

SETTLEMENT AGREEMENT OF PAGA CLAIM

Jihan Ali v. Xtreme Lashes, LLC

I. This Settlement Agreement of PAGA Claim (“Settlement” or “Agreement”) is made by Plaintiff Jihan Ali (“Plaintiff”) on behalf of herself and all “aggrieved employees” pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698 et seq., on the one hand, and Defendant Xtreme Lashes, LLC (“Defendant”), on the other hand, with respect to claims asserted by Plaintiff pursuant to the PAGA. Plaintiff and Defendant shall be collectively referred to as “the Parties.” The “PAGA Aggrieved Employees” consists of a certified trainers of Defendant from June 19, 2019 through the date of the Court order granting preliminary approval of this Settlement (“PAGA Period”). The PAGA Aggrieved Employees includes three certified trainers who worked a minimal amount of days for Defendant during the PAGA Period. From March 2020 to the present, Defendant has ceased all business utilizing certified trainers who reside in California.

II. Procedural History. On April 8, 2020, Plaintiff submitted a letter (the “PAGA Letter”) to the California Labor & Workforce Development Agency (“LWDA”) regarding her intention to pursue PAGA penalties against Defendant. On June 19, 2020, Plaintiff filed a civil action against Defendant entitled *Jihan Ali v. Xtreme Lashes, LLC* (San Diego County Superior Court, Case No. 37-2020-00021161-CU-OE-CTL) pursuing PAGA penalties against Defendant (“PAGA Action”). The Parties have agreed to settle all claims outside of litigation.

III. Investigation. The Parties have conducted significant investigation of the facts and law relating to this dispute. Such investigation has included, inter alia, the production and analysis of timekeeping and pay records of the PAGA Aggrieved Employees. Plaintiff alleges that Defendant failed to properly calculate and pay minimum, regular, and overtime wages, including split shift premiums; failed to timely provide accurate itemized wage statements; failed to maintain accurate pay records; failed to properly and timely pay final wages at termination of employment; failed to authorize and permit rest breaks; failed to provide meal periods; failed to reimburse for necessary business expenditures; and failed to pay all required civil and statutory penalties associated with these violations.

Based upon a thorough review of the law and facts of this case, Defendant contends that there is no basis for penalties to be assessed against them because all amounts owed to the PAGA Aggrieved Employees were properly and timely paid, reimbursements were properly paid, Defendant complied with their obligations under applicable law to provide meal and rest periods, Defendant provided compliant wage statements, Defendant maintained accurate records, and Defendant timely paid all final wages. Moreover, Defendant took effective steps to address any perceived or alleged wage and hour violations. Nevertheless, given the risks inherent in litigation and in the spirit of compromise, the Parties agree that a compromise of all claims is in their best interests.

IV. Benefits of Settlement to PAGA Aggrieved Employees. Plaintiff recognizes the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk of further litigation, the difficulties and delays inherent in such litigation, the relatively small size of the PAGA Aggrieved Employees, and Defendant's efforts to improve its wage and hour policies and procedures following notification of Plaintiff's claims. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in this dispute, Defendant's defenses thereto, and the difficulties in establishing damages for Plaintiff. The Parties have engaged in arms-length settlement discussions regarding all claims and Plaintiff has determined that the settlement set forth in the agreement is fair, adequate, and reasonable and is in the best interests of the PAGA Aggrieved Employees.

V. Defendant's Denial of Wrongdoing. Defendant denies each of the claims asserted by Plaintiff. Defendant continues to assert defenses thereto and expressly deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged by Plaintiff. Neither this Agreement nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Defendant of any fault, wrongdoing, or liability whatsoever.

VI. Effective Date. This Settlement shall become effective on the date on which this Settlement is finally approved as provided herein and the Court's Final Judgment ("Final

Judgment”) becomes final (“Effective Date”). For purposes of this paragraph, the Court’s Final Judgment “becomes final” upon the latter of: (i) the date of final affirmance of an appeal of the Final Judgment; (ii) the expiration of the time for a petition for a writ of certiorari to review the Final Judgment; (iii) the date of final dismissal of any appeal from the Final Judgment or the final dismissal of any appeal or proceeding on certiorari to review the Final Judgment; or (iv) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Court’s Final Judgment.

VII. Settlement and Release. In exchange for Plaintiff and the PAGA Aggrieved Employees’ release of PAGA penalty claims as set forth herein, Defendant agrees to pay the sum of \$3,000.00 (the “Settlement Amount”) as civil penalties pursuant to PAGA. As of the Effective Date, and subject to Defendant’s payment of the Settlement Amount, the PAGA Aggrieved Employees, including Plaintiff, release Defendant, all of its affiliates, and each of its past or present officers, directors, members, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, any individual or entity that could be alleged to be jointly liable with Defendant, joint employers, joint obligors, clients, parents and attorneys and each of their respective company-sponsored employee benefit plans and all of their respective officers, directors, employees, administrators, fiduciaries, trustees and agents (the “Released Parties”), from the “Released Claims.”

