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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**

ANDY GARCIA, on behalf of the State of
California and Aggrieved Employees,

Plaintiffs,

vs.

GREAT LAKES SERVICES, LLC,

Defendant.

Case No. 30-2020-01141083-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO THE
HON. WILLIAM D. CLASTER

**PLAINTIFF'S SUPPLEMENTAL
BRIEFING IN SUPPORT OF MOTION
FOR APPROVAL OF SETTLEMENT
PURSUANT TO PRIVATE ATTORNEYS'
GENERAL ACT 2004**

Date: March 4, 2022

Time: 9:00 a.m.

Department: CX104

1 **I. INTRODUCTION**

2 Plaintiff Garcia, on behalf of the State and Aggrieved Employees (“Plaintiff”), seeks approval
3 of a Settlement for civil penalties against Defendant Great Lakes Services, LLC (“Defendant”) under
4 the California Labor Code Private Attorneys General Act (“PAGA”; Labor Code §§ 2698, *et seq*;
5 Labor Code § 2699(1)(3)). Plaintiff submits this supplemental briefing pursuant to the Court’s January
14, 2022 minute order.

6 **II. DISCUSSION OF COURT’S JANUARY 14, 2022 MINUTE ORDER**

7 Plaintiff hereinafter responds to each of the fifteen points requested by the Court.
8 *AS TO THE SETTLEMENT:*

9 **1. No related matters than can be affected by approval of settlement**

10 The Parties have meet and conferred on this issue and Defendant has confirmed that there are
11 no actions with overlapping PAGA claims. (Supplemental Declaration of Carolyn Hunt Cottrell
12 (“Cottrell Decl.”) ¶ 5.) On February 16, 2022, Plaintiff’s counsel also independently conducted a
13 search to determine if there were any PAGA actions filed in California against Defendant with
14 competing claims and found no such actions. (*Id.*)

15 **2. Plaintiff’s Federal Case, No. 8:20-cv-00695-JLS-KE**

16 Plaintiff provides a copy of the separate federal complaint as Exhibit A to the Supplemental
17 Declaration of Carolyn H. Cottrell. (*Id.*, at ¶ 6.) However, Plaintiff notes that on June 8, 2020 he
18 filed his Notice of Voluntary Dismissal of Claims against all three named defendants. (*Id.*) Such
19 dismissal is attached as Exhibit I to the Supplemental Declaration of Carolyn H. Cottrell.

20 **3. Plaintiff’s Individual Settlement**

21 The Court has requested it be informed of the value of Plaintiff’s individual settlement. The
22 Parties have met and conferred on this issue and have agreed to lodge a copy of Plaintiff’s individual
23 settlement with the Court due to the confidentiality provisions in the agreement, and as advised by
24 the Court during the February 14, 2022 informal conference. (*Id.*, at ¶ 7.)

25 **4. The Definitions of “Aggrieved Employees” and “PAGA” Recovery Period”**

26 The Parties have met and conferred on this issue, and discussed it with the Court during the
27 February 14, 2022 informal conference. (*Id.*, at ¶ 8.) The Parties agreed to change the recovery
28

1 period to end on the original date of the hearing for the approval of the settlement, January 14, 2022.
2 (*Id.*) The Settlement Agreement will be revised to reflect that change, and to clarify that the
3 Aggrieved Employees will only include current and former employees at the Garden Grove location
4 employed at any time between March 22, 2019 and January 14, 2022 because employees at that
5 facility were the only ones contemplated during the mediation and settlement discussions. (*Id.*)
6 Plaintiff provides a copy of the revised Settlement Agreement as Exhibit B¹ to the Supplemental
7 Declaration of Carolyn H. Cottrell, and a redlined version showing the changes made as Exhibit C.
8 (*Id.*)

9
10 **5. Workweek calculations for employees who worked as a “banquet employee” and
11 a regular non-exempt employee**

