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LAW AND MOTION DEPT. 33154
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

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Attorneys for Kayce Odle

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO**

KAYCE ODLE, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

LC3S, INC. dba BROOKFIELDS
RESTAURANT, a California corporation,
SAM D. MANOLAKAS, an individual,
STACY K. MARR, an individual, and
DOES 1-10, inclusive,

Defendants.

Case No.: 34-2020-00289534

~~CEV~~
**[PROPOSED] ORDER APPROVING PAGA
SETTLEMENT AND AWARDED
REASONABLE ATTORNEYS' FEES**

ORDER APPROVING THE PARTIES' PAGA SETTLEMENT AGREEMENT:

The Court has received and considered the Plaintiff Kayce Odle's ("Plaintiff") Motion for Approval of PAGA Settlement and Request for Award of Reasonable Attorneys' Fees. The Court, having considered all papers filed and otherwise being fully informed, and good cause appearing therefore, IT IS HEREBY ORDERED:

1. The Court hereby adopts its tentative ruling issued on November 9, 2022, attached to this order as **Exhibit 1**, approving Plaintiff's Motion for Approval of PAGA Settlement and Request for Award of Reasonable Attorneys' Fees is granted in full.

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File by Fax



1 2. The Court finds that it has jurisdiction over the subject matter of the action and over
2 all Parties to the action, including all Aggrieved Employees.

3 3. The Court has considered all relevant factors for determining the fairness of the
4 PAGA Settlement Agreement and has concluded that all such factors weigh in favor of approving
5 the PAGA Settlement Agreement.

6 4. Accordingly, the Court hereby approves the settlement as set forth in the PAGA
7 Settlement Agreement in full and hereby directs implementation of all remaining terms, conditions,
8 and provisions of the PAGA Settlement Agreement. This Order hereby adopts and incorporates by
9 reference the terms and conditions of the PAGA Settlement Agreement, together with the definitions
10 used and contained therein.

11 5. The Court appoints Simpluris as Settlement Administrator. Defendants shall pay to
12 an Administration Fund established by Simpluris the PAGA Settlement Payment of Three Hundred
13 Fifty Thousand Dollars (\$350,000.00) within 15 days of the entry of this Order. Simpluris shall
14 allocate the PAGA Settlement Payment as follows:

15 a. One hundred sixteen thousand six hundred sixty-six dollars and sixty-seven
16 cents (\$116,666.67) in attorneys' fees and ten thousand one hundred seventy dollars (\$10,170) in
17 litigation costs (a total of \$126,836.67), which are hereby awarded to Plaintiff's counsel, McKague
18 Rosasco, LLP;

19 b. Five thousand dollars (\$5,000) to Simpluris, Inc. for settlement administration
20 fees;

21 c. One hundred sixty-three thousand six hundred twenty-two dollars and fifty
22 cents (\$163,622.50) to the LWDA for its share of 75% of the PAGA penalties.

23 d. Fifty-four thousand five hundred forty dollars and eighty-three cents
24 (\$54,540.83) to PAGA Settlement Group Members in pro rata shares in accordance with the PAGA
25 Settlement Agreement, for their share of 25% of the PAGA penalties.

26 6. Within 30 days of the entry of this Order, Simpluris shall distribute settlement checks
27 and the approved Notice of Settlement to each PAGA Settlement Group Member in accordance with
28 the PAGA Settlement Agreement. Individual settlement checks shall remain valid for one hundred

1 and eighty days (180) from the date they are issued. Simpluris shall remit any unclaimed funds after
2 the 180-day period to the State Controller's Unclaimed Property Fund in the name of the PAGA
3 Settlement Group Member.

4 7. Plaintiff and each PAGA Settlement Group Member (defined in the PAGA
5 Settlement Agreement as "all persons who were employed by Defendants as a non-exempt employee
6 in the State of California from September 2, 2019 until the date this Court enters an Order approving
7 the Settlement") will release Defendants and their parents, subsidiaries, trustees, directors, officers,
8 or managing agents from any and all claims seeking civil penalties under PAGA that were asserted
9 in the operative First Amended Complaint, including Labor Code §§ 201-203, 204, 226, 226.3,
10 226.7, 519, 1194, 1194.2, 1197 and 2802. All PAGA Settlement Group Members, except Plaintiff,
11 retain claims unrelated to the PAGA claims settled herein, if any.

12 8. The Court shall retain exclusive and continuing jurisdiction over the above-captioned
13 action and the Parties for the purposes of enforcing the terms of the Settlement Agreement.

