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14 SPACE EXPLORATION TECHNOLOGIES CORP.

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17 NALANI CHOY, XAVIER FIGUEROA, and
18 SAUL MARQUEZ, Aggrieved Employees of
19 Defendants, for the State of California's Labor
20 and Workforce Development Agency on Behalf
21 of All Aggrieved Employees of Defendants,

22 Plaintiffs,

23 v.

24 SPACE EXPLORATION TECHNOLOGIES
25 CORP., a California Corporation, and DOES 1-
26 100, Inclusive,

27 Defendants.

Case No. 20STCV14438

[Related to Case No. 21STCP00175]

[Assigned for all purposes to Hon. Rupert A.
Byrdsong, Dept. 28]

**STIPULATION AND [PROPOSED] ORDER
APPROVING PAGA SETTLEMENT AND
DISMISSING ACTION**

[Filed concurrently with Declaration of Andrew
Russell]

Complaint Filed: April 14, 2020

1 **STIPULATION**

2 **IT IS HEREBY STIPULATED** by and between Plaintiffs Nalani Choy, Xavier Figueroa, and
3 Saul Marquez (collectively, “Plaintiffs”) and Defendant Space Exploration Technologies Corp.
4 (“SpaceX”) (Plaintiffs and SpaceX will be collectively referred to as the “Parties”), through their
5 respective counsel, as follows:

6 WHEREAS, in February 2020, SpaceX received three letters directed to the California Labor and
7 Workforce Development Agency (“LWDA”) sent on behalf of Plaintiffs to the LWDA and SpaceX. The
8 letters were sent to provide written notice to the LWDA and Plaintiffs’ former employer, pursuant to Labor
9 Code section 2699.3(a)(1)(a) within the Private Attorneys General Act of 2004 (Cal. Lab. Code § 2699 *et*
10 *seq.*) (“PAGA”), of Plaintiffs’ allegations that in the scope of their employment with SpaceX, Plaintiffs
11 were subjected to certain, specified violations of the Labor Code by SpaceX (the “LWDA Letters”), and
12 Plaintiffs’ intent, as alleged aggrieved employees, to pursue a civil enforcement action under the PAGA
13 for civil penalties against SpaceX. Plaintiffs also paid the filing fee under Labor Code section
14 2699.3(a)(1)(B). Among other things, the LWDA Letters alleged that SpaceX failed, as to each Plaintiff,
15 to: (i) compensate for all hours worked; (ii) compensate for all overtime hours worked; (iii) provide proper
16 meal and/or premium pay for non-compliant meal periods; (iv) provide proper rest periods and/or
17 premium pay for non-compliant rest periods; (v) pay all accrued vacation time; (vi) furnish complete and
18 accurate itemized wage statements; and (vii) timely pay all wages due within the time permitted upon
19 separation of employment;

20 WHEREAS, the LWDA has 65 calendar days of receipt of a PAGA Letters to notify an employer
21 and aggrieved employee of its intent or non-intent to investigate alleged violations under Labor Code
22 section 2699.3, and if notice of non-intent is provided or no notice is timely provided, the aggrieved
23 employee may commence a civil PAGA action;

24 WHEREAS, on March 4, 2020, SpaceX initiated arbitration with JAMS pursuant to arbitration
25 agreements signed by Plaintiffs. In each respective arbitration demand, SpaceX sought a declaration that
26 SpaceX did not violate the Labor Code as to these respective Plaintiffs as alleged in his or her LWDA
27 letter (the “Arbitration Demands”);

28 WHEREAS, the LWDA did not timely notify Plaintiffs and SpaceX of its intent to investigate

1 the alleged violations and, on April 14, 2020, Plaintiffs filed their Complaint with this Court alleging a
2 single representative PAGA cause of action on behalf of the LWDA based on SpaceX's alleged failure
3 to: (1) compensate employees for all hours worked (Lab. Code §§ 204, 223, 1194, 1197, 1198); (2)
4 compensate employees for all overtime hours worked (Lab. Code § 510); (3) provide proper meal
5 periods and/or premium pay for non-compliant meal periods to employees (Lab. Code §§ 226.7, 512,
6 558, 1198, 1199); (4) provide proper rest periods and/or premium pay for non-compliant rest periods to
7 employees (Lab. Code §§ 226.7, 558, 1198, 1199); (5) pay all accrued vacation time to employees (Lab.
8 Code § 227.3); (6) furnish complete and accurate itemized wage statements to employees (Lab. Code §
9 226(a)); and (7) timely pay all wages due within the time permitted upon separation of employment to
10 employees (Lab. Code §§ 201-203) (the "PAGA Action");

11 WHEREAS, on or about July 24, 2020, Plaintiffs filed a motion for judgment on the pleadings in
12 the Arbitration proceeding, seeking to dismiss the declaratory relief actions SpaceX brought against
13 them individually to determine liability as to victim-specific relief for Labor Code violations, which
14 Plaintiffs contended were contrary to law precluding arbitration of any component of a PAGA action,
15 and which SpaceX opposed, and on or about September 14, 2020, the Arbitrator denied the Plaintiffs'
16 motion;

