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Attorneys for Plaintiff

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

ANALI ALMAZAN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

BOTANX, LLC and DOES 1 to 50,
inclusive,

Defendant.

Case No.: 30-2020-01122459-CU-OE-CXC

*[Assigned for all purposes to the Honorable
Lon F. Hurwitz]*

**NOTICE OF RULING RE:
CONTINUANCE OF MOTION FOR
FINAL APPROVAL AND MOTION FOR
ATTORNEYS' FEES**

Complaint filed: January 8, 2020
FAC filed: March 24, 2021
Trial Date: None set.

1 **TO ALL PARTIES, COUNSEL OF RECORD, AND LABOR AND WORKFORCE**
2 **DEVELOPMENT AGENCY:**

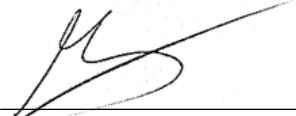
3 PLEASE TAKE NOTICE THAT on March 29, 2024, the above-entitled Court continued the
4 Motion for Final Approval and Motion for Attorneys' Fees to June 28, 2024 at 1:30 p.m. The Court
5 ordered counsel for Plaintiff to submit supplemental briefing and documentation of various items, as
6 outlined in the Court's Minute Order and Tentative Ruling, by fourteen calendar dates prior to the
7 continued hearing date. Attached hereto as Exhibit 1 is a true and correct copy of the Court's Minute
8 Order. Attached hereto as Exhibit 2 is a true and correct copy of the Court's tentative ruling.

9 Lastly, the Court ordered that Plaintiff give notice of its ruling, including to the LWDA.

10
11 Date: March 29, 2024

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

12
13 By:



Gerardo J. Sosa
Attorneys for Plaintiff

EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Almazan vs. Botanx, LLC**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE****CASE NUMBER:**
30-2020-01122459-CU-OE-CXC

I certify that I am not a party to this cause. I certify that a true copy of the above Minute Order dated 03/29/24 has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Santa Ana, California on 3/29/24. Following standard court practice the mailing will occur at Sacramento, California on 4/2/24.

MAGARIAN & DIMERCURIO, A PROFESSIONAL
LAW CORPORATION
20 CORPORATE PARK DRIVE 255
IRVINE, CA 92606

Clerk of the Court, by:



, Deputy

I certify that I am not a party to this cause. I certify that that the following document(s), Minute Order dated 03/29/24, was transmitted electronically by an Orange County Superior Court email server on March 29, 2024, at 2:37:12 PM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

LAW OFFICES OF TODD M. FRIEDMAN, P.C.
ABACON@TODDFLAW.COM

LAW OFFICES OF TODD M. FRIEDMAN, P.C.
KKUBERKA@TODDFLAW.COM

LAW OFFICES OF TODD M. FRIEDMAN, P.C.
TFRIEDMAN@TODDFLAW.COM

Clerk of the Court, by:



, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 03/29/2024

TIME: 01:30:00 PM

DEPT: CX103

JUDICIAL OFFICER PRESIDING: Lon F. Hurwitz

CLERK: A. Piercy

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: D. Miranda

CASE NO: **30-2020-01122459-CU-OE-CXC** CASE INIT.DATE: 01/08/2020

CASE TITLE: **Almazan vs. Botanx, LLC**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74121643

EVENT TYPE: Status Conference

EVENT ID/DOCUMENT ID: 74121644

EVENT TYPE: Motion for Final Approval

MOVING PARTY: Anali Almazan

CAUSAL DOCUMENT/DATE FILED: Motion - Other For Final Approval, 03/15/2024

EVENT ID/DOCUMENT ID: 74250741

EVENT TYPE: Motion for Attorney Fees

MOVING PARTY: Anali Almazan

CAUSAL DOCUMENT/DATE FILED: Motion for Attorney Fees, 03/15/2024

APPEARANCES

No Appearance by all parties

Tentative Ruling posted on the Internet.

There are no appearances by any party.

Prior to calendar call on behalf of all parties, Plaintiff submits on the Court's tentative ruling.

