

1 Timothy B. Del Castillo (SBN: 277296)
tdc@castleemploymentlaw.com
2 Kent L. Bradbury (SBN: 279402)
kb@castleemploymentlaw.com
3 **CASTLE LAW: CALIFORNIA EMPLOYMENT COUNSEL, PC**
4 2999 Douglas Blvd., Suite 180
Roseville, CA 95661
5 Telephone: (916) 245-0122

6 Attorneys for Plaintiff JOSE MUNIZ

7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**
10

11 JOSE MUNIZ, as an aggrieved employee
12 pursuant to the Private Attorneys General Act
(PAGA),

13 Plaintiff,

14 vs.
15

16 LLOYD A. WISE CORP., a California
Corporation; DOES 1 to 20, inclusive,

17 Defendants
18
19
20
21
22
23
24
25
26
27
28

Case No. 34-2020-00289855

AMENDED ~~PROPOSED~~ ORDER
APPROVING PLAINTIFF'S PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT AND DISMISSING PAGA
CLAIMS WITH PREJUDICE

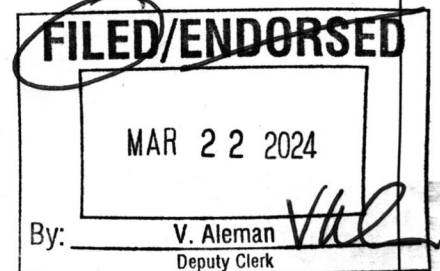
Date: March 8, 2024

Time: 9:00 am

Dept.: 22

Filed: November 23, 2020

Trial Date: None Set



AMENDED ~~PROPOSED~~ ORDER GRANTING APPROVAL OF PAGA SETTLEMENT
AND DISMISSING PAGA CLAIMS WITH PREJUDICE

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 The Motion to Approve Private Attorneys General Act Settlement (“Motion”) in the above
3 referenced case came before this Court, on March 8, 2024, in Department 22. Named Plaintiff Jose
4 Muniz (“Plaintiff”) filed this Private Attorneys General Act (“PAGA”) action on November 23, 2020.
5 The Complaint alleges that Defendant Lloyd A. Wise, Corp. (“Defendant”) committed violations of
6 Labor Code sections 201-203, 204, 226, 226.3, 226.7, 256, 510, 511, 1174, 1194, 1197, 1197.1, 2802,
7 and the applicable IWC Wage Orders, and is liable for civil penalties pursuant to the PAGA.
8 Defendants have denied all of Plaintiff’s allegations.

9 The parties have agreed to a settlement of the PAGA claims and the dismissal of PAGA claims
10 with prejudice. Defendant will provide monetary consideration in exchange for a release of claims and
11 dismissal consistent with the terms of the Revised Joint Stipulation of PAGA Settlement and Release
12 (“Settlement Agreement”). The Court, having received and considered Plaintiff’s Motion, the
13 declarations in support, the Settlement Agreement, the Notice of Settlement, and other evidence,
14 **HEREBY ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:**

15 **1. SCOPE OF INDIVIDUALS WITHIN THE PAGA SETTLEMENT – SIMILARLY**
16 **SITUATED EMPLOYEES**

17 The Court finds that Plaintiff has exhausted all administrative remedies required to bring the
18 PAGA claims asserted in this litigation and is authorized to act as a private attorney general with respect
19 to the PAGA claims being released under the proposed Settlement Agreement. The Court finds the
20 individuals (“Similarly Situated Employees”) included within the scope of the Settlement Agreement are
21 as defined by the Parties in the Settlement Agreement.
22
23
24
25
26
27
28

1 **2. APPROVING THE SETTLEMENT AGREEMENT**

2 The Court has reviewed the Amended Settlement Agreement and Addendum, which was
3 submitted with the Motion as **Exhibit A** to the Supplemental Declaration of Timothy Del Castillo. The
4 Court finds that the Settlement Agreement is fair, reasonable, and adequate and approved as required
5 under California Labor Code section 2698, *et seq.* Based on the amount of penalties at issue, the risk of
6 loss on the merits, the risk of being able to prove violations in each pay period as to each individual as
7 required by statute for damages purposes, and the Court's statutorily authorized power to reduce
8 penalties, the Settlement Agreement represents a substantial recovery for individuals within the scope of
9 the PAGA claims and the Labor and Workforce Development Agency to further its purpose in enforcing
10 the Labor Code. The Court also finds that the Settlement Agreement provides a recovery that creates an
11 effective substantial deterrent to any potential future non-compliance, furthering the purpose of the
12 Labor Code and Labor and Workforce Development Agency.

13 The Court approves of the PAGA penalty allocations set forth in the Settlement Agreement
14 wherein the Net Settlement Amount shall be allocated as the 75% share of civil penalties pursuant to the
15 allocation set forth in Labor Code section 2699(i) to be paid to the Labor and Workforce Development
16 Agency, with 25% share of civil penalties pursuant to the allocation set forth in Labor Code section
17 2699(i) to be paid to the PAGA Group.

