrieved employees."

FIFTEENTH AFFIRMATIVE DEFENSE

(PAGA – Improper Penalties)

15. Plaintiff, and the individuals on whose behalf Plaintiff seeks relief, are not entitled to recovery of penalties under PAGA to the extent that such penalties are sought in addition to other penalties sought under other laws for the same claims, and such duplicative recovery is barred and constitutes unjust enrichment.

SIXTEENTH AFFIRMATIVE DEFENSE

(No Waiting Time Penalties – Good Faith Belief)

16. Plaintiff's claims and those of the purported PAGA class for "waiting time" penalties under *Labor Code* §§ 201 – 203 are barred because Defendants had a good faith belief that no such

wages were owed and that all wages were properly paid.

SEVENTEENTH AFFIRMATIVE DEFENSE

(No Waiting Time Penalties – Willful Conduct)

17. Plaintiff's claims and those of the purported PAGA class for "waiting time" penalties under *Labor Code* §§ 201 – 203 must fail because Defendants have not "willfully failed" to pay wages to Plaintiff.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Ratification)

18. Plaintiff's claims are barred, individually or on behalf of the individuals Plaintiff seeks relief, because they, through conduct, ratified and engaged in actions which never even triggered *Labor Code* violations.

NINETEENTH AFFIRMATIVE DEFENSE

(No Entitlement to Jury Trial – Certain Claims)

19. Plaintiff is not entitled to a trial by jury of certain of her claims, including her claims under PAGA.

TWENTIETH AFFIRMATIVE DEFENSE

(Inadequacy of Plaintiff's Counsel)

20. Defendants are informed and believes, and based upon such information and belief allege, that Plaintiffs' counsel is not adequately familiar with the substantive and procedural law pertinent to actions under the PAGA and, accordingly, this action is not properly brought as a PAGA action.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Representative Action)

21. The Complaint does not state facts sufficient to permit Plaintiff to proceed on behalf of others in a representative capacity under PAGA or other means because, including but not limited to: (a) some or all of Plaintiff's claims are not suitable for determination/litigation on a representative basis; (b) Plaintiff is not an "aggrieved employee" pursuant to the PAGA; and (c) Plaintiff lacks standing to bring claims for civil penalties under the PAGA because she failed to

identify said "aggrieved employees," pursuant to the PAGA.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(No Reimbursement)

22. Plaintiff, and the individuals on whose behalf Plaintiff seeks relief, are not entitled to reimbursement of alleged expenses. The types of expenses for which Plaintiff asserts Defendants are liable were not incurred as a direct consequence of the employee's duties or were not necessary.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Binding Arbitration Agreement)

23. Plaintiff and Defendants signed a binding arbitration agreement whereby the parties agreed to binding arbitration of any and all disputes arising out of or in any way connected to Plaintiff's employment with Defendants, including but not limited to all of the causes of action alleged in the Complaint. The filing of the instant Complaint violates that agreement to arbitrate and the Complaint should be dismissed and/or stayed and Plaintiff should be compelled to arbitrate.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Waiver/Consent)

24. Plaintiff, and the individuals on whose behalf Plaintiff seeks relief, knowingly and voluntarily waived their right to a meal break when scheduled for a shift of 6 hours or less, by execution of a written waiver or else by verbally agreeing to skip their meal break.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Reservation of Affirmative Defense)

25. Defendants presently have insufficient knowledge or information upon which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses available. Defendants reserve herein the right to assert additional defenses in the event that discovery or further investigation indicates any such affirmative defenses would be appropriate.

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WHEREFORE, Defendants pray:

1. That Plaintiff takes nothing by this Complaint;
2. For dismissal of the Complaint with prejudice;
3. For attorneys' fees and costs of suit incurred; and
4. For such other and further relief as the Court may deem just and proper.

DATED: January 29, 2025

FROST BROWN TODD LLP

By: 

THEODORE BACON
CLAUDIA M. COLEMAN
Attorneys for Defendants
Pavilions Management LLC and Aladdin Sammakieh

0158877.0795557 4901-0272-6676v1

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE
Ilse Hernandez v. Pavilions Management LLC, et al.
Solano Superior Court Case No. CU24-07673

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is **Frost Brown Todd LLP, 1 MacArthur Place, Suite 200, Santa Ana, CA 92707**.

On January 29, 2025, I served the foregoing document described as **ANSWER TO COMPLAINT FOR VIOLATIONS OF THE PRIVATE ATTORNEYS GENERAL ACT** on the interested parties in this action.

☐ By placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s), addressed as follows:

SEE ATTACHED SERVICE LIST

☐ **BY REGULAR MAIL:** I deposited such envelope in the mail at **1 MacArthur Place, Suite 200, Santa Ana, CA 92707**. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY THE ACT OF FILING OR SERVICE, THAT THE DOCUMENT WAS PRODUCED ON PAPER PURCHASED AS RECYCLED.

☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification address listed in the Service List.

☐ **BY OVERNIGHT MAIL:** I deposited such documents at the GLS Overnight or Federal Express Drop Box located at **1 MacArthur Place, Suite 200, Santa Ana, CA 92707**. The envelope was deposited with delivery fees thereon fully prepaid.

☐ **BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the above addressee(s).

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

Executed on January 29, 2025, at Santa Ana, California.

Veronica Delgado

Veronica Delgado

FROST BROWN TODD LLP
SANT ANA

SERVICE LIST
Ilse Hernandez v. Pavilions Management LLC, et al.
Solano Superior Court Case No. CU24-07673

Harout Messrelian Maralle Messrelian Messrelian Law Inc. 500 N. Grand Ave., Suite 840 Glendale, CA 91203	Tel: (818) 484-6531 Fax: (818) 956-1983 E-mails: hm@messrelianlaw.com maralle@messrelianlaw.com ***Attorneys for Plaintiff***

EXHIBIT 6

Ilse Hernandez v. Pavilions Management, LLC, et al.
(Superior Court of California, Solano - CU24-07673)

Messrelian Law Inc. Costs and Expenses	**Total**
LWDA Notice Filing Fee	$ 75.00
Complaint Filing	$ 464.50
Atty Service Fees	$ 45.00
Data Analyst for Mediation	$ 1,300.00
Mediator Fees	$ 5,149.50
Court Filing Costs	$ 143.36
PAGA Motion filing fee	$ 82.45
Current Costs through 10/12/2026	**$ 7,259.81**

EXHIBIT 7