The Court confirms the tentative ruling; a copy of which is attached hereto and incorporated herein by reference.

- 1. Motion for Final Approval (ROA 188)**
- 2. Motion for Attorney Fees (ROA 189)**
- 3. Status Conference**

Motion for Final Approval of Class Action and PAGA Settlement
Motion For Attorneys Fees

Moving Party: Plaintiff Fatima Almazan, on behalf of decedent Anali Almazan, individually and on behalf of all others similarly situated

Responding Party: None (unopposed)

SERVICE: March 15, 2024, by e-mail

RELIEF SOUGHT: Plaintiff seeks an order granting final approval of the class action and PAGA settlement.

UPCOMING EVENTS: None

FACTS/OVERVIEW: This is a putative wage-and-hour class action and PAGA matter. The operative First Amended Complaint ("FAC") was filed March 24, 2021 (ROA 55), and alleges the following eight causes of action:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime;
3. Failure to Provide Rest Breaks;
4. Failure to Provide Meal Periods;
5. Failure to Provide Accurate Wage Statements;
6. Failure to Pay All Wages Owed Upon Termination;
7. Violation of the Unfair Competition Law; and
8. PAGA Violations.

On November 23, 2022, Plaintiff filed the Motion for Preliminary Approval. (ROA 135.) The Court was forced to continue the hearing on the Motion on three occasions due to non-compliant papers that were either riddled with procedural errors or did not fully address the Court's previously stated concerns. The first continuance occurred on February 24, 2023 (ROA 146), the second occurred on April 28, 2023 (ROA 157), and the third occurred on July 28, 2023 (ROA 170). At the hearing on October 6, 2023, the Court granted the Motion. (ROA 176.) **However, it does not appear that the Order Granting Preliminary Approval has been entered yet.**

On March 15, 2024, Plaintiff filed the current Motion for Final Approval of Class Action and PAGA Settlement. (ROA 188.) Separately, Plaintiff's counsel has filed a Motion for Attorneys' Fees, Costs, and Incentive Award. (ROA 189.) This is the first hearing on the matter.

TERMS OF PRELIMINARILY APPROVED SETTLEMENT:

The fully executed Stipulated Settlement ("Settlement") is attached as Exhibit A to the Declaration of Adrian R. Bacon ("Bacon Decl."). (ROA 184.)

Proposed Class Definition: "All individuals who were employed by Defendant as a non-exempt employee in California during the Class Period." (Settlement, Sec. I.F.) "Class Period" defined as January 8, 2016, through September 21, 2022. (Id., Sec. I.I.)

Proposed Aggrieved Employee Definition: "All Class Members employed during the PAGA Period and eligible to participate in a settlement of the claims brought under the Private Attorneys General Act of 2004 ('PAGA') in the Action." (Id., Sec. I.B.) "PAGA Period" defined as January 8, 2019, through April 5, 2021. (Id., Sec. I.T.)

Class Size: 167 Class Members. (ROA 186, Supplemental Declaration of Amy Fringer for Rust Consulting, Inc. ("Admin. Decl."), ¶¶ 9-10.)

Gross Settlement Amount ("GSA"): \$250,000.00 Exclusive of employer-side payroll taxes, which will be paid separately by Defendant. (Settlement, Sec. III.E.1)

\$ 83,333.33 Attorneys' Fees (1/3 GSA)

\$ 10,000.00 Litigation costs (NTE)

\$ 10,000.00 Administration costs (NTE)

\$ 10,000.00 Enhancement

\$ 10,000.00 PAGA Penalties (75% LWDA, 25% Aggrieved Employees)

\$ 126,666.67 Net Settlement Amount

Escalator Clause: Prior to mediation, Defendant estimated there were 159 Class Members. Parties accounted for potential increase of 13% in size of Class (21 employees). For every additional Class Member above 180 employees, GSA will increase proportionally for a total of \$1,388.89 per additional employee above 180. (Settlement, Sec. E.17.)

Payments to Class:

How Calculated? Pro rata based on number of workweeks. (Id., Sec. E.7.)