14 **IT IS SO ORDERED.**



Christopher E. Krueger
Judge of the Superior Court

CHRISTOPHER E. KRUEGER

17 Reviewed and approved as to form:

18 PALMER KAZANJIAN WOHL HODSON LLP

19
20 /s/ Larry Kazanjian

Larry Kazanjian

21 Attorneys for Defendants
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EXHIBIT 1

Item #6

2020-00289534-CU-OE

Kayce Odle vs. LC3S, Inc.

Nature of Proceeding: Motion for Approval of PAGA Settlement

Filed By: Blankinship, Michael G.

Plaintiff Kayce Odle's ("Plaintiff") motion for approval of PAGA settlement is UNOPPOSED and GRANTED.

Plaintiff has indicated the incorrect address in its notice of motion. The correct address for Department 54 of the Sacramento County Superior Court is 813 6th Street, Sacramento, California 95814.

The notice of motion does not provide notice of the Court's tentative ruling system as required by Local Rule 1.06(D). Plaintiff is ordered to notify Defendants immediately of

the tentative ruling system and the manner to request a hearing. If Plaintiff is unable to contact Defendants prior to hearing, Plaintiff is ordered to appear at the hearing.

On September 2, 2020, Plaintiff submitted her written notice under Labor Code § 2699.3 (the "PAGA Notice") to the Labor and Workforce Development Agency ("LWDA") and defendants LC3S, Inc. dba Brookfields Restaurant ("Brookfields"), Sam D. Manolakas, and Stacy K. Marr (collectively, "Defendants"). (Blankinship Decl. ¶ 4, Exh. 1.) Following the 65-day notice period, on December 1, 2020, Plaintiff filed an individual and representative action in this Court. (ROA 1.) Plaintiff filed the operative First Amended Complaint ("1AC") on February 4, 2021, alleging individual claims for rest and meal period violations, failure to provide reporting time pay, failure to pay wages at the agreed upon rate, failure to pay minimum and overtime wages, misappropriation of gratuities, failure to timely pay wages, failure to pay all wages upon termination, failure to furnish accurate and itemized wages statements, violation of Business & Professions Code § 17200 *et seq.*, penalties pursuant to Labor Code § 2698 *et seq.*, disability discrimination, failure to engage in the interactive process, and wrongful termination in violation of public policy. The 1AC also asserts a representative claim for civil penalties under PAGA.

Following formal and informal discovery, a full day of mediation before Michael J. Loeb on March 14, 2022, and continued negotiations, the parties reached a settlement of Plaintiff's individual claims and her representative PAGA claim. (Blankinship Decl. ¶¶ 7-9.)

By this motion, Plaintiff seeks approval of the PAGA settlement.

PAGA permits an aggrieved employee in a civil action to recover any penalty authorized by any provision of the Labor Code. (Lab. Code § 2699.) Settlement of PAGA claims requires Court approval. Labor Code § 2699(l)(2) provides that "[t]he superior court shall review and approve any settlement of any civil action pursuant to this part." However, unlike a class action, aggrieved employees need not be given notice of a PAGA claim because it is fundamentally a law enforcement action to recover penalties. (E.g., *Ochoa Hernandez v. CJADERS Foods, Inc.* (N.D.Cal. April 2, 2010) U.S. Dist. LEXIS 32774, *12; *Arias v. Superior Court* (2009) 46 Cal.4th 969.) This negates the need to do the two-step preliminary and final approval which is required for a class action settlement. In addition, a release in a PAGA action is limited solely to the penalties alleged in the complaint and any unnamed aggrieved employee is not bound by any judgment as to any remedy other than the PAGA civil penalties. (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 987.)

Analogizing, in the class action context, the trial court has broad powers to determine whether a proposed settlement is fair. (*Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3rd 1117, 1138.) The focus on a PAGA settlement is the total settlement amount, not the amount that an aggrieved employee receives, given that the remedy is a civil penalty, not individual or class damages. (*Mendez v. Tween Brands, Inc.* (E.D.Cal. June 30, 2010) 2010 U.S. Dist. LEXIS 66454, *11.)

The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. (See Newberg on Class Actions 4th (4th ed. 2002) § 11.41 (and cases cited therein); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276.)

The Court here is guided by the same principle applicable in class actions that, the Court must "satisfy itself that the class settlement is within the 'ballpark' of reasonableness." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making its fairness determination, the Court should consider the relevant factors, such as the strength of the Plaintiff's case, the risk, expenses, complexity and likely duration of further litigation, the risk further litigation, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, and the experience and views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

With these principles in mind, the Court finds that the PAGA settlement is entitled to be approved. The settlement agreement provides Defendants will pay \$350,000 to settle the PAGA claims. (Settlement Agreement § 3(a).)

