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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

CARLOS CHACON, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

EXEMPLIS LLC, a California limited liability
company; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 30-2020-01157341-CU-OE-CXC

*[Assigned for All Purposes to Hon. Randall J.
Sherman, CX105]*

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFF'S MOTION FOR
SETTLEMENT APPROVAL OF CLAIMS
BROUGHT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT AND
REASONABLE ATTORNEYS' FEES, COSTS,
AND ENHANCEMENT AWARD**

Date: August 27, 2021
Time: 10:00 a.m.
Dept.: CX105

Reservation No.: 73578931

Complaint Filed: August 27, 2020
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on August 27, 2021 at 10:00 a.m.
2 Having considered the parties' Settlement Agreement ("Settlement"), the documents and evidence
3 presented in support thereof, and recognizing the disputed factual and legal issues involved in this case,
4 the risks of further prosecution, the substantial benefits to be received by the State of California and
5 the Aggrieved Employees pursuant to the Settlement, the fair, reasonable, and adequate nature of the
6 settlement obtained as a result of good faith arm's-length negotiations between the parties, the Court
7 hereby makes a final ruling that the settlement is approved pursuant to Labor Code § 2699(l). Good
8 cause appearing therefor, the Court hereby GRANTS Plaintiff's Motion for Settlement Approval of
9 Claims Brought under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and
10 Enhancement Award and ORDERS as follows:

11 1. The "Aggrieved Employees" shall be defined as:

12 All current and former hourly, non-exempt employees of Defendant Exemplis LLC who
13 worked in California at any time from June 22, 2019 through the sooner of (1) the date
14 the Court grants approval of this settlement or (2) the date the pay periods in the PAGA
Period increase 15% of 18,329 (which is 21,079).

15 2. The "PAGA Period" means the time period from June 22, 2019 through the sooner of
16 (1) the date the Court grants approval of this settlement or (2) the date the pay periods in the PAGA
Period increase 15% of 18,329 (which is 21,079).

17 3. The Court hereby approves the Settlement as set forth in the Settlement as fair,
18 reasonable, and adequate, and directs the parties to effectuate the Settlement according to the terms of
19 the Settlement.

20 4. The Court orders that Exemplis LLC ("Exemplis" or "Defendant") shall deposit the
21 Gross Settlement Amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) to
22 the Settlement Administrator within thirty (30) calendar days of the Effective Date, which is the later
23 of (1) the day after the last day by which a notice of appeal of the Approval Order and/or of an order
24 rejecting any motion to intervene may be timely filed, and none is filed; (2) if such an appeal is filed,
25 and the Approval Order is affirmed, the day after the last date for filing a request for further review of
26 the decision passes and no further review is requested; (3) if an appeal is filed and further review of
27

1 the decision affirming the Approval Order is requested, the day after the request for review is denied
2 with prejudice and/or no further review of the decision can be requested, or (4) if review is accepted,
3 the day after the United States or California Supreme Court affirms the Settlement.

4 5. The Court hereby approves, as to form and content, the Notice of PAGA Settlement and
5 Release of Claims attached to the Settlement as Exhibit A.

6 6. The Court hereby appoints Phoenix Settlement Administrators as Settlement
7 Administrator.

8 7. Within twenty (20) business days of the court signing the approval order, Defendant
9 shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will
10 in good faith compile from its records a list of Aggrieved Employees that will be in a computer-
11 readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's
12 full name, last known mailing address, total number of pay periods worked during the PAGA Period
13 or dates of employment, and Social Security number. The list shall also include the sum total of all pay
14 periods worked by Aggrieved Employees during the PAGA Period.

15 8. Within seven (7) business days of receiving the Aggrieved Employees' information
16 from Defendants, the Settlement Administrator will circulate to counsel for all Parties an anonymized
17 spreadsheet containing the Individual Settlement Payments to each Aggrieved Employee and the data
18 used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel
19 for all Parties of the calculations before mailing Individual Settlement Payments.

