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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN DIEGO**

STANISLAV SAVINOK, in a Representative capacity only, and on behalf of other members of the general public similarly situated

Plaintiff

v.

AIRMAXX, INC., a California Corporation;  
ALEX GLOZMAN, an individual, and DOES  
1-10, inclusive

Defendants

CASE NO. 37-2020-00031033-CU-OE-CTL

(Representative Action only)

**DECLARATION OF WILLIAM G.  
ANDERSON IN SUPPORT OF  
PLAINTIFF'S UNOPPOSED EX PARTE  
APPLICATION RE: PAGA SETTLEMENT  
APPROVAL**

Date: January 7, 2021

Time: 8:30 a.m.

Judge: Hon. Kenneth J. Medel

Dept.: C-66

1 I, William G. Anderson, hereby declare as follows:

2 1. I am an attorney licensed to practice law before this Court and am an employed at the law firm  
3 of Sullivan Law Group, APC, attorneys of record for Plaintiffs in the above-captioned matter.  
4 I make this declaration regarding Plaintiffs' **Unopposed** *Ex Parte* Request re PAGA  
5 Settlement Approval.

6 2. I have personal knowledge of the facts set forth in this declaration and, if called to testify as  
7 a witness, I could and would do so.

8 **Summary of Application**

9 3. As this is a "PAGA" action only, the Limitations Period begins on June 30, 2019. There are  
10 approximately **23** PAGA Members at issue.

11 4. Following the exchange of informal discovery, analysis of numerous sets of time and wage  
12 data, and Plaintiff providing Defendants with a formal Settlement Demand, the parties reached  
13 a proposed settlement that includes a payment of penalties to the LWDA. Attached hereto as  
14 **Exhibit 1** is a true and correct copy of the PAGA Settlement Agreement.

15 5. On **December 31, 2020**, Plaintiff's counsel first notified the LWDA of the settlement proposal  
16 and provided notice of the instant *Ex Parte* hearing via the LWDA's electronic filing portal.  
17 Plaintiff's counsel immediately received an auto-generated email that its submission was  
18 received. Attached hereto as **Exhibit 2** is a true and correct copy of the auto-generated E-Mail.

19 6. On **January 6, 2021**, at approximately 9:10 a.m., Plaintiff's counsel uploaded via the LWDA's  
20 electronic filing portal the "Proposed Settlement," that is being presented to this Court  
21 including this supporting memorandum, declaration, and proposed order. (Decl. Anderson ¶  
22 6). Plaintiff's counsel immediately received an auto-generated email that its submission was  
23 received. If the LWDA contacts Plaintiff's counsel at any time prior to the hearing, Plaintiff's  
24 counsel will provide an updated declaration to the Court. To date, no response from the LWDA  
25 has been received. Attached hereto as **Exhibit 3** is a true and correct copy of the auto-  
26 generated E-Mail.

27 7. The Total Value of the proposed Settlement is **\$9,200.00** which is broken down as follows:  
28

- 75% (\$6,900.00) shall be assigned and transmitted to the LWDA as penalties.
- The remaining 25% (\$2,300) in cash will be disbursed among all employees based on work weeks employed during the PAGA period.

Given the above, the average payment to each individual employee will be approximately \$100.00.

8. The PAGA claim at issue is a very small part of a larger dispute between Mr. Savinok and his former employer. The remaining issues are not relevant to this litigation and are not currently before this Court. Plaintiff is not seeking any attorney's fees or costs in this litigation as they will be addressed in "settlement discussions" following the resolution of this matter. There are no restrictions for any of the 23 employees to file individual actions as the settlement agreement only covers PAGA claims. The release only applies to the PAGA claims for penalties, based upon the allegations in Plaintiff's operative Complaint.