The \$350,000 settlement amount will be divided as follows:

- (1) Plaintiff's counsel's attorneys' fees of one-third of the settlement amount, or \$116,666.67, and litigation costs of \$10,170; (Settlement Agreement § 3(a); Blankinship Decl. ¶ 30)
- (2) Administration costs of up to \$5,000 to Simpluris, Inc. to administer the settlement; (Settlement Agreement § 3(a); Blankinship Decl. ¶ 31)
- (3) \$163,622.50 to the LWDA (75% of the \$218,163.33 balance);
- (4) \$54,540.83 to the PAGA Settlement Group members (25% of the \$218,163.33 balance). (Settlement Agreement § 3(a); Blankinship Decl. ¶ 31)

The "PAGA Settlement Group Members" includes all persons who were employed by Defendants as a non-Exempt employee in the State of California at any time from September 2, 2019, until the date this Court enters an Order approving the Settlement (the "Settlement Period"). (Settlement Agreement § 3(c).) Based upon Defendants' records, there are approximately 510 PAGA Settlement Group Members who worked approximately 10,226 pay periods. (Blankinship Decl. ¶ 11.)

The individual settlement payments to PAGA Settlement Group Members will be allocated proportionally based on the number of pay periods each PAGA Settlement Group Member worked for Defendants during the PAGA period. (Settlement Agreement § 4.) Simpluris will issue Settlement Checks to each PAGA Settlement Group Member for their pro rata share. (*Id.*) Settlement checks will be distributed no later than thirty (30) days following the entry of the Court's order approving settlement. Individual settlement checks will remain valid for one hundred and eighty days (180) from the date they are issued. Any unclaimed funds after the 180-day period shall be remitted by the Settlement Administrator to the State Controller's Unclaimed Property Fund in the name of the PAGA Representative class member. (*Id.*)

Plaintiff and each PAGA Settlement Group Member will release Defendants and their parents, subsidiaries, trustees, directors, officers or managing agents from any and all claims seeking civil penalties under PAGA that were asserted in the 1AC, including Labor Code §§ 201-203, 204, 226, 226.3, 226.7, 510, 512, 1194, 1194.2, 1197 and 2802. (Settlement Agreement § 2.) All PAGA Settlement Group Members, except Plaintiff, will

retain their individual claims, if any. (*Id.*)

The LWDA has been served with a copy of this motion as required by Labor Code § 2699(l). (Blankinship Decl. ¶ 32.)

Here, the Court finds that the settlement is entitled to approval. The settlement was the product of arms-length negotiations following a full-day of mediation and subsequent settlement discussions, meaningful informal and formal discovery, and was negotiated by counsel with significant experience in wage and hour class and representative actions and occurred after counsel investigated and evaluated the strength and potential value of the PAGA claims and risks of litigating through trial. (Blankinship Decl. ¶¶ 7-31.) Further, the settlement provides value to the PAGA Settlement Group Members as it provides them with monetary compensation in a manner approximately commensurate with the potential value of their individual claims in light of the risks of continued litigation.

As a result, the Court finds the instant settlement is fair, adequate, and reasonable and it is approved.

Moving counsel to submit an order for the Court's signature a formal order pursuant to CRC Rule 3.1312.

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PROOF OF SERVICE

Kayce Odle v. LC3S, Inc. dba Brookfields Restaurant et al.
Sacramento County Superior Court Case No. 34-2020-0289534

I am over the age of eighteen years and not a party to the within above-entitled action. I am an employee of McKague Rosasco LLP, and my business address is 1217 Pleasant Grove Boulevard, Suite 120, Roseville, CA 95678.

On this date, November 22, 2022, I caused to be served the within document(s)

**[PROPOSED] ORDER APPROVING PAGA SETTLEMENT AND AWARDING
REASONABLE ATTORNEYS' FEES**

on the parties in said action addressed as follows:

Larry Kazanjian
Casey Blanas
Palmer Kazanjian Wohl Hodson LLP
2277 Fair Oaks Boulevard
Suite 455
Sacramento, CA 95825
lkazanjian@pkwhlaw.com
cblanas@pkwhlaw.com
Attorneys for Plaintiff

☐ [By Mail] I am familiar with my employer's practice for the collecting and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action, addressed as set forth above, by placing a true copy in a sealed envelope with First Class postage fully prepaid, at Roseville, CA.

☒ [By Electronic Mail] I caused said document(s) to be sent via electronic mail to the addressee(s) at the email address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 22, 2022, at Roseville, CA.

/s/ Samantha Paddock

Samantha Paddock