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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**

15 FERNANDO SALGUERO, as an aggrieved
16 employee and private attorney general,

17 Plaintiff,

18 vs.

19 COLLABERA INC., a New Jersey
20 Corporation; and DOES 1 through 50,
21 inclusive,

22 Defendants.

Case No.: 20STCV19946

*Assigned for all purposes to: Hon. Michael
Stern, Dept. 62*

**[PROPOSED] ORDER APPROVING
SETTLEMENT PURSUANT TO
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT AND
ENTERING JUDGMENT**

Hearing Date: November 19, 2021

Hearing Time: 9:00 a.m.

Department: 62

Reservation ID: 905919296565

Complaint Filed: May 26, 2020

Trial Date: January 31, 2022

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Having reviewed and considered Plaintiff's Motion for Order Approving Settlement
3 Pursuant to California Labor Code Private Attorneys General Act and Entering Judgment, and good
4 cause appearing for the same, it is hereby **ORDERED, ADJUDGED, AND DECREED AS**
5 **FOLLOWS:**

6 1. The Court hereby approves the of Private Attorneys General Act Settlement
7 Agreement and Release attached as Exhibit 2 to the Declaration of Heather Davis ("Settlement
8 Agreement" or "Settlement.") as a fair, reasonable, and adequate resolution of the PAGA claims
9 alleged in the Action.

10 2. The Settlement Agreement is hereby deemed incorporated herein as if expressly set
11 forth. Final judgment is hereby entered in conformity with the Settlement. All terms used herein
12 shall have the same meaning as defined in the Settlement Agreement.

13 3. This Court has jurisdiction over the subject matter of this Action, and over all Parties
14 to this Action, including Plaintiff Fernando Salguero ("Plaintiff"), the State of California, and all
15 PAGA Class Members.

16 4. The Court designates ILYM Group Inc. ("ILYM") as the third-party Settlement
17 Administrator for mailing the PAGA Employees cover letters, distribution of the Maximum
18 Settlement Amount, and other duties set forth in the Settlement.

19 5. No later than thirty (30) calendar days after entry of this Order and Judgment,
20 Defendant will provide ILYM with the Aggrieved Employee List as defined in the Settlement
21 Agreement.

22 6. Provided the Judgment becomes Final, within fourteen (14) court days following the
23 Effective Date, Defendant Collabera, Inc. ("Defendant") is hereby ordered to deposit the Maximum
24 Settlement Amount of Two Million One Hundred Thousand Dollars and No Cents (\$2,100,000.00)
25 into the Settlement Account established by ILYM.

26 7. Defendant will not be required to pay any additional amounts in connection with this
27 Settlement other than those amounts specifically set forth in the Settlement Agreement and this
28 Order.

1 8. Within ten (10) business days following the Funding of the Settlement, ILYM shall
2 distribute the Maximum Settlement Amount as provided in the Settlement and set forth below:

- 3 a. Seven Hundred Thirty-Five Thousand Dollars and No Cents (\$735,000.00) to Plaintiff's
4 Counsel for attorneys' fees ("Attorney's Fees"), which is thirty-five (35%) of the
5 Maximum Settlement Amount, and attorneys' costs ("Attorney's Costs") of up to Eleven
6 Thousand Five Hundred and Thirty Dollars and Eighty-Eight Cents (\$11,530.88), from
7 the Maximum Settlement Amount as final payment for and complete satisfaction of any
8 and all attorneys' fees and costs incurred by and/or owed to Plaintiff's Counsel related
9 to the Action;
- 10 b. Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) to Plaintiff Fernando
11 Salguero ("Plaintiff's Incentive Payment") from the Maximum Settlement Amount, to
12 compensate him for his services in prosecuting the Action and performing work in
13 support of the Action;
- 14 c. Nineteen Thousand Nine Hundred and Ninety Dollars and No Cents (\$19,990.00) to the
15 Settlement Administrator, ILYM Group Inc. ("Settlement Administration Costs") from
16 the Maximum Settlement Amount for administration expenses incurred by the
17 Settlement Administrator; and
- 18 d. The Net Settlement Amount remaining after the deduction of the Plaintiff's Counsel's
19 Attorney's Fees, Plaintiff's Counsel's Attorney's Costs, Plaintiff's Incentive Payment,
20 and Settlement Administration Costs (\$1,325,979.12), shall be distributed to the
21 California Labor and Workforce Development Agency ("LWDA") and PAGA
22 Employees. 75% of the Net Settlement Amount (\$994,484.34) shall be distributed to the
23 LWDA ("LWDA Payment"). 25% of the Net Settlement Amount (\$331,494.78) shall be
24 distributed to the PAGA Employees ("PAGA Employee Fund"). Each PAGA
25 Employee's Individual Settlement Share will be determined by converting the PAGA
26 Employee Fund into a Pay Period Value. The Pay Period Value will be established by
27 dividing the PAGA Employee Fund by all Pay Periods worked by PAGA Employees
28 during the PAGA Period. The Pay Periods worked by PAGA Employees during the
 PAGA Period will be determined according to the pay periods worked during the PAGA

