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Attorneys for Plaintiff
FATIMA ALMAZAN on behalf of ANALI ALMAZAN

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

FATIMA ALMAZAN on behalf of decedent) Case No.: 30-2020-01122459-CU-OE-CXC
ANALI ALMAZAN, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

BOTANX, LLC, and DOES 1 to 50, inclusive,)

Defendants.)

NOTICE OF RULING

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

1 **TO ALL PARTIES AND COUNSEL OF RECORD:**

2 On August 23, 2024, the Court issued a tentative ruling granting Final Approval of
3 Class Action and PAGA Settlement and Awarding Attorneys' Fees, Costs, and Incentive Award.
4 Attached hereto as **Exhibit 1** is a true and correct copy of the Court's Order.

5 Counsel for Plaintiff and counsel for Defendant submitted on the tentative ruling. Per the
6 Court's tentative ruling procedure: "[i]f all sides submit on the tentative ruling and so advise the
7 court, the tentative ruling shall become the court's final ruling and the prevailing party shall give
8 Notice of Ruling."

9 As such, Plaintiff hereby gives notice that the Court's August 23, 2024 tentative ruling
10 granting Final Approval of Class Action and PAGA Settlement and Awarding Attorneys' Fees
11 is adopted as the final ruling.

12
13 Respectfully submitted,
14 Dated: August 26, 2024 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

15 By: /s Gerardo J. Sosa
16 Gerardo J. Sosa
17 Attorneys for Plaintiff Fatima Almazan and the
18 Class
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EXHIBIT 1

**#7 Almazan vs.
Botanx, LLC**

**2020-
01122459**

1. Motion for Final Approval of Class Action and PAGA Settlement

2. Motion for Attorneys' Fees

On March 15, 2024, Plaintiff filed the current Motion for Final Approval of Class Action and PAGA Settlement. (ROA 188.) Separately, Plaintiff's counsel filed a Motion for Attorneys' Fees, Costs, and Incentive Award. (ROA 189.) At the hearing on March 29, 2024, the Court continued the matter so counsel could address certain issues. (ROA 193.)

At the continued hearing on June 28, 2024, the Court noted that counsel still had not resubmitted a corrected Proposed Order regarding the grant of the Motion for Preliminary Approval. (ROA 215.) As a result, the Court declined to consider the supplemental papers filed regarding the Motion for Final Approval, continued the hearing, and ordered counsel to provide a corrected Proposed Order Granting the Motion for Preliminary Approval within three court days. (Ibid.)

On July 2, 2024, counsel submitted a revised Proposed Order (ROA 217), and re-submitted it after further correction (ROA 223). On July 11, 2024, the Order Granting Preliminary Approval was entered. (ROA 227.) The Court now considers the original and supplemental papers submitted for the pending Motion for Final Approval.

ANALYSIS:

A. TERMS OF PRELIMINARILY APPROVED SETTLEMENT:

A copy of the fully executed Stipulated Settlement is attached as Exhibit A to the Declaration of Adrian R. Bacon (“Counsel Decl.”). (ROA 184.)

Class Definition: All individuals who were employed by Defendant as a non-exempt employee in California during the Class Period. Class Period defined as January 8, 2016, through September 21, 2022.

PAGA Group 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 in the Action. PAGA Period defined as January 8, 2019, through April 5, 2021.

Estimated Class Size: 167 Class Members (ROA 186, Supplemental Declaration of Amy Fringer (“Admin. Decl.”), ¶¶ 9-10.)

Gross Settlement Amount (“GSA”) and Proposed Disbursements: \$250,000.00 GSA, not including employer-side payroll taxes.

\$ 83,333.33 Attorney’ fees (1/3 GSA)

\$ 10,000.00 Litigation costs (not to exceed)

\$ 10,000.00 Administration costs (up to)

\$ 10,000.00 Enhancement

\$ 10,000.00 PAGA Penalties (75%/25%)

B. ANALYSIS OF SETTLEMENT AND FINAL APPROVAL MOTION:

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 remained undeliverable. Administrator received 1 request to re-mail the Class Notice, and it was promptly remailed. (Id., ¶¶ 10-13.) Administrator re-confirmed this information in its second supplemental declaration. (ROA 212, Admin. Supp. Decl., ¶¶ 10-13.)

Opt Outs: As of March 5, 2024, the administrator has received one (1) timely and valid opt out request from Ningxi Sun. (Admin Decl., ¶ 16; see also, Admin. Supp. Decl., ¶ 16; Counsel Decl., ¶ 33.)

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

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

reviewed their records and confirmed the employment dates they provided in the Class List were correct. (Admin. Supp. Decl., ¶ 15.)