17 WHEREAS, the JAMS arbitration hearing on SpaceX's Arbitration Demands was conducted in
18 front of the Arbitrator, the Honorable Justice D. Aldrich (Ret.), from November 23-25, 2020 and
19 November 30, 2020. The arbitration hearing included opening and closing statements by the Parties, and
20 examination of numerous witnesses, including Plaintiffs;

21 WHEREAS, on January 8, 2021, following substantial post-arbitration briefing, Justice Aldrich
22 issued his "Decision after Arbitration Hearing and Award" (the "Arbitration Award"). The Arbitration
23 Award concluded that SpaceX complied with its obligations under the Labor Code as to Plaintiffs with
24 respect to meal and rest breaks, vacation pay, wage statements, and payment for all hours worked, and
25 that Plaintiffs did not suffer the alleged Labor Code violations during their respective employment with
26 SpaceX;

27 WHEREAS, pursuant to Labor Code section 2699(a), Plaintiffs must be "aggrieved employees"
28 to bring a claim under PAGA. SpaceX contends that Justice Aldrich's findings of fact and Arbitration

Award precludes Plaintiffs from being “aggrieved employees” under PAGA. Plaintiffs acknowledge that, due to the Arbitration Award, they may not be able to establish that they are “aggrieved employees” to pursue this PAGA action;

WHEREAS, Plaintiffs have agreed to settle and dismiss the PAGA Action in exchange for a waiver of fees and costs, as outlined in the Settlement Agreement attached as **Exhibit A** to the accompanying Declaration of Andrew Russell;

WHEREAS, concurrently with the filing of this Stipulation, counsel for Plaintiffs have submitted a copy of the Settlement Agreement to the LWDA pursuant to Labor Code section 2699(l)(2);

WHEREAS, the settlement is fair and reasonable in light of the facts and circumstances specific to this case;

THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs and SpaceX that this Court should approve the settlement of Plaintiffs’ PAGA claim and adopt the proposed order accompanying this stipulation dismissing Plaintiffs’ PAGA action with prejudice.

IT IS SO STIPULATED

Dated: February 15, 2021

FOX ROTHSCHILD LLP

By: /s/ Andrew Russell
CHRISTOPHER CARDACI
ALEXANDER HERNAEZ
ANDREW RUSSELL
Attorneys for Defendant
SpaceX

Dated: February 11, 2021

BOUCHER LLP

By: 
RAYMOND BOUCHER
ALEXANDER GAMEZ
MALLORY WHITELOW
Attorneys for Plaintiffs
Nalani Choy, Xavier Figueroa, and
Saul Marquez

1 **[PROPOSED] ORDER**

2 The Court, having reviewed the stipulation of the Parties, the Settlement Agreement, the
3 pleadings on file, and good cause appearing, the Court hereby orders as follows:

4 1. The Court approves the Parties' settlement of this action pursuant to Labor Code section
5 2699(1)(2) as fair and reasonable in light of the facts and circumstances specific to this case; and

6 2. This action is hereby dismissed with prejudice.

7 **IT IS SO ORDERED.**

8
9 Dated: _____

10 Hon. Rupert A Byrdsong

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 eighteen years and not a party to this action. My business address is: Fox Rothschild LLP,
Constellation Place, 10250 Constellation Blvd, Suite 900, Los Angeles, CA 90067.

4 On February 16, 2021, I served the following document(s): **STIPULATION AND**
5 **[PROPOSED] ORDER APPROVING PAGA SETTLEMENT AND DISMISSING ACTION**
6 on the interested party(ies) in this action by placing true copies thereof enclosed in sealed
envelope(s) addressed as follows:

7 Raymond Boucher, Esq.
8 Alexander Gamez, Esq.
9 Shehnaz Bhujwala, Esq.
10 Mallory Whitelaw, Esq.
11 Boucher LLP
12 21600 Oxnard Street, Suite 600
Woodland Hills, CA 91367
Email: ray@boucher.la
gamez@boucher.la
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13 Sahag Majarian II, Esq.
14 Law Offices of Sahag Majarian II
18250 Ventura Blvd.
Tarzana, CA 91356
Email: sahagii@aol.com

- 15 ☐ **[BY MESSENGER]:** I served the documents by placing them in an envelope or package
16 addressed to the persons at the address listed above and providing them to a professional
messenger service for service.
- 17 ☐ **[BY OVERNIGHT DELIVERY]:** I caused said document(s) to be deposited at an
18 overnight delivery facility, addressed to the above-listed person(s) for delivery the next
business day.
- 19 ☒ **[BY EMAIL]:** I electronically served the above document(s) from
20 clebrane@foxrothschild.com to the email address of the addressee(s) listed above.
- 21 ☒ **[STATE]** I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.
- 22 ☐ **[FEDERAL]** I declare under penalty of perjury under the laws of the United States of
23 America that the foregoing is true and correct and that I am employed in the office of a
member of the bar of this Court at whose direction the service was made.

24 Executed this 16thth day of February, 2021 at Los Angeles, California.

25 /s/ Claudia A. LeBrane
26 Claudia A. LeBrane