Reversion? No.

Claims Made? No.

Taxation? Payments allocated 33.33% wages, 33.33% interest, and 33.34% penalties. Wages portion subject to regular employment tax withholdings. Class Members subject to 28% federal backup withholding rate. (Id., Sec. E.5.)

Uncashed Checks not cashed within 180 days will be remitted to State Controller's Unclaimed Property Fund. (Id., Sec. E.10.)

Average Pymt. \$764.30 average payment, with high of \$4,145.27, and low of \$11.84.

ANALYSIS OF SETTLEMENT AND FINAL APPROVAL MOTION: (ROAs 179, 182, 183, 186, 188)

1. Results of Class Notification

Actual Class Size: 167 Class Members. (Admin. Decl., ¶ 8.)

Mailing Success: On November 6, 2023, the administrator mailed Class Notices to 167 Class Members. As of January 5, 2024, 26 Class Notices were returned as undeliverable, and the administrator performed address traces. 21 more current addresses were obtained, and the Class Notices were remailed. The remaining 5 were deemed undeliverable. Of the 21 remailed notices, 5 were returned as undeliverable a second time. Therefore, as of March 5, 2024, a total of 10 Class Notices remain undeliverable. Administrator received 1 request to remail the Class Notice. (Id., ¶¶ 10-13.)

Opt Outs: As of March 5, 2024, the administrator has received 1 opt out request from Ningxi Sun. (Id., ¶ 16; Counsel Decl., ¶ 33.)

Objections: As of March 5, 2024, the administrator has not received any objections. (Id., ¶ 17.)

Disputes: As of March 5, 2024, the administrator received 4 Information Sheets – 3 provided an updated address, and 1 contained a dispute. (Id., ¶ 15.)

As of March 5, 2024, there are 157 participating Class Members, which represents 94% participation. (Motion, 5:15-16.)

Workweeks:

ISSUE: Counsel or settlement administrator must provide actual number of total Qualifying Workweeks used in calculating the Individual Settlement Shares.

Net Settlement Amount:

ISSUE: Counsel or settlement administrator must attest as to the Net Settlement Amount.

Average Payment:

ISSUE: Counsel or settlement administrator must provide information as to the average Individual Settlement Payment and PAGA Payment, as well as the high payments and low payments.

2. Notice of Judgment: ISSUE: Proposed Order must state that notice of the Order and Final Judgment will be posted on the administrator's website for at least 60 days.

3. Final Accounting: ISSUE: Proposed Order must provide an actual proposed date for the Final Accounting hearing, as well as the physical court address, including Department number, of the hearing.

4. Service on LWDA: Counsel has provided proof of service on the LWDA of the Order Granting Preliminary Approval and the Settlement Agreement. (ROA 179.)

ISSUE: Counsel must provide proof of service of Motion for Final Approval on the LWDA.

5. Fee-Splitting Arrangements: Counsel previously attested that his firm will provide 10% "co-counsel fee" to NM Law, APC, which was hired to assist Plaintiff and counsel with probate paperwork after the passing of the original class representative, Anali Almazan. (See, ROA 166, Supplemental Declaration of Adrian R. Bacon, ¶ 65.)

DISBURSEMENTS:

The parties have demonstrated the settlement is fair and reasonable. The requested disbursements are as follows:

1. Representative Enhancement: Settlement agreement provides that Plaintiff will receive enhancement of \$10,000. (Settlement, Sec. E.4.) Counsel does not provide any attestations as to Plaintiff's participation in the litigation. Plaintiff attests that she, along with her father prior to his passing, spent between 30 to 40 hours on the litigation. Activities included: holding several phone conversations with counsel, reviewing documents, assisting in preparation for mediation, participating telephonically in the mediation, participating in the settlement process, and reviewing the settlement. (ROA 182, Declaration of Fatima Almazan ("Almazan Decl."), ¶ 8.)

Amount requested is higher than the \$5,000 usually approved by the Court. However, in light of the unusual circumstance of Plaintiff stepping into the role of class representative after her father's death, Court approves the \$10,000 enhancement.