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

Workweeks: 10,569.48 total qualifying workweeks used to calculate individual settlement payments. Average class payment of \$759.25, with high of \$4,111.77, and low of \$3.41. Average PAGA payment of \$39.06, with high of \$77.11, and low of \$.047. (Admin. Supp. Decl., ¶ 18.)

Net Settlement Amount: \$125,319.50 (ROA 211, Counsel Supp. Decl., ¶¶ 8-10.)

2. Notice of Judgment:

Revised Proposed Order states that notice of Final Order and Judgment will be posted on administrator's website for at least 60 days. (Counsel Supp. Decl., Exhs. 3, 4.)

3. Final Accounting:

Revised Proposed Order states that Final Accounting hearing will be on April 25, 2025. (Counsel Supp. Decl., Exhs. 3, 4.)

4. Service on LWDA:

Proof of service indicates LWDA was served with the Order Granting Preliminary Approval and the Settlement Agreement. (ROAs 179, 225.) Proof of service indicates LWDA was served with Motion for Final Approval and

Motion for Attorneys' Fees on March 29, 2024. (ROA 200; see also, Counsel Supp. Decl., Exh. 1.)

5. Administration Costs:

Settlement allows for estimated administration costs of \$10,000.00. (Settlement, Sec. E.2.) 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.)

Administrator provides invoice of costs and fees. (Admin. Supp. Decl., Exh. B.)

The Settlement Agreement does not allow the Court to approve administration costs of more than \$10,000.00, nor does it provide for payment of excess costs by the parties. Accordingly, the Court approves disbursement of \$10,000.00 for administration costs.

C. ANALYSIS OF MOTION FOR ATTORNEYS' FEES, COSTS, AND INCENTIVE AWARD

1. Attorneys' Fees

On March 15, 2024, Plaintiff filed the Motion for Attorneys' Fees, Costs, and Incentive Award. (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.) The hours incurred and billing rates are as follows:

Name	Hours	Rate	Total
T. Friedman, Sr., Prtnr	6.9	\$900	\$ 6,210.00
A. Bacon, Partner	141.0	\$750	\$105,750.00
K. Wallace, Sr. Assoc.	39.8	\$600	\$ 23,880.00
T. Wheeler, Associate	38.2	\$475	\$ 18,145.00
G. Sosa, Associate	32.7	\$475	\$ 15,532.50
H. Burns, Paralegal	1.0	\$225	\$ 225.00
E. Company, Office Mgr.	3.4	\$225	\$ 765.00
L. Walker, Paralegal	1.1	\$225	\$ 247.00
K. Uribe, Paralegal	2.0	\$225	\$ 450.00
TOTALS:	227.9		\$153,060.00

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.**

2. 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.

3. 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.

RULING:

The Motion for Final Approval of Class Action and PAGA Settlement is **GRANTED**.

The Court orders the disbursement of the following awards, fees, and payment of PAGA penalties to the LWDA from the Gross Settlement Amount:

Attorneys’ fees \$83,333.33

Litigation costs \$ 9,957.50

Administration costs \$10,000.00

Enhancement award \$10,000.00

LWDA payment \$ 7,500.00

Final Accounting is set for April 25, 2025, at 1:30 p.m. in Department CX103. Counsel shall submit a final administrator’s report at least fourteen (14) calendar days prior to the Final Accounting hearing regarding the status of the settlement administration. The final report must include all information necessary for the Court to determine the total amount actually paid to Class Members and any amounts disbursed to the State Controller’s Office Unclaimed Property Fund. If the uncashed funds are not

fully disbursed by the report deadline, counsel must request a continuance.

The Court does not require any physical or remote appearance at the hearing scheduled for August 23, 2024.

If the parties do not 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.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, State of California, and not a party to the above-entitled cause. My business address is the Law Offices of Todd M. Friedman, P.C., 21031 Venture Blvd., Ste. 340, Woodland Hills, CA 91364.

On **August 26, 2024**, I served the document(s) described as: **NOTICE OF RULING** on the interested parties in this action by sending a true copy thereof to interested parties as follows:

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Woodland Hills, California. I am “readily familiar” with this firm’s practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Woodland Hills, California.

☒ **BY E-MAIL:** I hereby certify that this document was served from Orange, California, by e-mail delivery on the parties listed herein at their most recent known email address.

Krista DiMercurio
Magarian & DiMercurio, APLC
krista@magarianlaw.com

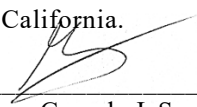
Labor and Workforce Development Agency (LWDA)
Via Online Submission
Notice of Court Order or Judgment in PAGA Case
<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am “readily familiar” with this firm’s practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

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

Executed on August 26, 2024, in Woodland Hills , California.



Gerardo J. Sosa