

09/29/2020

Sherri R. Carter, Executive Officer / Clerk of Court

By: O. Chavez Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

DUGLAS ESQUIVEL, individually and as a
private attorney general;

Plaintiff,

vs.

MCI, INC. dba MARTINEZ
CONSTRUCTION, INC., a California
corporation; DAVID JOSEPH MARTINEZ,
an individual; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 20STCV14663

Hon. Holly Fujie
Dept. 56

**~~[PROPOSED]~~ ORDER APPROVING
SETTLEMENT PURSUANT TO
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS' GENERAL ACT**

[PROPOSED] ORDER

Having reviewed and considered the Parties' Joint Stipulation for Order Approving Settlement Pursuant to California Labor Code Private Attorneys' General Act and finding good cause therefore, the Court finds that:

1. On February 11, 2020, Plaintiff Douglas Esquivel ("Plaintiff") filed this Action seeking civil penalties under PAGA based on alleged wage and hour Labor Code violations on behalf of "Aggrieved Employees," defined as all persons who were employed by Defendants MCI, Inc. dba Martinez Construction, Inc. and David Joseph Martinez ("Defendants") as non-exempt hourly employees in California at any time since February 11, 2019.

2. The California Labor Workforce and Development Agency has been given proper notice of this proposed settlement, in accordance with Labor Code section 2699(1)(2), and has expressed no objection, and no other party has standing to object, nor has any other party done so.

3. Settlement of the Action for \$49,500.00, inclusive of settlement of claims under PAGA alleged in the Action, attorney's fees, litigation costs, a general release payment to Plaintiff Douglas Esquivel, a service fee payment to Plaintiff Douglas Esquivel, and settlement administration costs is in all respects, fair, adequate, and reasonable, and was reached as a result of intensive, serious and non-collusive arm's length negotiations.

4. Under the terms of the PAGA Settlement Agreement (the "Agreement") between the parties, which was filed with the Court on September 29, 2020 as an attachment to the Joint Stipulation, an award of attorney's fees and costs to Plaintiff's counsel in the amount of \$23,435.21 is fair, adequate and reasonable.

5. The amount payable to the Aggrieved Employees is fair, adequate and reasonable.

6. The amount payable to Plaintiff Douglas Esquivel as set forth in the agreement for a general release and service fee is fair, adequate, and reasonable.

7. The amount payable to the LWDA as set forth in the Agreement is fair, adequate and reasonable.

1 8. The amounts payable to the Settlement Administrator as set forth in the Agreement
2 is fair, adequate and reasonable.

3 **NOW, THEREFORE, IT IS HEREBY ORDERED:**

4 1. The Joint Stipulation is GRANTED and the Court approves the Settlement Fund of
5 \$49,500.00, which is inclusive of settlement of claims under PAGA alleged in the Action,
6 attorney's fees, litigation costs, a general release payment and service fee payment to Douglas
7 Esquivel, and settlement administration costs. The Settlement Fund shall be distributed as follows:

- 8 a. \$23,435.21 will be paid to Plaintiff's counsel as reasonable attorney's fees
9 and litigation costs, as provided in the Agreement:
- 10 b. \$14,000 will be paid to Plaintiff Douglas Esquivel as consideration for his
11 general release of claims in favor of Defendants and as a service fee, as
12 provided in the Agreement.
- 13 c. \$1,000 will be paid to Phoenix Settlement Administrators, as settlement
14 administration costs, as provided in the Agreement
- 15 d. The remaining \$11,064.68 of the Settlement Fund after deduction of the
16 payments under 1(a)-(c), shall be the PAGA Penalties Fund as consideration
17 for the release of the Released Claims against the Released Parties during
18 the Settlement Period by Plaintiff, the LWDA, the State of California and
19 the Aggrieved Employees . The PAGA Penalties fund will be distributed
20 as follows:
- 21 i. 75%, or \$8,298.51, shall be paid to the LWDA;
- 22 ii. 25%, or \$2,766.17, shall be paid to the "Aggrieved Employees," distributed
23 to each of them as Individual PAGA Payments, and such distribution shall
24 be a pro rata basis based on dividing the PAGA Penalties Amount by the
25 total pay periods worked for Defendant MCI, Inc. by all Aggrieved
26 Employees during the Release Period to yield the "Employee Settlement
27
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1 Share Value.” Each Aggrieved Employee shall be paid their individual total
2 pay periods worked for Defendants during the Release Period multiplied by
3 the Employee Settlement Share Value.

4 2. Within the time limits set forth in the Agreement, Defendant will provide the
5 Settlement Administrator with a complete list of all Aggrieved Employees (“Aggrieved Employee
6 List”). The Aggrieved Employees List shall state the first name and last name in separate columns
7 for each Aggrieved Employee; the last known home address for each Aggrieved Employee; each
8 Aggrieved Employee’s social security number, and each Aggrieved Employee’s respective
9 number of pay periods worked for Defendants during the Release Period.

10 3. Within the time limits set forth in the Agreement, Defendant will deposit
11 \$49,500.00 into a Qualified Settlement Fund to be established by the Settlement Administrator
12 selected by the parties in the Agreement.

13 4. Within the time limits set forth in the Agreement, the Settlement Administrator will
14 issue all payments provided in this Order. The payments will be calculated as provided in this
15 Order.
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17 5. The Court approves and incorporates by reference the terms and conditions of the
18 Agreement (as defined above), including, without limitation, (i) the Release of PAGA Claims
19 (paragraph 29 of the Agreement) and (ii) Plaintiff’s general release of claims against Defendant
20 (paragraph 21 of the Agreement), and directs the implementation of all remaining terms, conditions
21 and provisions of the Agreement in accordance with its terms.

22 6. The Court shall retain jurisdiction over this matter until the final payment is made
23 and all obligations in the Agreement are satisfied.

24 7. This Action is dismissed with prejudice. This dismissal does not extend to or
25 otherwise affect the ability of an Aggrieved Employee to bring individual, non-representative
26 claims against the defendant for alleged violations of the Labor Code.
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IT IS SO ORDERED.



Holly J. Fujie

Holly J. Fujie / Judge

DATE: 9-29-2020

Judge of the Superior Court