For purposes of this Agreement, the “Released Claims” are defined as: all claims which arose during the PAGA Period during the employment that is alleged in the PAGA Letter. The Released Claims specifically include the following: (1) that Defendant did not pay Plaintiff and the PAGA Aggrieved Employees all minimum, regular, and overtime wages, including split shift premiums; (2) that Defendant misclassified Plaintiff and the PAGA Aggrieved Employees; (3) that Defendant failed to provide accurate wage statements to Plaintiff and the PAGA Aggrieved Employees during the PAGA Period; (4) that Defendant failed to maintain accurate pay records for Plaintiff and the PAGA Aggrieved Employees; (5) that Defendant violated Labor Code sections 203 and 204 by failing to pay Plaintiff and the PAGA Aggrieved Employees all wages

owed at the time of termination; (6) that Defendant did not allow Plaintiff and the PAGA Aggrieved Employees to take meal periods as required by law or pay Plaintiff and the PAGA Aggrieved Employees as required by law when the meal periods were not provided; (7) that Defendant did not allow Plaintiff and the PAGA Aggrieved Employees to take rest periods as required by law or pay Plaintiff and the PAGA Aggrieved Employees as required by law when the rest periods were not provided; (8) that Defendant failed to reimburse Plaintiff and the PAGA Aggrieved Employees for business expenses; (9) that Defendant owes penalties pursuant to the PAGA, premised on the alleged Labor Code violations articulated above; and (10) that Defendant owes penalties, interest, attorneys' fees or other damages arising out of Defendant's alleged failure to pay wages and penalties released herein. Plaintiff and PAGA Aggrieved Employees specifically release any and all PAGA penalty claims against Defendant under Labor Code § 2698 et seq.

VIII. Allocation of Settlement Amount. The Parties agree that seventy-five percent (75%) of the Settlement Amount shall be paid to the LWDA (the "LWDA Payment") and twenty-five percent (25%) of the Settlement Amount shall be paid to the PAGA Aggrieved Employees, including Plaintiff (the "PAGA Payment"). The PAGA Payment shall be allocated equally to each of the three PAGA Aggrieved Employees. For purposes of this Settlement only, the Parties agree that PAGA Aggrieved Employees employed by Defendant during the PAGA Period are "aggrieved employees" under PAGA.

IX. Timing of Payment of Settlement Amount. Within 60 days of the Effective Date, Defendant shall mail to each PAGA Aggrieved Employees her share of the PAGA Payment and submit to the LWDA the LWDA Payment. The Parties agree that the settlement payments to each PAGA Aggrieved Employees will be allocated as 80% as penalties and 20% as interest.

X. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

XI. Entire Agreement. This Agreement and any attached exhibits constitute the entire agreement among these Parties relating to the resolution of Plaintiff's claims for the recovery of civil penalties pursuant to PAGA, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

XII. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

XIII. Counterparts. This Agreement may be executed in one or more counterparts, including by DocuSign, e-mail, and facsimile. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves original signed counterparts.

XIV. This Settlement is Fair, Adequate, and Reasonable. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this PAGA Action and have arrived at this Settlement in arms-length negotiations, taking into account all relevant factors, present and potential.

XV. Jurisdiction of the Court. The Court shall retain jurisdiction with respect to interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

XVI. Cooperation and Drafting. Each of the Parties has cooperated in the drafting and preparation of this Agreement. Hence, in any construction made to this Agreement, same shall not be construed against any of the Parties.

XVII. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court shall first try to construe the provision as valid to the extent possible under the law so as to render all provisions of this Agreement valid and enforceable.

XVIII. Pages. This Agreement consists of six pages and is made and entered into on the dates indicated below.

Dated: _____

JIHAN ALI

XTREME LASHES, LLC

Dated: _____

By: _____

APPROVED AS TO FORM AND CONTENT:

LAW OFFICES OF DEVON K ROEPCKE PC

Dated: _____

By: _____
Devon K. Roepcke, Esq.
Attorney for Plaintiff Jihan Ali

PETTIT KOHN INGRASSIA LUTZ & DOLIN PC

Dated: _____

By: _____
Jennifer N. Lutz, Esq.
Tina M. Robinson, Esq.
Attorneys for Defendant
Xtreme Lashes, LLC