12 The Parties have met and conferred on this issue. (*Id.*, at ¶ 9.) Defendant confirmed that there
13 are employees who have worked in both banquet and non-banquet roles on a non-permanent basis.
14 (*Id.*) Defendant reports that parsing out specific workweeks is a cumbersome and burdensome
15 process. (*Id.*) The Parties have agreed that all employees who have or had a permanent job title in the
16 Banquet Department will have all their workweeks weighed per the formula proposed in the
17 Settlement Agreement.² (*Id.*)

18
19 **6. Administrator Bid**

20 Plaintiff provides a copy of the bid from the settlement administrator as Exhibit D to the
21 Supplemental Declaration of Carolyn H. Cottrell. (*Id.*, at ¶ 10.)

22
23 **7. Would a broad-form PAGA release in Plaintiff’s individual settlement bind the
24 State or Aggrieved Employees**

25 The Parties have met and conferred on this issue and agreed that Plaintiff’s individual
26 settlement does not bind the State of California or any Aggrieved Employees. (*Id.*, at ¶ 11.) All terms

27 ¹ Plaintiff did not receive Defendant’s signature to the Settlement Agreement before filing this supplemental briefing.
28 However, counsel for the Parties have agreed on the revised terms and Plaintiff will attach and file the fully-executed
Settlement Agreement to a supplemental declaration as soon as it is signed by all Parties. (*Id.*, at ¶ 8.)

² To the extent that Defendant’s records confirm that employees held more than one permanent position during the
PAGA Recovery Period, the Parties agree to meet and confer and come to an agreement on a reasonable allocation such
that the weighting will be applied only where an employee’s tenure in a permanent banquet position constituted a
majority of their tenure between March 22, 2019 and January 14, 2022. Defendant agrees to compile the employment
data necessary in order to complete such meet and confer as soon as practicable prior to the March 4, 2022 settlement
approval hearing. Plaintiff will provide an update to the court as necessary subject to Defendant’s counsel review and
approval. (*Id.*, at ¶ 9.)

that bind the State and the Aggrieved Employees are stated in the Settlement Agreement of Representative Action under Labor Code Private Attorneys General Act. (*Id.*)

8. Size of Defendant's time and pay data sample

In preparation for mediation, Defendant informally produced the complete, anonymized timekeeping and payroll filed for all non-exempt employees at the Garden Grove location during the relevant time period. (*Id.*, at ¶ 12.) Prior to mediation, Defendant represented that the only location in operation during the relevant period is in Garden Grove, California. (*Id.*)

9. Attorneys' Fees and Timekeepers Thereto

The Court requested more information concerning why this action necessitated the need for 21 timekeepers. Many of these individuals took part in case related tasks during different phases of the case. For example, Mr. Hecht and Mr. Hogg were only involved with the matter at its inception. (*Id.*, at ¶ 13.) Their tasks included, for example, corresponding with opposing counsel regarding potentially improperly named defendants and dismissal, revising initial joint status reports, and preparing written discovery requests. (*Id.*) The two attorneys are no longer with the firm. (*Id.*) Other attorneys, such as Mr. Gordon, only assisted with the action after settlement had occurred. (*Id.*, at ¶ 14.) He assisted with preparing the calculations to determine the proper weighing of the workweeks for the banquet employees, to allow the parties to reach a compromise for settlement. (*Id.*)

Mr. Christopher performed an internal administrative audit on the matter to ensure all deadlines were properly calendared as reflected in the docket and relevant orders. (*Id.*, at ¶ 15.)

Ms. Cottrell, Ms. Cohen, and Ms. Sandoval were the primary attorneys on this matter throughout litigation. (*Id.*, at ¶ 16.)

Further, five of the timekeepers, Ms. Johnson, Mr. Jrade, Mr. Barnett, Mr. Okeke, and Ms. Rawlinson were part of the outreach efforts used to contact employees in advance of mediation, and conduct interviews in an attempt to determine what the true violation rates may be. (*Id.*, at ¶ 17.)