20 9. Within two (2) business days of the fully funding of the Gross Settlement Amount,
21 Phoenix Settlement Administrators is directed to mail the Individual Settlement Payments and the
22 Notice of Settlement to the Aggrieved Employees. A true and correct copy of the proposed Notice
23 agreed upon by the Parties to be mailed to the Aggrieved Employees is attached hereto as **Exhibit A**.

24 10. The Court finds that attorneys' fees in the total amount of \$83,333.33 (with 60% or
25 \$50,000.00 to Haines Law Group, APC and 40% or \$33,333.33 to Lidman Law, APC) (collectively,
26 "Plaintiff's Counsel"), and reimbursement of litigation costs of \$20,613.31 to Plaintiff's Counsel are
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1 fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments
2 to Plaintiff's Counsel as provided for in the Settlement. Within two (2) business days of the fully
3 funding of the Gross Settlement Amount, Phoenix Settlement Administrators is directed to distribute
4 to Plaintiff's counsel the Court-approved attorneys' fees and costs.

5 11. The Court orders that the Settlement Administrator shall be paid \$3,750.00 for all of its
6 work done and to be done until the completion of this matter and finds that sum appropriate.

7 12. The Court finds that enhancement award of \$5,000.00 to Plaintiff Carlos Chacon, is fair
8 and reasonable in recognition of the unique contributions he has made, the risks he undertook on behalf
9 of the Aggrieved Employees and the State of California, and his agreement to a general release and
10 1542 waiver and orders that the Settlement Administrator distribute this payment to Plaintiff as
11 provided for in the Settlement Agreement. Within two (2) business days of the fully funding of the
12 Gross Settlement Amount, Phoenix Settlement Administrators is directed to distribute to Plaintiff the
13 Court-approved enhancement award.

14 13. The Court finds that the amount from the Gross Settlement Amount remaining after
15 deductions for: (i) Plaintiff's Counsel's attorneys' fees and costs, (ii) enhancement award to Plaintiff;
16 and (iii) Settlement Administrator fees ("Net Settlement Amount") shall be distributed as follows:
17 75% shall to be paid to the California Labor and Workforce Development Agency ("LWDA") and
18 25% to be distributed to the Aggrieved Employees pro rata based on the proportional number of pay
19 periods worked by each Aggrieved Employee during the PAGA Period, as provided for in the
20 Settlement. The Court finds that these amounts and the distribution formula as set forth in the
21 Settlement is fair, adequate, and reasonable, and orders that payment be made to the LWDA and
22 Aggrieved Employees in accordance with the terms of the Settlement.

23 14. The Court hereby approves the limited scope of the release as set forth in the Settlement.
24 Specifically, following entry of this Order and Final Judgment, in his capacity as a Private Attorney
25 General or "aggrieved employee" acting on behalf of himself, the State of California and all Aggrieved
26 Employees, Plaintiff hereby releases Defendant and its former, present and future owners, parents,
27

1 subsidiaries, and all of their current, former and future officers, directors, members, managers,
2 employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns,
3 accountants, insurers, or legal representatives (“Released Parties”), from all claims, rights, demands,
4 liabilities and causes of action for civil penalties under the Labor Code Private Attorneys General Act
5 (“PAGA”), Labor Code § 2698 et seq. against the Released Parties as pled, or could have been pled
6 based on the facts alleged, in the operative complaint in the Action, including: (a) failure to pay all
7 minimum wages owed (Labor Code sections 1194, 1194.2, and 1197); (b) failure to pay all overtime
8 wages (Labor Code sections 204, 510, 558, 1194 and 1198); (c) failure to provide meal periods, or
9 premium for non-compliant meal periods (Labor Code sections 226.7, 512 and 558); (d) failure to
10 authorize and permit rest periods, or premium pay for non-compliant rest periods (Labor Code sections
11 226.7, 516 and 558); (e) failure to provide accurate, itemized wage statements (Labor Code section
12 226), (f) failure to provide all earned wages at least twice during each calendar month (Labor Code
13 section 204), and (g) failure to maintain accurate records (Labor Code section 1174, including any
14 related claims for attorneys’ fees, costs, or interest resulting therefrom (hereinafter, “PAGA Released
15 Claims”).

