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Brittney Legaspi

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

BRITTNEY LEGASPI, as an individual and
on behalf of all others similarly situated,

Plaintiff,

v.

MERCEDES DIAZ HOMES, INC., a
California Corporation; MDH SPECIALIZED
CARE HOMES 1, a California Corporation;
MDH SPECIALIZED CARE HOMES 2, a
California Corporation; MDH SPECIALIZED
CARE HOMES 3, a California Corporation;
and DOES 1 through 100,

Defendants.

Lead Case No. 20STCV45683

*Consolidated with Case Nos. 21NWCV00493
and 21STCV20211*

*[Assigned for all purposes to the Hon. Richard
L. Fruin, Dept. 15]*

**DECLARATION OF FLETCHER W.
SCHMIDT IN SUPPORT OF PLAINTIFF
BRITTNEY LEGASPI'S MOTION FOR
SETTLEMENT APPROVAL OF CLAIMS
BROUGHT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
REASONABLE ATTORNEYS' FEES AND
COSTS, AND ENHANCEMENT AWARD**

Date: September 28, 2022
Time: 9:15 a.m.
Dept.: 15
Reservation ID: 394490844032

Action Filed: November 30, 2020
Trial Date: None Set

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I, FLETCHER W. SCHMIDT, declare as follows:

1. I am a Partner at the Haines Law Group, APC, and counsel for Plaintiff Brittney Legaspi (“Plaintiff”) in the above-captioned matter. I am a member in good standing of the bar of the State of California and am admitted to practice in this Court. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I am a 2012 graduate of Loyola Law School, Los Angeles, where I graduated *cum laude* and was awarded membership in the Order of the Coif. From August 2013 to March 2016, I worked as an associate attorney at Boren, Osher & Luftman LLP. Since March 2016 I have worked at my current firm, Haines Law Group, APC, where, in 2018, I became a Partner.

3. During my time with Boren, Osher & Luftman LLP and Haines Law Group, APC, my practice has been solely devoted to litigating plaintiff-side wage and hour class actions in California state and federal court. I am currently responsible for managing a caseload of over seventy-five (75) active wage and hour class actions in which I am integrally involved in all aspects of the litigation.

4. The following is a non-exhaustive list of class action settlements in which I have been named as Class Counsel, and which have been granted final approval: *Julio v. Anthony, Inc.*, Case No. CV14-03172 AB (SHx), United States District Court, Central District of California, Honorable Judge Andre Birotte, Jr. presiding (approving an hourly rate of \$350 for work performed in 2014 and 2015); *Litt v. Western Stone & Metal Corp.*, Case No. 3:14-cv-02804-PJH, United States District Court, Northern District of California, Honorable Judge Phyllis J. Hamilton presiding (approving an hourly rate of \$350 for work performed in 2014 and 2015); *Rubalcava v. United Towing and Transport Burbank, et al.*, Case No. BC518468, California Superior Court, County of Los Angeles, Honorable Judge Kenneth Freeman presiding (approving an hourly rate of \$350 for work performed in 2013, 2014 and 2015); *Rivera Regalado v. Jaguar Farm Labor Contracting*, Case No. CV 130569, California Superior Court, County of San Luis Obispo, Honorable Martin J. Tangeman presiding (approving an hourly rate of \$350 for work performed in 2014 and 2015); *Sanchez v. Res-Care, Inc.*, Case No. BC526175, California Superior Court,