Finally, Ms. Bonilla Castaneda, Ms. Castro, Ms. Hermann, Ms. King-Cash, Ms. Price, Mr. Smith, Ms. Winter, and Mr. Yasay were all paralegals and other staff who handled administrative tasks. (*Id.*, at ¶ 18.) These tasks include, for example, filings, contacting the clerk, drafting form correspondences to the client at the inception of the case, preparing notices to be filed, preparing and serving discovery, preparing jury fee correspondences, and calendaring of deadlines, to name a few. (*Id.*) Based on workflow demands, and because the firm was working remotely due to the pandemic,

1 tasks were assigned to the staff member who was available and in the office on the particular day.
2 (*Id.*) Moreover, some of these individuals ended their employment with the firm during the course of
3 the litigation. (*Id.*)

4 **10. Billing Records**

5 Plaintiff provides a copy of the billing records, with certain redactions for attorney-client
6 privilege concerns, as Exhibit E to the Supplemental Declaration of Carolyn H. Cottrell. (*Id.*, at ¶
7 19.)

8 *AS TO THE NOTICE:*

9 **1. If employees fail to cash their checks within 180 days**

10 Plaintiff has revised the notice to include language that the settlement checks will remain
11 valid for 180 days after mailing, after which time they shall be void. (*Id.*, at ¶ 20.) If there are funds
12 attributable to uncashed settlement checks after the 180 day period, the Settlement Administrator
13 shall make any payments necessary to Aggrieved Employees arising from successful disputes
14 regarding the number of pay periods worked, and remit any remaining unclaimed funds to the cy
15 pres recipient that is approved by the Court. (*Id.*) Plaintiff provides a copy of revised notice as
16 Exhibit F to the Supplemental Declaration of Carolyn H. Cottrell, and a redlined version as Exhibit
17 G. (*Id.*)

18 **2. Current employees will not be retaliated against for cashing checks**

19 Plaintiff has revised the notice to include language to specify that current employees will not
20 be retaliated against for cashing their checks. (*Id.*, at ¶ 21.) Plaintiff provides a copy of revised
21 notice in clean form as Exhibit F to the Supplemental Declaration of Carolyn H. Cottrell, and a
22 redlined version as Exhibit G. (*Id.*)

23 **3. Notice provided in languages other than English**

24 The Parties met and conferred on this issue. (*Id.*, at ¶ 22.) Counsel for Defendant informed
25 counsel for Plaintiff that the notice should be sent in Spanish as well. (*Id.*) The revised English
26 notice was translated, and Plaintiff provides a copy of the Spanish notice as Exhibit H to the
27 Supplemental Declaration of Carolyn H. Cottrell. (*Id.*)

1 **4. Changes to Settlement Agreement**

2 The Parties have revised the Settlement Agreement to address the changes made to the
3 definitions of the Aggrieved Employees, the PAGA Recovery Period, and the provision relating to
4 validity of settlement checks. (*Id.*, at ¶ 23.) Corresponding changes were made in the notice. (*Id.*)
5 Plaintiff provides a copy of the revised notice in clean form as Exhibit F to the Supplemental
6 Declaration of Carolyn H. Cottrell, and a redlined version as Exhibit G. (*Id.*)

7 **5. Font Size in Notice**

8 Prior to the mailing of the notices, Plaintiff will confirm with the Settlement Administrator
9 that the font size remains the same. (*Id.*, at ¶ 24.)

10 **III. CONCLUSION**

11 For all of the reasons stated herein and in Plaintiff's original motion for approval of settlement,
12 Plaintiff respectfully requests that the Court approve the Settlement.

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14 Dated: February 18, 2022

Respectfully submitted,

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17 _____
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19 Caroline N. Cohen
20 Kristabel Sandoval
21 SCHNEIDER WALLACE
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28 Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees