

OCT 15 2021

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

KARLA ANDRADE RAMIREZ, GUILLERMO
A. SALDIVAR, HECTOR M. SALDIVAR
individually and on behalf of other individuals
similarly situated,

Plaintiffs,

v.

BODEGA LATINA CORPORATION, a
Delaware corporation; and DOES 1 through 100,
inclusive

Defendants,

and

STATE OF CALIFORNIA,

Intervenor and Real Party
in Interest,

CASE NO. CIVDS2016884
Assigned to Hon David Cohn, Dept S26

CLASS ACTION

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT AND
RELEASE, CLASS REPRESENTATIVE
ENHANCEMENT PAYMENTS, AND
ATTORNEYS FEES AND COSTS; AND
JUDGMENT**

Complaint Filed: August 3, 2020

First Amend. Complaint Filed: June 24, 2021

1 **[PROPOSED] ORDER**

2 The Motion of plaintiffs KARLA ANDRADE RAMIREZ, GUILLERMO A. SALDIVAR,
3 and HECTOR M. SALDIVAR ("Plaintiffs") for Final Approval of Class Action and PAGA
4 Settlement and Release came on regularly for hearing before this Court on October 15, 2021 pursuant
5 to California Rule of Court 3.769 and this Court's earlier Order Granting Preliminary Approval of
6 Class Action and PAGA Settlement and Release ("Preliminary Approval Order"). Having considered
7 the parties' Stipulation of Settlement ("Settlement" or "Settlement Agreement") and the documents
8 and evidence presented in support thereof, and recognizing the sharply disputed factual and legal
9 issues involved in this case, the risks of further prosecution, and the substantial benefits to be received
10 by the Class Members and the California Labor Workforce Development Agency ("LWDA") pursuant
11 to the Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair,
12 reasonable, and adequate, and is the product of good faith, arm's length negotiations between the
13 parties. Good cause appearing therefor, the Court hereby GRANTS Plaintiffs' Motion for Final
14 Approval of Class Action and PAGA Settlement and HEREBY ORDERS THE FOLLOWING:

15 1. Final judgment is hereby entered in conformity with the Settlement and this Court's
16 Preliminary Approval Order. All terms used herein shall have the same meaning as defined in the
17 Settlement Agreement.

18 2. The conditional class certification contained in the Preliminary Approval Order is hereby
19 made final, and the Court thus certifies, for purposes of the Settlement, a Class defined as: "current
20 and former non-exempt employees of Defendant who worked for and/or provided services to
21 Defendant (or any direct affiliates) in California at any time during the Class Period of January 1,
22 2017 through June 25, 2021".

23 3. Plaintiffs KARLA ANDRADE RAMIREZ, GUILLERMO A. SALDIVAR, and
24 HECTOR M. SALDIVAR are hereby confirmed as Class Representatives, and Marcus J. Bradley,
25 Esq. of BRADLEY/GROMBACHER, LLP is hereby confirmed as Class Counsel.

26 4. Notice was provided to Class Members as set forth in the Settlement Agreement, which
27 was approved by the Court on June 25, 2021, and the notice process has been completed in conformity

1 with the Court's Orders. The Court finds that said notice was the best notice practicable under the
2 circumstances. The Class Notice provided due and adequate notice of the proceedings and matters set
3 forth therein, informed Class Members of their rights, and fully satisfied the requirements of California
4 Code of Civil Procedure section 1781(e), California Rule of Court 3.769, and due process.

5 5. Out of a class of 19,849 members, there is a single objector in this case, Oscar Rodriguez.
6 However, it is not just the number of objectors which should be considered but also the merit and
7 weight of the grounds for the singular objection. Although Mr. Rodriguez objected to the settlement
8 he did not opt out. The court has considered the written objection submitted to the Claims
9 Administrator which has been filed by the court and made part of the record. As noted by other courts,
10 "[i]n the context of a settlement agreement, the test is not the maximum amount plaintiffs might have
11 obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the
12 circumstances." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 250. As stated by the
13 court in *Wershba v. Apple Computer, Inc.*: "A settlement need not obtain 100 percent of the damages
14 sought in order to be fair and reasonable. Compromise is inherent and necessary in the
15 settlement process. Thus, even if 'the relief afforded by the proposed settlement is substantially
16 narrower than it would be if the suits were to be successfully litigated,' this is no bar to a class
17 settlement because 'the public interest may indeed be served by a voluntary settlement in which each
18 side gives ground in the interest of avoiding litigation.'" (*Wershba v. Apple Computer, Inc.*, supra,
19 *Wershba*, supra, 91 Cal.App.4th at 250, citing *Air Line Stewards, etc., Loc. 550 v. American Airlines*.
20 *Inc.* (7th Cir. 1972) 455 F.2d 101, 109.)

21 6. 19,849 class members received notice of the proposed settlement. 19,839 individuals
22 elected to participate in the settlement, representing 99.5% of the 19,849 settlement class members.
23 The individuals who timely and validly opted-out of this Settlement and who will not be bound by
24 this judgment are: Helder Parra Echeverry, Laura Torres, Adrian Valadez Orozco, Maria R Ceja, Andrew
25 Garcia, Brittany M Villasenor Renteria, Veronica Etelvina Nolasco, Maria Hernandez Gonzalez, Maria G
26 Lara, and Eva S Felix.

7. All Participating Class Members who did not opt out of the Settlement shall be deemed to have released their respective Released Claims against the Released Parties.

8. The Court hereby approves the Settlement as set forth in the Settlement Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement according to its terms.