2. Attorneys' Fees (ROA 189): Settlement allows for attorneys' fees of 1/3 of GSA, or \$83,333.33. (Settlement, Sec. E.1.) Counsel attests the firm incurred 227.9 hours on the litigation, resulting in a lodestar of \$153,600.00, not including the additional 20 hours (est.) that will be spent through final distribution. (Counsel Decl., ¶ 54.)

Counsel notes that the time incurred by Thomas Wheeler, an associate, is not included in the lodestar calculation because Mr. Wheeler's time spent on the preliminary approval papers had to be duplicated because of errors that required revisions ordered by the Court. In addition, counsel attests that he has excluded several months of his own time from the lodestar calculations. (Id., ¶ 58, fn. 3.) Counsel also attests that 10% of the awarded attorneys' fees will be paid as a contingency fee to probate counsel who assisted in transferring the estate of Anali Almazan to Fatima Almazan so she could act as the class representative in the place of her late father. (Id., ¶ 59.)

Counsel attests that the requested award of \$83,333.33 is reasonable and represents a negative multiplier. (Counsel Decl., ¶ 60.)

The Court awards the requested attorneys' fees of \$83,333.33 to Class Counsel. The requested fees are reasonable and represent a significant negative multiplier in light of the unusual probate-related work that had to be performed. **The Court appreciates counsel's deduction of the duplicate hours incurred to correct errors in the preliminary approval papers.**

3. Litigation Costs: Settlement Agreement provides for up to \$10,000.00 for litigation costs. (Settlement, Sec. I.C.) Counsel attests his firm has incurred \$9,957.50 in litigation costs and has provided a summary of those costs. (Counsel

Decl., ¶ 56.) The Court awards the requested litigation costs of \$9,957.50.

4. Administration Costs: Settlement allows for estimated administration costs of \$10,000.00. (Settlement, Sec. E.2.) Settlement administrator attests that the total costs, including fees incurred and future costs for completion of administration of the settlement, are estimated at \$11,390.00. (Admin. Decl., ¶ 18.)

ISSUE: The settlement administrator must provide an invoice of costs and fees before the Court will approve this disbursement.

ISSUES TO BE ADDRESSED:

1. Counsel or settlement administrator must attest as to the actual number of total Qualifying Workweeks used to calculate the individual settlement payments.

2. Counsel or settlement administrator must attest as to the Net Settlement Amount.

3. Counsel must provide proof of service to the LWDA of the Motion for Final Approval.

4. Settlement administrator must provide an invoice of costs and fees.

5. Proposed Order must state that notice of the Final Order and Judgment will be posted on the administrator's website for at least 60 days.

6. Proposed Order must provide actual proposed date for Final Accounting hearing, as well as the physical court address for the hearing.

RULING:

The Motion for Final Approval is **CONTINUED** to June 28, 2024, at 1:30 p.m. in Department CX103 to give counsel an opportunity to address the issues identified above.

Counsel must file supplemental papers addressing the Court's concerns no later than fourteen (14) calendar days prior to the continued hearing date. Counsel must also provide red-lined versions of all revised papers, as well as an explanation of how the pending issues were resolved, with precise citation to any corrections or revisions. A supplemental declaration or brief that simply asserts the issues have been resolved, or does not clearly state a specific concern has been resolved, is insufficient and will result in a continuance.

Plaintiff to give notice of this Court's ruling, including to the LWDA, within five (5) calendar days, and file proof of service.

EXHIBIT 2

CIVIL COMPLEX CENTER

DEPARTMENT CX103

Judge Lon F. Hurwitz

Procedural guidelines for several types of motions and dismissals handled regularly in this department are set forth here. The guidelines appear after the Tentative Rulings.

TENTATIVE RULINGS

Date: March 29, 2024

Time: 1:30PM

The Court will hear oral argument on all matters at the time noticed for the hearing. If you would prefer to submit the matter on your papers without oral argument, please advise the clerk by emailing her as soon as possible. The email should be directed to CX103@occourts.org. When sending emails to the department, make sure to CC ALL SIDES as to avoid any sense of ex parte communication. The Court will not entertain a request for continuance nor filing of further documents once the ruling has been posted.