**Basis for Ex Parte Application**

9. The instant *Ex Parte* request is based on the fact that (1) the PAGA period "cutoff date" is contingent on Court approval, any delay diminishes the amounts received by the impacted employees; (2) Notice to certain ex-employees may be adversely impacted by further delay (*i.e.* ex-employees may change their mailing address without filing a proper "forwarding address").
10. Additionally, an expedient approval of this settlement will provide a direct benefit to the impacted employees at issue. The "fixes" provide a guarantee of future Labor Code compliance, and an immediate monetary benefit. It also allows Defendants (who admirably "stepped up" to address these issues) the opportunity to move on, and focus on future business.

**The Nature And Scope Of The Alleged Violations**

11. Specifically, Plaintiff alleged he- and other employees -were not properly compensated due to Defendants' failure to provide accurate overtime compensation and maintain accurate time records. Plaintiff alleged that he - and other employees - received "interrupted," "short," "late," or "missing" Meal and Rest Periods, including those documented within Defendants' Time

Records.

**Analysis of Potential Liability, On A Representative Basis**

12. The catalyst of this litigation concerned allegations that Mr. Savinok was denied legally compliant Meal and Rest periods, and was not paid for all Overtime hours worked.
13. Investigations completed by Plaintiff's counsel revealed that Defendants' timekeeping policies and employee records were not in compliance with California law.
14. Based on the above, the maximum liability in a case of this type would be in the range of **\$20,000.00 to \$30,000.00.**
15. Plaintiff's investigations also revealed that the "rate of violation" by Defendants was significantly less than 100%. On many of those occasions, it appears that Defendants did, in fact, comply with the law.
16. Plaintiff's counsel is aware of the Court's discretion to mitigate penalties pursuant to California Labor Code section 2699(e)(2). To confirm, Plaintiff's counsel experienced the mitigation of "PAGA" penalties in *Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504. In *Carrington*, the Court significantly mitigated PAGA penalties (\$5 per violation), due to the efforts made by the employer to comply with the law.
17. Plaintiff's counsel agrees with the Court in *Carrington*, and with the provision of the Labor Code, that penalties should be mitigated where violations are minimal, or where the employer makes significant efforts to comply with the Labor Code.
18. The above exists in this case, and, therefore, it is the opinion of Plaintiff's counsel that the settlement is fair, adequate, and reasonable. Specifically, Plaintiff's counsel's understanding is that Defendant has agreed to make changes to its policies, and amend them to the extent they do not comply with California law.

**Experience of Counsel**

19. Plaintiff's counsel, William B. Sullivan, has approximately 27 years of experience in "class action" litigation, both as plaintiff and defense counsel. Plaintiff's counsel Eric K. Yaeckel and William B. Sullivan are the attorneys of record in a matter currently pending before the

1 California Supreme Court titled *Donohue v. AMN Services* (S253677). The *Donohue* matter  
2 is a certified class and PAGA action. Plaintiff's counsel, William B. Sullivan and Eric K.  
3 Yaeckel, are currently lead counsel on approximately 40 employment "wage and hour" claims  
4 with class action, or representative action allegations. Plaintiff's counsel, William B. Sullivan,  
5 has been involved for over 25 years in cases that are primarily prosecuted under the California  
6 Labor Code. Based on said experience, it is the opinion of Plaintiff's counsel that this  
7 settlement represents a fair and adequate payment.

8 20. Defendants, and its counsel, deserve credit for their willingness to consider - and address - the  
9 allegations. Specifically, Defense Counsel (who have extensive experience and knowledge in  
10 "Wage and Hour" litigation) agreed to produce a substantial amount of documents and  
11 information necessary to evaluate the parameters of settlement. Following a detailed settlement  
12 demand and case analysis prepared by Plaintiff and submitted to Defendants, and arms-length  
13 negotiations thereafter, the parties have reached a proposed settlement that includes a payment  
14 of penalties under PAGA. The parties contend the settlement agreement amount is fair,  
15 adequate, and reasonable.

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17  
18  
19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct. Executed this 6<sup>th</sup> day of January, 2021 at San Diego, California.

21  
22   
23 William G. Anderson