9. For purposes of settlement only, the Court finds that: (a) the members of the Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class and there is a well-defined community of interest among the Class Members with respect to the subject matter of the litigation; (c) the claims of the Class Representatives are typical of the claims of the members of the Class; (d) the Class Representatives have fairly and adequately protected the interests of the Class Members; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class Representatives and the Class.

10. The Court orders that within thirty (30) calendar days of the Effective Date (as defined in the Settlement Agreement), Defendant shall transmit the amount of \$650,000 to ILYM Group, Inc. (the "Settlement Administrator"), as provided for in the Settlement Agreement.

11. The Court finds that the Individual Settlement Payments, as provided for in the Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute these payments in conformity with the terms of the Settlement.

12. The Court finds that the payment to the LWDA in the amount of \$150,000 for its 75% share of the civil penalties allocated under the Private Attorneys General Act (“PAGA”) is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute this payment in conformity with the terms of the Settlement.

13. The Court finds that a Class Representative incentive award in the amount of \$7,500 to each of the Plaintiffs is appropriate for the risks undertaken and their service to the Class. The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator make this payment in conformity with the terms of the Settlement.

14. The Court finds that attorneys' fees in the amount of \$216,666.67 and actual litigation costs of \$13,604.95 for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments to Class Counsel in conformity with the terms of the Settlement.

15. The Court orders that the Settlement Administrator shall be paid \$70,000 from the Maximum Settlement Amount for all of its work done and to be done until the completion of this matter, and finds that sum appropriate.

16. This document shall constitute a final judgment pursuant to California Rule of Court 3.769(h) which provides, "If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final Approval Order, and this Judgment.

17. Defendant Bodega Latina, Inc. ("Defendant") nor any of the Released Parties shall have any further liability for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided for by the Settlement Agreement.

18. Neither the making of the Settlement Agreement nor the entry into the Settlement Agreement constitutes an admission by Defendants, nor is this Order a finding of the validity of any claims in the Action or of any other wrongdoing. Further, the Settlement Agreement is not a concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any entity or persons; nor may any action taken to carry out the terms of the Settlement Agreement be construed as an admission or concession by or against Defendant or any related person or entity.

19. The Parties will bear their own costs and attorneys' fees except as otherwise provided by this Court's Order awarding Class Counsels' award for attorneys' fees and litigation costs.

20. By virtue of this Judgment and as of the date of this Order, the Plaintiffs, the Settlement Class and the LWDA have released all “Released Claims” as defined in the Settlement Agreement which was filed with this Court on June 10, 2021 in support of the Motion for Preliminary Approval

of this Settlement. The period of this release shall extend from January 1, 2017 through June 25, 2021. The definition of Released Claims shall not be limited in any way by the possibility that Plaintiffs or Class Members may discover new facts, legal theories, or legal arguments not alleged in the operative complaint in the Action but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims. Notwithstanding this limitation, the Parties agree and acknowledge that any claims and remedies for Supplemental Paid Sick Leave under Labor Code Sections 248 and 248.1-248.3 are not released by this judgment or the settlement agreement.

21. Also, by virtue of this Judgment and as of the date Defendant funds the settlement, Plaintiffs Karla Andrade Ramirez, Guillermo A. Saldivar, Hector M. Saldivar have released, in addition to the Released Claims described above, all claims, whether known or unknown, under federal or state law, against the Released Parties. Plaintiffs understand that this release includes unknown claims and that each is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

22. As of the date Defendant funds the settlement, this Judgment also bars (i) any and all PAGA Covered Employees, and (ii) the California Labor Workforce and Development Agency, any other agency of the State of California, or any person acting on its behalf, from pursuing claims against any Released Party for civil penalties recoverable under PAGA that arise out of or relate to the Released Claims ("PAGA Released Claims"). The res judicata effect of the Judgment will be the same as that of this release. The definition of PAGA Released Claims shall not be limited in any way by the possibility that Plaintiffs, the LWDA or PAGA Covered Employees may discover new facts, legal theories, or legal arguments not alleged in the operative complaint in the Action but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of PAGA Released Claims.

1 23. The Court retains continuing jurisdiction to enforce this Settlement pursuant to California
2 Rule of Court 3.769(h), even after the entry of judgment based thereon. Without affecting the finality
3 of the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
4 over the action and the Parties, including all Participating Class Members, for purposes of enforcing
5 and interpreting this Order and the Settlement.

6 24. By this judgment, the Settlement Class Members shall be deemed to have, and by
7 operation of the judgment shall have, fully, finally, and forever released, relinquished and discharged
8 all Released Claims.

9 25. Plaintiffs shall give notice of this Judgment to Settlement Class Members pursuant to rule
10 3.771 of the California Rules of Court, by posting an electronic copy of the Judgment on the Settlement
11 Administrator's Website.

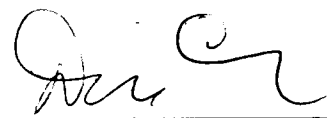
12 26. Plaintiffs' Complaint is dismissed with prejudice. Pursuant to Code of Civil Procedure
13 section 664.6, the Court shall retain continuing jurisdiction over the Parties to this action to ensure
14 effectuation of the Settlement in accordance with the terms of the Settlement and this Order/ Judgment.

15 27. Plaintiffs shall submit a copy of this Order to the LWDA within ten (10) days of entry of
16 this Order.

17 28. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered through the
18 filing of this Order and Judgment.

19
20 IT IS SO ADJUDICATED.

21
22 DATED: 10/15/12



HON. DAVID COHN
SAN BERNARDINO SUPERIOR COURT