If appearing **remotely** on the date of the hearing, log into ZOOM through the following link and follow the prompts:

<https://acikiosk.azurewebsites.us/advisement?dept=CX103>

OTHER INFORMATION ABOUT THIS DEPARTMENT

HEARING DATES/RESERVATIONS: Except for Summary Judgment and Adjudication Motions, **no reservations are required for Law and Motion matters**. Call the Clerk to reserve a date for a Summary Judgment or Adjudication Motion. Regarding all other motions, the parties are to include a hearing date (Friday at 1:30PM) in their motion papers. The date initially assigned might later be continued by the Court if the assigned date becomes unavailable for reasons related to, among other things, calendar congestion.

COURT REPORTERS AND TRANSCRIPTS: Court reporters are not available in this department for *any* proceedings. Please consult the Court's website at www.occourts.org concerning arrangements for court reporters. If a transcript of the proceedings is ordered by *any* party, that party must ensure that the Court receives an electronic copy by email as mentioned above.

SUBMISSION ON THE TENTATIVE

If a tentative ruling is posted and **ALL** counsel intend to submit on the tentative without oral argument, please advise the clerk by emailing the department at CX103@occourts.org as soon as possible. When sending emails to the department, make sure to **CC ALL SIDES** as to avoid any sense of ex parte communication. If all sides submit on the tentative ruling and so advise the court, the tentative ruling shall become the court's final ruling and the

prevailing party shall give Notice of Ruling. If there is no submission or appearance by either party, the court will determine whether the matter is taken off calendar or will become the final ruling.

ORDERS

The court's **minute order will constitute the order of the court** and no further proposed orders must be submitted to the court **unless** the court or the law specifically requires otherwise. **Where an order is specifically required by the court** or by law, the parties are required to do so in accordance with California Rules of Court, rule 3.1312(c) (1) and (2).

BOOKMARKS

Bookmarking of exhibits to motions and supporting declarations - **The court requires strict compliance with CRC, rule 3.1110 (f) (4)** which requires electronic exhibits to include electronic bookmarks with the links to the first page of each exhibit, and with bookmarked titles that identify the exhibit number or letter and briefly describe the exhibit. CRC, rule 3.1110 (f) (4).

The court may continue a motion that does not comply with rule 3.1110 (f) (4) and require the parties to comply with that rule before resetting the hearing.

MARCH 29, 2024

		Tentative
1	2019-01057617 Alvarado vs. Citadel Servicing Corporation	1. Final Accounting 2. Order to Show Cause CONTINUED per March 22 minute order to August 9, 2024 .
2	2023-01365781 Ortiz vs. Acrisure of California, LLC	Demurrer to Complaint (ROA 13) VACATED per March 20 minute order.
3	2023-01344202 Dunworth vs. Shear Force Construction Services, Inc.	Motion for Leave to File Cross Complaint (ROA 26) VACATED per March 20 minute order.
4	2022-01248512 Mabry vs. Inspire Diagnostics, LLC	Motion to Compel Production (ROA 157) Motion to Compel Responses to Requests for Production and Request for Sanctions