County of Los Angeles, Honorable John S. Wiley presiding (approving an hourly rate of \$350 for work performed in 2013, 2014 and 2015); *Rodas v. Gateways Hospital and Mental Health Center*, Case No. BC503179, California Superior Court, County of Los Angeles, Honorable Judge Amy D. Hogue presiding (approving an hourly rate of \$350 for work performed in 2014 and 2015); *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter presiding (approving an hourly rate of \$350 for work performed in 2014 and 2015); *Shaw v. Conant Auto Retail, San Diego*, Case No. 37-2014-00044052-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Joan M. Lewis presiding (approving an hourly rate of \$375 for work performed in 2014, 2015, and 2016); *Tirado v. Ricon Corp.*, Case No BC537042, California Superior Court, County of Los Angeles, Honorable Judge John Shepard Wiley, Jr. presiding (approving an hourly rate of \$375 for work performed in 2014, 2015, and 2016); *Tesla Motors Wage and Hour Litigation*, JCCP 4792, California Superior Court, County of Santa Clara, Honorable Peter H. Kirwan presiding (approving an hourly rate of \$375 for work performed in 2013, 2014, 2015, and 2016); *Lopez v. RM HQ LLC, et al.*, Case No. BC525592, California Superior Court, County of Los Angeles, Honorable Elihu M. Berle presiding (approving an hourly rate of \$375 for work performed in 2013, 2014, 2015, and 2016); *Horta v. Searles Valley Minerals, Inc.*, Case No. CIVDS 1507615, California Superior Court, County of San Bernardino, Honorable Donald Alvarez presiding (approving an hourly rate of \$375 for work performed in 2015 and 2016); *Mansilla v. Haeco Americas Line Services, LLC, et al.*, Case No. BC615310, Superior Court of California, County of Los Angeles, Honorable Judge Elihu M. Berle presiding (approved at an hourly rate of \$425 for work performed in 2016 and 2017); *Khosravi v. Enterprise Rent-A-Car Company of Los Angeles, LLC, et al.*, Case No. 30-2016-00829923-CU-OE-CXC, Superior Court of California, County of Orange, Honorable Judge Thierry Patrick Colaw presiding (approved at an hourly rate of \$425 for work performed in 2016 and 2017); *Nieves v. Ta Chen International, Inc.*, Case No. BC609005, Superior Court of California, County of Los Angeles, Honorable Judge Kenneth R. Freeman presiding (approved at an hourly rate of \$425 for work performed in 2016 and 2017); *Berkel v. Pride Bakeries, LLC*, Case No. 30-2017-00923148-CU-

1 OE-CXC, Superior Court of California, County of Orange, Honorable Judge William Claster
2 presiding (approved at an hourly rate of \$425 for work performed in 2017 and 2018); *Ruvalcaba*
3 *Quiroz v. Circle M Contractors, Inc.*, Case No. 30-2016-00885065-CU-OE-CXC, Superior Court
4 of California, County of Orange, Honorable William D. Claster presiding (approving an hourly
5 rate of \$425 for work performed in 2016, 2017 and 2018); *Armenta, et al., v. California Friends*
6 *Homes d/b/a Quaker Gardens*, Case No. 30-2016-00883282-CU-OE-CXC, Superior Court of
7 California, County of Orange, Honorable Randall J. Sherman presiding (approving an hourly rate
8 of \$425 for work performed in 2016, 2017 and 2018); *Sandra Zinnerman v. Tumbleweed*
9 *Educational Enterprises, Inc.*, Case No. BC673708, Superior Court of California, County of Los
10 Angeles, Honorable Maren E. Nelson presiding (approving an hourly rate of \$425 for work
11 performed in 2016, 2017, and 2018); *Tina Arellano v. Williams Sonoma Stores, Inc.*, Case No.
12 BC693760, Los Angeles County Superior Court, Honorable Daniel J. Buckley, presiding; *William*
13 *Cuellar v. UMA Enterprises, Inc.*, Case No. BC657146, Los Angeles County Superior Court,
14 Honorable Maren E. Nelson, presiding (approving an hourly rate of \$475 for work performed in
15 2017, 2018 and 2019); *Maria C. Garcia, et al. v. Simplified Labor Staffing Solutions, Inc.*, Case
16 No. BC696898, Los Angeles County Superior Court, Honorable Elihu M. Berle, presiding
17 (approving an hourly rate of \$475 for work performed in 2018 and 2019); *Arturo Delgado v.*
18 *Spears Manufacturing Co.*, Case No. BC709665, Los Angeles County Superior Court, Honorable
19 Maren E. Nelson, presiding (approving an hourly rate of \$595 for work performed in 2018, 2019
20 and 2020); *Soto v. L I Metal Systems*, Case No. 37-2017-00009607-CU-OE-CTL, San Diego
21 County Superior Court, Honorable Timothy Taylor, presiding (approving an hourly rate of \$595
22 for work performed in 2017-2020); *Michael Fishback v. Paragon Framing, Inc.*, Case No.
23 CIVDS1906610, San Bernardino County Superior Court, Honorable David Cohn, presiding
24 (approving an hourly rate of \$595 for work performed in 2019 and 2020); *Francisco Garcia v.*
25 *Searing Industries, Inc.*, Case No. CIVDS1932477, San Bernardino County Superior Court,
26 Honorable David Cohn, presiding (approving an hourly rate of \$595 for work performed in 2019
27 and 2020); *David Hasler, et al. v. Anheuser-Busch, LLC*, Case No. 19STCV00802, Los Angeles
28 County Superior Court, Honorable Daniel J. Buckley, presiding; *Angel Ochoa v. Fonseca*

