

MAR 25 2021

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By

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DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
27200 Agoura Rd., Suite 101
Calabasas, CA 91301
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Wayne Osborne, on behalf of himself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

WAYNE OSBORNE, on behalf of himself
and all "aggrieved employees" pursuant to
Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

FREMOUW ENVIRONMENTAL
SERVICES, INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE No. STK-CV-UOE-2021-1780

*Assigned for All Purposes to Judge Barbara
Kronlund, Dept. 10D*

UNLIMITED JURISDICTION

**STIPULATION AND [PROPOSED] ORDER
APPROVING SETTLEMENT OF CLAIMS
AND DISMISSING ACTION WITH
PREJUDICE**

Complaint Filed: March 1, 2021

MAR 22 2021

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Whereas, Plaintiff filed this representative action, pursuant to the Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, "PAGA") on March 1, 2021 alleging multiple violations of the Labor Code, after complying with the administrative requirements set forth in Labor Code § 2699.3 on September 17, 2020 (Declaration of Evan S. Gaines ["Gaines Decl.,"] at ¶ 3; Exhibit "A" to Gaines Decl.).

2. Whereas, the parties thereafter conducted informal discovery through which they ascertained the size of the aggrieved employee group and the number of pay periods worked by them during the applicable statutory period to ascertain the total value of Plaintiff's claims. (Gaines Decl. at ¶ 4.)

3. Whereas, the parties thereafter engaged in arm's-length negotiations and reached a resolution of the PAGA claims asserted in the action. Based on discovery completed, the maximum value of the penalty claims asserted for the time period reviewed, without stacking multiple alleged violations, is \$224,000 and the amount of the settlement is \$80,000, or nearly 36% of the maximum recoverable penalties (based on approximately 2,240 affected pay periods worked by 40 Aggrieved Employees at the rate of \$100 each, without stacking penalties). (Gaines Decl. at ¶ 5.)

4. Whereas, the parties have entered into a settlement agreement to resolve the PAGA claim on behalf of all non-exempt truck drivers employed by Fremouw Environmental Services, Inc. in California between August 12, 2019 and January 20, 2021. (Gaines Decl. at ¶ 6; Exhibit "B" to Gaines Decl.)

5. Whereas, based on his extensive experience litigating over 100 representative actions, counsel for Plaintiff believes the Settlement Agreement and Release is fair and reasonable and warrants approval by the Court. (Gaines Decl. at ¶¶ 2, 5; Exhibit "C" to Gaines Decl.)

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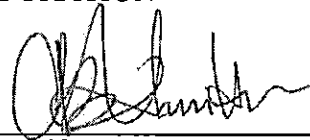
1 6. Whereas, the parties request that the Court enter the accompanying order, approving
2 their Settlement Agreement and Release (attached to the Gaines Declaration as Exhibit "B"), as
3 permitted by Labor Code § 2699(l), and dismissing the Action with prejudice.
4

5 **IT IS SO STIPULATED.**

6 For Plaintiff:
7 GAINES & GAINES, APLC

For Defendant:
DUGGAN McHUGH LAW
CORPORATION

8 By: Evan S. Gaines
9 Evan S. Gaines, Esq.

By: 
Jennifer Duggan, Esq.
Christina Bucci Hamilton, Esq.

ORDER

The Court, having reviewed the parties' Settlement Agreement and Release attached as Exhibit "B" to the concurrently-filed Declaration of Evan S. Gaines, together with the Stipulation of the Parties and the Declaration of Evan S. Gaines, and exhibits attached thereto, hereby ORDERS:

1. The Court finds the Settlement Agreement and Release was entered into in good faith, that the settlement is fair, reasonable, and adequate, and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

2. The Court approves the payments to be paid to the Aggrieved Employees and the State of California as set forth in the Settlement Agreement and Release, pursuant to Labor Code § 2699(1). The Court approves all payments to be made to Plaintiff, Plaintiff's counsel and the parties' chosen settlement administrator, ILYM Group, Inc., based on the terms and timelines set forth in the Settlement Agreement and Release.

3. The Court approves and confirms the release and waiver of claims and rights under PAGA as to Plaintiff, all Aggrieved Employees, and the LWDA, as provided for in the Settlement Agreement and Release and recited above in the Stipulation of the Parties

4. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement Agreement and Release based on the provisions and timelines set forth within it.

5. This Action is hereby DISMISSED WITH PREJUDICE.

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1 6. This Court shall retain jurisdiction, pursuant to Code of Civil Procedure section
2 664.6 and as otherwise provided by law, with respect to all matters related to the administration
3 and consummation of the Settlement Agreement and Release, and any and all claims asserted in,
4 arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters
5 related to the settlement and the determination of all controversies relating thereto.

6 **IT IS SO ORDERED.**

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8 Dated: 3/25/2021



JUDGE OF THE SUPERIOR COURT

BARBARA A. KRONLUND

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PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of Los Angeles State of California. I am over the age of 18 and not a party to the within action; my business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301

____ (For messenger) my business address is:

On March 10, 2021, I served the foregoing document described **STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF CLAIMS AND DISMISSING ACTION WITH PREJUDICE** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Christina Bucci Hamilton, Esq.
Jennifer E. Duggan, Esq.
DUGGAN MCHUGH LAW CORPORATION
641 Fulton Avenue, Suite 100
Sacramento, CA 95825

On the above date:

☒ (BY X U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more that one day after date of deposit for mailing in affidavit.

____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

____ (BY FACSIMILE TRANSMISSION) On _____, at _____ a.m./p.m., at Calabasas, California, I served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-8984 and the telephone number(s) of the receiving facsimile machine was (____) ____-____. A transmission report was properly issued by the sending facsimile machine, and the transmission was reported as complete and without error. Copies of the facsimile transmission cover sheet and the transmission report are attached to this proof of service.

____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

☒ (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor Workforce Development Agency via online process at the PAGA Filing website in accordance with the procedure imposed by the LWDA.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 2021, at Calabasas, California.

Beatriz Franco
BEATRIZ FRANCO