5	2020-01122459 Almazan vs. Botanx, LLC	1. Motion for Final Approval (ROA 188) 2. Motion for Attorney Fees (ROA 189) 3. Status Conference Motion for Final Approval of Class Action and PAGA Settlement Motion For Attorneys Fees Moving Party: Plaintiff Fatima Almazan, on behalf of decedent Anali Almazan, individually and on behalf of all others similarly situated Responding Party: None (unopposed) SERVICE: March 15, 2024, by e-mail RELIEF SOUGHT: Plaintiff seeks an order granting final approval of the class action and PAGA settlement. UPCOMING EVENTS: None FACTS/OVERVIEW: This is a putative wage-and-hour class action and PAGA matter. The operative First Amended Complaint ("FAC") was filed March 24, 2021 (ROA 55), and alleges the following eight causes of action: 1. Failure to Pay Minimum Wages; 2. Failure to Pay Overtime; 3. Failure to Provide Rest Breaks; 4. Failure to Provide Meal Periods; 5. Failure to Provide Accurate Wage Statements; 6. Failure to Pay All Wages Owed Upon Termination; 7. Violation of the Unfair Competition Law; and 8. PAGA Violations. On November 23, 2022, Plaintiff filed the Motion for Preliminary Approval. (ROA 135.) The Court was forced to continue the hearing on the Motion on three occasions due to non-compliant papers that were either riddled with procedural errors or did not fully address the Court's previously stated concerns. The first continuance occurred on February 24, 2023 (ROA 146), the second occurred on April 28, 2023 (ROA 157), and the third occurred on July 28, 2023 (ROA 170). At the hearing on October 6, 2023, the Court granted the Motion. (ROA 176.) However, it does not appear that the Order Granting Preliminary Approval has been entered yet.
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\$ 83,333.33 Attorneys’ Fees (1/3 GSA)

\$ 10,000.00 Litigation costs (NTE)

\$ 10,000.00 Administration costs (NTE)

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\$ 10,000.00 PAGA Penalties (75% LWDA, 25% Aggrieved Employees)

\$ 126,666.67 Net Settlement Amount

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Payments to Class:

How Calculated? Pro rata based on number of workweeks. (Id., Sec. E.7.)

Reversion? No.

Claims Made? No.

Taxation? Payments allocated 33.33% wages, 33.33% interest, and 33.34% penalties. Wages portion subject to regular employment tax withholdings. Class Members subject to 28% federal backup withholding rate. (Id., Sec. E.5.)

Uncashed Checks not cashed within 180 days will be remitted to State Controller's Unclaimed Property Fund. (Id., Sec. E.10.)

Average Pymt. \$764.30 average payment, with high of \$4,145.27, and low of \$11.84.

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Actual Class Size: 167 Class Members. (Admin. Decl., ¶ 8.)

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As of March 5, 2024, there are 157 participating Class Members, which represents 94% participation. (Motion, 5:15-16.)

Workweeks:

ISSUE: Counsel or settlement administrator must provide actual number of total Qualifying Workweeks used in calculating the Individual Settlement Shares.

Net Settlement Amount:

ISSUE: Counsel or settlement administrator must attest as to the Net Settlement Amount.

Average Payment:

ISSUE: Counsel or settlement administrator must provide information as to the average Individual Settlement Payment and PAGA Payment, as well as the high payments and low payments.

2. Notice of Judgment: ISSUE: Proposed Order must state that notice of the Order and Final Judgment will be posted on the administrator's website for at least 60 days.

3. Final Accounting: ISSUE: Proposed Order must provide an actual proposed date for the Final Accounting hearing, as well as the physical court address, including Department number, of the hearing.

4. Service on LWDA: Counsel has provided proof of service on the LWDA of the Order Granting Preliminary Approval and the Settlement Agreement. (ROA 179.)

ISSUE: Counsel must provide proof of service of Motion for Final Approval on the LWDA.

5. Fee-Splitting Arrangements: Counsel previously attested that his firm will provide 10% "co-counsel fee" to NM Law, APC, which was hired to assist Plaintiff and counsel with probate paperwork after the passing of the original class representative, Anali Almazan. (See, ROA 166, Supplemental Declaration of Adrian R. Bacon, ¶ 65.)

DISBURSEMENTS:

The parties have demonstrated the settlement is fair and reasonable. The requested disbursements are as follows:

1. Representative Enhancement: Settlement agreement provides that Plaintiff will receive enhancement of \$10,000. (Settlement, Sec. E.4.) Counsel does not provide any attestations as to Plaintiff's participation in the litigation. Plaintiff attests that she, along with her father prior to his passing, spent between 30 to 40 hours on the litigation. Activities included: holding several phone conversations with counsel, reviewing documents, assisting in preparation for mediation, participating telephonically in the mediation, participating in the settlement process, and reviewing the settlement. (ROA 182, Declaration of Fatima Almazan ("Almazan Decl."), ¶ 8.)