1 *Construction, Inc.*, Case No. CIVDS1928625, San Bernardino County Superior Court, Honorable
2 David Cohn, presiding (approving an hourly rate of \$595 for work performed in 2019 to 2021);
3 *William Chang v. Avcorp Composite Fabrication, Inc.*, Case No. BC715159, Los Angeles County
4 Superior Court, Honorable Amy D. Hogue, presiding (approving an hourly rate of \$595 for work
5 performed in 2018 to 2021); *David Alvarado, et al. v. J.G. Boswell Company*, Case No.
6 19STCV19033, Los Angeles County Superior Court, Honorable Daniel J. Buckley, presiding
7 (approving an hourly rate of \$595 for work performed in 2019 to 2021); *Gaudencio Arroyo*
8 *Reynoso, et al. v. Cream of the Crop Ag Service, Inc.*, Case No. VCU278847, Tulare County
9 Superior Court, Honorable Bret D. Hillman, presiding (approving an hourly rate of \$595 for work
10 performed in 2019 to 2022); *Alejandra Parra v. Sixty Collective, LLC*, Case No. 19STCV01016,
11 Los Angeles County Superior Court, Honorable Carolyn B. Kuhl, presiding (approving an hourly
12 rate of \$625 for work performed in 2019-2022); *Veronica Gonzalez v. Precision Hospitality &*
13 *Development, LLC*, Case No. 30-2020-01127597-CU-OE-CXC, Orange County Superior Court,
14 Honorable Randall J. Sherman, presiding (approving an hourly rate of \$625 for work performed
15 in 2020-2021); *David Montalvo v. Warehouse Services No. 4 LLC*, Case No. CIVDS1931568,
16 San Bernardino County Superior Court, Honorable David Cohn, presiding (approving an hourly
17 rate of \$625 for work performed in 2019-2022); *Steve Qawas v. Socal Framing, Inc.*, Case No
18 RIC1902588, Riverside County Superior Court, Honorable Sunshine S. Sykes, presiding
19 (approving an hourly rate of \$650 for work performed in 2019-2022); *Jessica Burrola v.*
20 *Trademark Cosmetics, Inc.*, Case No. RIC2002311, Riverside County Superior Court, Honorable
21 Sunshine S. Sykes, presiding (approving an hourly rate of \$650 for work performed in 2020-
22 2022); *Elmy Calderon v. Personnel Staffing Group, LLC*, Case No. VCU278910, Tulare County
23 Superior Court, Honorable David C. Mathias, presiding (approving an hourly rate of \$650 for
24 work performed in 2019-2022); and *Santos Orellana v. Smarte Carte, Inc.*, Case No.
25 20STCV08890, Los Angeles County Superior Court, Honorable Yvette M. Palazuelos, presiding
26 (approving an hourly rate of \$650 for work performed in 2020-2022).