18 The Court approves of the releases set forth in the Settlement Agreement, which encompasses all
19 claims for PAGA Civil Penalties arising from work performed by any Settlement Group Member in the
20 service of Defendant at or for Nissan of Sacramento during the PAGA Period that were alleged in
21 Plaintiff's LWDA Notice and/or his Complaint, and all claims reasonably related to or arising from the
22 factual allegations alleged in Plaintiff's LWDA Notice and/or his Complaint. The individuals and/or
23 entities released shall include Defendant, as well as its past, present and/or future officers, directors,
24 shareholders, employees, representatives, administrators, agents, principals, accountants, auditors,
25 consultants, attorneys, insurers and reinsurers, and its respective heir(s) and/or assigns, successors and
26 predecessors in interest, affiliates, operating entities, divisions, facilities, parent or related corporate
27 entities/companies, subsidiaries and affiliated corporations and entities, from any and all claims,
28

1 demands, rights, liabilities and causes of action that he has or could have against Defendant regarding
2 his employment from the beginning of time through the end of the PAGA Period

3 Additionally, because the Court finds the parties' settlement to have been agreed upon only after
4 significant investigation and arms-length negotiations in mediation, and in an attempt to avoid further
5 delays and costs, the Court grants approval to the settlement, which is incorporated by reference in its
6 entirety, as if stated here in full.

7 The Court finds that the Common Fund Doctrine is applicable to this case because there is a
8 sufficiently identifiable class of beneficiaries (*i.e.*, the Settlement Group Members and the Labor and
9 Workforce Development Agency), the benefits can be accurately traced as set forth in the Settlement
10 Agreement, Plaintiff and Plaintiff's counsel were able to negotiate on behalf of the beneficiaries, and the
11 fee can be shifted with exactitude to those benefiting as the fee request is a specific, lump-sum
12 percentage of the common fund. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th
13 Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1
14 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of one-third of the common fund
15 (\$66,666.66) to be appropriate compensation for Plaintiff's counsel. The attorneys' fees request is
16 within the range that has been approved by other Courts in similar cases and reasonable in light of the
17 circumstances of this case, the results obtained on behalf of the Similarly Situated Employees and the
18 Labor and Workforce Development Agency, and the contingent nature of the recovery over the course
19 of this case, which included potential loss at summary judgment, and/or trial proceedings. Additionally,
20 the Court orders that costs of approximately \$7,900.66 be paid to class counsel for reasonable costs
21 incurred in this case.

22 The Court approves Phoenix Settlement Administrators as the Claims Administrator to perform
23 the administration of the PAGA Settlement in accordance with the Settlement Agreement, and whose
24 costs shall be approximately \$3,150 as provided for in the Settlement Agreement and quote provided by
25 Phoenix Settlement Administrators. The Court orders that any difference between the actual costs and
26 the \$3,150 shall be provided to the Net Settlement Amount for distribution to the LWDA and Settlement
27 group Members in accordance with the Settlement Agreement.

1 **3. APPROVAL OF THE NOTICE OF SETTLEMENT**

2 The Court finds that the Notice of Settlement, which was included as **Exhibit B** to the Amended
3 Declaration of Timothy Del Castillo, fairly and adequately advises individuals affected by the
4 Settlement Agreement of its terms and effect. The Court further finds that the Notice of Settlement and
5 distribution of such notice by first class mail to each identified Settlement Group Member at his or her
6 most recent address based on a National Change of Address database search from the class members'
7 last known address and a skip trace on any Settlement Group Member who have the class notice
8 returned as "undeliverable" or "not at this address" comports with all constitutional requirements,
9 including those of due process.

10 **4. IMPLEMENTATION SCHEDULE**

11 Accordingly, with good cause shown, the Court hereby approves the Settlement Agreement and
12 the implementation schedule identified in the Settlement Agreement and orders said implementation
13 schedule be adhered to.

14

15 Last day for Defendant to provide Claims 16 Administrator with Similarly Situated Employee 17 information	14 calendar days after Approval Date
18 Last day for Defendants to fund settlement	Within 30 calendar days after Approval Date
19 Last day for Claims Administrator to deliver 20 payment of Plaintiff's Counsel's attorney's fees 21 and costs, PAGA Payment, Settlement 22 Administration Costs, and payment to Similarly 23 Situated Employees	Within 30 calendar days after Defendant funds the settlement
24 Last day for Settlement Group Members to cash settlement checks	180 days after issuance of checks to Settlement Group Members
25 Last day for Claims Administrator to deliver 26 value of uncashed settlement checks to 27 Department of Unclaimed Property	20 days after settlement check cashing deadline

28

1 IT IS FURTHER ORDERED that Plaintiff's PAGA claims shall be dismissed with prejudice in
2 their entirety and as to all Parties as set forth in the Settlement Agreement, with each party to bear its
3 own fees and costs outside of what has been ordered herein. This matter is subject to the Court's
4 continuing jurisdiction to monitor and enforce the terms of this order and the approved Settlement
5 Agreement pursuant to California Civil Procedure Code section 664.6. In any action to enforce the terms
6 of the Settlement Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and
7 costs.

8
9 IT IS SO ORDERED.

10
11 Date:

3/22/24



12 By:

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Judge of the Superior Court

LAURI A. DAMRELL