Amount requested is higher than the \$5,000 usually approved by the Court. However, in light of the unusual circumstance of Plaintiff stepping into the role of class representative after her father's death, Court approves the \$10,000 enhancement.

2. Attorneys' Fees (ROA 189): Settlement allows for attorneys' fees of 1/3 of GSA, or \$83,333.33. (Settlement, Sec. E.1.) Counsel attests the firm incurred 227.9 hours on the litigation, resulting in a lodestar of \$153,600.00, not including the

additional 20 hours (est.) that will be spent through final distribution. (Counsel Decl., ¶ 54.)

Counsel notes that the time incurred by Thomas Wheeler, an associate, is not included in the lodestar calculation because Mr. Wheeler's time spent on the preliminary approval papers had to be duplicated because of errors that required revisions ordered by the Court. In addition, counsel attests that he has excluded several months of his own time from the lodestar calculations. (Id., ¶ 58, fn. 3.) Counsel also attests that 10% of the awarded attorneys' fees will be paid as a contingency fee to probate counsel who assisted in transferring the estate of Anali Almazan to Fatima Almazan so she could act as the class representative in the place of her late father. (Id., ¶ 59.)

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ISSUE: The settlement administrator must provide an invoice of costs and fees before the Court will approve this disbursement.

ISSUES TO BE ADDRESSED:

1. Counsel or settlement administrator must attest as to the actual number of total Qualifying Workweeks used to calculate the individual settlement payments.

2. Counsel or settlement administrator must attest as to the Net Settlement Amount.

3. Counsel must provide proof of service to the LWDA of the Motion for Final Approval.

4. Settlement administrator must provide an invoice of costs and fees.

		5. Proposed Order must state that notice of the Final Order and Judgment will be posted on the administrator’s website for at least 60 days. 6. Proposed Order must provide actual proposed date for Final Accounting hearing, as well as the physical court address for the hearing. <u>RULING:</u> The Motion for Final Approval is CONTINUED to June 28, 2024, at 1:30 p.m. in Department CX103 to give counsel an opportunity to address the issues identified above. Counsel must file supplemental papers addressing the Court’s concerns no later than fourteen (14) calendar days prior to the continued hearing date. Counsel must also provide red-lined versions of all revised papers, as well as an explanation of how the pending issues were resolved, with precise citation to any corrections or revisions. A supplemental declaration or brief that simply asserts the issues have been resolved, or does not clearly state a specific concern has been resolved, is insufficient and will result in a continuance. Plaintiff to give notice of this Court’s ruling, including to the LWDA, within five (5) calendar days, and file proof of service. The Court does not require any physical or remote appearance at the hearing on March 29, 2024. If the parties intend to submit on the tentative, please inform the clerk by emailing her before 12:00 p.m. on the day of the hearing at CX103@occourts.org.
6	JCCP 5100 Blackrock Logistics Wage and Hour Cases	Motion for Preliminary Approval of Class Settlement (ROA 107) ANALYSIS: On March 22, 2024, pursuant to stipulation and order, Plaintiffs filed counsel’s supplemental declaration, including a fully executed copy of the Joint Stipulation of Class Action and PAGA Action Settlement and Release (“Settlement”), a redlined version of same, redlined and clean versions of the revised Class Notice, and the LWDA letters. (ROA 120, Supplemental Declaration of James Hawkins (“Counsel Supp. Decl.”).) The pending issues are as follows: ISSUE: End date for PAGA Period does not match end date for calculation of PAGA pay periods. Attorneys’ fees of 40% of Total Settlement Amount is higher than amount usually approved by the Court, and Court is inclined to award fees of no more than 33.33%. At Final Approval, counsel must provide billing records in support of its fees and documentation of costs. Counsel must also disclose whether there is a fee-splitting arrangement with any other counsel, or confirm none exists.