1 Period by non-exempt employees in California by using Defendant's records. The
2 Individual Settlement Share for each PAGA Employee will be determined by
3 multiplying the Pay Period Value by each PAGA Employee's individual worked pay
4 periods during the PAGA Period. Pay Period means any pay period in which a PAGA
5 Employee worked at least one day.

6 e. ILYM shall mail each PAGA Employee their Individual Settlement Share check along
7 with the Notice attached to the Settlement as Exhibit A.

8 9. All checks to the PAGA Employees shall remain valid and negotiable for 180 days
9 from the date of their issuance to the PAGA Employees. If any checks are not cashed within 180
10 days of mailing, those funds shall be transmitted to the Controller of the State of California to be
11 held pursuant to the Unclaimed Property Law, California Code of Civil Procedure § 1500, et seq. in
12 the names of those PAGA Employee who did not cash their checks until such time they claim their
13 property.

14 10. Upon the funding of the Maximum Settlement Amount, each PAGA Employee, and
15 without the need to manually sign a release document, in exchange for the consideration recited in
16 this Agreement, on behalf of himself or herself and on behalf of his/her current, former, and future
17 heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and
18 finally release Defendant as well as its predecessors, merged entities, parents, subsidiaries, affiliates,
19 related organizations, all of their respective officers, directors, employees, administrators,
20 fiduciaries, trustees, beneficiaries, and agents, and each of their past, present, and future, officers,
21 directors, shareholders, employees, agents, principals, heirs, representatives, accountants, attorneys,
22 auditors, consultants, insurers, and reinsurers (collectively hereinafter the "Released Parties"), from
23 all claims for civil penalties under PAGA that were actually alleged or that could have been alleged
24 in the Action by Plaintiff, on behalf of the State of California, himself and the PAGA Employees,
25 based on the facts, theories, primary rights, statutory or other legal grounds referenced in or alleged
26 in the Complaint and Plaintiff's PAGA letter dated March 18, 2020 to the LWDA ("PAGA Letter"),
27 including but not limited to: (a) penalties pursuant to Labor Code Section 201, 202, 203, 204, et
28 seq., 204(a), 204(d), 210, 218, 218.6, 226, 226(a), 226(e), 226.3, 226.7, 226.7(a), 510, et seq.,
510(a), 510(b), 512, 512(a), 558, 1174, 1174(c), 1174(d), 1174.5, 1194, et seq., 1194(a), 1197,

1 1197.1, 1198, et seq., 1198.5, 1199, 2698, et seq., 2699, et seq., 2699(a), 2699(f)(2), 2699(g)(1),
2 2699.3, 2699.3(a), 2699.5, 2800, 2802, 2802(a), CCR § 11010, and IWC Wage Orders No. 4, 7 and
3 9; (b) attorney's fees and costs incurred in the prosecution of this Action on behalf of the PAGA
4 Employees; and (c) any other PAGA penalties based on the facts or theories alleged in the Complaint
5 or PAGA Letter ("Released Claims").