16 15. Pursuant to the Settlement, and light of his enhancement award described above,
17 Plaintiff personally agrees to release, in addition to the PAGA Released Claims, all claims, whether
18 known or unknown, under federal law or state law, to the fullest extent permitted by law, against the
19 Released Parties. Plaintiff further understands that this release includes unknown claims and that he is,
20 as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which
21 provide:

22 **A general release does not extend to claims that the creditor or**
23 **releasing party does not know or suspect to exist in his or her favor**
24 **at the time of executing the release and that, if known by him or**
25 **her, would have materially affected his or her settlement with the**
26 **debtor or released party.**

1 16. Upon entry of the Order approving the Settlement and judgment entered thereon, as
2 well as full payment by Defendant of the Gross Settlement Amount, Plaintiff and all Aggrieved
3 Employees may be forever barred as a matter of law from pursuing any and all of the PAGA Released
4 Claims that arose during the PAGA Period against the Released Parties. Without affecting the finality
5 of this Final Order and Judgment in any way, the Court retains jurisdiction to enforce the terms of the
6 Settlement.

7 17. Plaintiff shall file a declaration confirming the final distribution of funds on or before
8 April 28, 2023.

9 **IT IS SO ORDERED.**

10
11 Dated: _____, 2021

By: _____

Honorable Randall J. Sherman
Judge of the Superior Court

EXHIBIT A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Carlos Chacon v. Exemplis, LLC,
Orange County Superior Court Case No. 30-2020-01157341-CU-OE-CXC

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX - ____

I. NOTICE OF PAGA SETTLEMENT

The Orange County Superior Court (the “Court”) has approved a settlement in the above-captioned action filed by Carlos Chacon (“Plaintiff”) on behalf of himself and all other aggrieved employees.

In this lawsuit, Plaintiff is seeking to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other aggrieved employees under the California Private Attorneys General Act (the “PAGA”). These civil penalties are based on Plaintiff’s allegations that Exemplis, LLC (“Exemplis”): failed to pay all minimum and overtime wages, failed to provide legally compliant meal periods, failed to authorize and permit all legally required rest periods, failed to issue accurate wage statements that included all information required by law, failed to provide all earned wages at least twice during each calendar month and failed to maintain accurate records; and as a result is liable for civil penalties under the PAGA.

The Court has ***not*** made a determination about the merits of Plaintiff’s claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff’s claims.

Exemplis denies Plaintiff’s allegations. It maintains that it was in compliance with the California Labor Code at all times and enters into this Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: “means all current and former hourly, non-exempt employees of Defendant Exemplis LLC who worked in California at any time from June 22, 2019 through **the sooner of (1) the date the Court grants approval of this settlement or (2) the date the pay periods in the PAGA Period increase 15% of 18,329 (which is 21,079)** (“PAGA Period”).”

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period. Your individual PAGA payment has been calculated at \$**[AMOUNT PAID TO THIS EMPLOYEE]**. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor Exemplis has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any

other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, all Aggrieved Employees including you will release Exemplis and its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives ("Released Parties") from any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code Private Attorneys General Act ("PAGA"), Labor Code § 2698 et seq. against the Released Parties based on (as alleged in the letter to the Labor & Workforce Development Agency ("LWDA") June 22, 2020) and as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action, including: (a) failure to pay all minimum wages owed (Labor Code sections 1194, 1194.2, and 1197); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198); (c) failure to provide meal periods, or premium for non-compliant meal periods (Labor Code sections 226.7, 512 and 558); (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods (Labor Code sections 226.7, 516 and 558); (e) failure to provide accurate, itemized wage statements (Labor Code section 226), (f) failure to provide all earned wages at least twice during each calendar month (Labor Code section 204), and (g) failure to maintain accurate records (Labor Code section 1174), including any related claims for attorneys' fees, costs, or interest resulting therefrom. ("PAGA Released Claims").

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement (including you) may be forever barred as a matter of law from proceeding with any of the PAGA Released Claims released by this Settlement. However, no claims for unpaid or underpaid wages have settled, and this settlement is without prejudice to the pursuit on any such claims.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Phoenix Class Action Administration Solutions at [ADMINISTRATOR INFO] with any questions.

Settlement checks will be void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.