6 11. Upon the remittance of the Maximum Settlement Amount by Defendant to the
7 Settlement Administrator, Plaintiff, on behalf of himself, the State of California, and all PAGA
8 Employees, releases the Released Parties from the Released Claims. This release shall be effective
9 for the period from March 18, 2019, through the date of Settlement approval by the Court (the
10 "Settlement Period"). PAGA Employees may discover facts in addition to those they now know or
11 believe to be true with respect to the subject matter of the Released Claims, but upon the Effective
12 Date, PAGA Employees shall be deemed to have, and by operation of the Settlement Approval
13 Court order shall have, fully, finally, and forever settled and released any and all of the Released
14 Claims, without regard to the subsequent discovery or existence of such different or additional facts.
15 PAGA Employees may not to sue or otherwise make a claim against any of the Released Parties
16 that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement
17 approval order entered by the Court shall have full res judicata effect and be final and binding upon
18 PAGA Employees regarding the Released Claims. However, other than as to Plaintiff, the
19 Settlement shall not impact PAGA Employees ability to assert Labor Code claims other than PAGA
20 claims, including claims for unpaid wages. In light of the binding nature of a PAGA judgment on
21 non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and
22 *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting
23 the definition of a PAGA Employee who are eligible to receive a payment of the Individual
24 Settlement Share of the Net Settlement Amount shall be deemed to have released the Released
25 Claims regardless if the check is cashed or not

25 12. The Court finds that Plaintiff gave notice to the California Labor Workforce and
26 Development Agency ("LWDA") and to Defendant of his intention to pursue claims for civil
27 penalties under PAGA arising out of the facts and legal theories alleged in the Complaint, that the
28 LWDA did not give notice that it intended to investigate these claims within 65 days of receiving

1 Plaintiff's notice, and that Plaintiff is therefore authorized to pursue these claims on behalf of the
2 LWDA. The Court further finds that Plaintiff gave notice of this proposed settlement of those claims
3 under PAGA to the LWDA in accordance with Labor Code section 2699(1)(2), and that the LWDA
4 has not expressed any objection to the proposed settlement. Accordingly, this Judgment also bars
5 the LWDA, or any other agency of the State of California, or any person acting on its behalf, from
6 collecting any penalties due to any of them, or any unpaid wages due to PAGA Class Members, to
7 the extent those penalties or unpaid wages arise out of the PAGA Released Claims or the facts giving
8 rise to those claims. *Arias v. Super. Ct.*, 46 Cal.4th 969, 985-986 (2009).

9 13. Neither this Settlement nor any of the terms set forth in the Settlement Agreement
10 are admissions by Defendant, or any of the other Released Parties, of liability on any of the
11 allegations alleged in this Action, nor is this Order a finding of the validity of any claims in this
12 Action, or of any wrongdoing by the Defendant, or any of the other Released Parties.

13 14. Plaintiff's Counsel are directed to submit a copy of this Order and Judgment to the
14 California Labor and Workforce Development Agency within ten (10) calendar days of entry of the
15 Judgment.

16 15. Without affecting the finality of this Order and Judgment, the Court shall retain
17 continuing jurisdiction over this action and the parties, and over all matters pertaining to the
18 implementation and enforcement of the terms of the Settlement Agreement pursuant to Civil
19 Procedure section 664.6. Except as provided to the contrary herein, any disputes or controversies
20 arising with or with respect to the interpretation, enforcement, or implementation of the Settlement
21 Agreement shall be presented to the Court for resolution.

22 16. The Court hereby enters judgment of the entire Action, with prejudice, for the reasons
23 set forth above and upon the terms set forth in the Settlement Agreement.

24 17. This Judgment is intended to be a final disposition of the above-captioned action in
25 its entirety and is intended to be immediately appealable. Subject to the Court's continuing
26 jurisdiction as set forth above, the Court directs the Clerk of the Court to enter Judgment.

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

DATED: _____

JUDGE OF THE SUPERIOR COURT