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1 5. I have also moved to certify and have received an order certifying a class action
2 and/or conditionally certifying a collective action as Class Counsel in the following cases:
3 *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC,
4 California Superior Court, County of Orange, Honorable Judge Gail A. Andler presiding
5 (certifying a class of employees who were misclassified as independent contractors); *Javine v.*
6 *San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District
7 Court, Central District of California, Honorable Judge Beverly Reid O'Connell presiding
8 (conditionally certifying an unpaid FLSA overtime wage class); *Prado v. Warehouse Demo*
9 *Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of
10 California, Honorable Judge John F. Walter presiding (certifying a rest period violation class and
11 conditionally certifying a FLSA unpaid overtime wage class); *Bower v. Cycle Gear, Inc.*, Case
12 No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable
13 Judge Haywood S. Gilliam, Jr. presiding (conditionally certifying an unpaid FLSA overtime wage
14 class); *Vega v. Weatherford U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States
15 District Court, Eastern District of California, Honorable Judge Jennifer L. Thurston presiding
16 (conditionally certifying an unpaid FLSA overtime wage class); *Galvan v. AMVAC Chemical*
17 *Corporation*, Case No. 30-2014-00716103-CU-OE-CXC, California Superior Court, County of
18 Orange, Honorable Judge William Claster presiding (certifying unpaid overtime wage class and
19 waiting time penalty class); *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-
20 00775372-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Glenda
21 Sanders presiding (certifying five separate classes for claims for unpaid wages, unreimbursed
22 expenses, failure to authorize and permit rest periods, and derivative claims); *Ontiveros v. Safelite*
23 *Fulfillment, Inc., et al*, Case No. CV 15-7118-DMG (RAOx), United States District Court, Central
24 District of California, Honorable Dolly M. Gee presiding (certifying six classes of employees for
25 rest period violations, wage statement violations, meal period violations, and overtime and
26 double-time violations); *Staublein v. Wells Fargo Bank, National Association*, Case No.
27 CIVDS1712267, San Bernardino Superior Court, Honorable David Cohn presiding (certifying a
28 wage statement class); and *Danica N. Keich, et al. v. U.S. Healthworks, Inc., et al.*, Case No. 37-

1 2017-00015343-CU-OE-CTL, San Diego County Superior Court, Honorable Eddie C. Sturgeon,
2 presiding (certifying classes for rest period violations, meal period violations, on-call pay
3 violations, wage statement violations, and waiting time violations).

4 6. In each year from 2018 through 2022, Thomson Reuters and Los Angeles
5 Magazine recognized me as a Top Young Attorney in Southern California in the annual Rising
6 Star Edition of Super Lawyers. This is an honor awarded to no more than two-and-a-half percent
7 (2.5%) of attorneys under the age of forty in Southern California each year.

8 7. On September 1, 2020, Plaintiff provided written notice of her intent to file a claim
9 for civil penalties under PAGA to the LWDA and Defendants. A true and correct copy of
10 Plaintiff's September 1, 2020 notice to the LWDA is attached hereto as **Exhibit 2**. On November
11 30, 2020, Plaintiff filed her representative action complaint, which was assigned to Dept. 15, the
12 Honorable Judge Richard L. Fruin, presiding. On December 3, 2020, Isabella Mauries
13 (represented by Andre Sherman of Sherman & Sherman, APC) submitted a written notice to the
14 LWDA making substantially similar allegations against Defendants and subsequently filed a
15 representative action complaint on May 28, 2021. On May 26, 2021, Tania Marroquin
16 (represented by Edwin Aiwazian of Lawyers for Justice, PC) submitted her own written notice to
17 the LWDA making substantially similar allegations against Defendants and subsequently filed a
18 representative action complaint on July 29, 2021. After finding that the three actions were related,
19 the Court issued a minute order consolidating the three actions for all purposes and designating
20 the *Legaspi* action as the lead case.

21 8. Plaintiff and Defendants originally agreed to attend mediation on December 1,
22 2021, although that mediation session subsequently had to be postponed due to delays in
23 obtaining the necessary data from Defendants, and was ultimately rescheduled for April 27, 2022
24 with respected wage and hour mediator Francis "Tripper" Ortman. Mediation was scheduled
25 solely between Plaintiff Legaspi and Defendants given that Plaintiff Legaspi was the first to
26 provide notice to the LWDA and therefore carried the longest remedies period and fully
27 subsumed the two later-filed actions. Furthermore, my office was uncomfortable working in any
28 kind of cooperative or collaborative capacity with counsel for either Mauries or Marroquin, for

1 the reasons set forth in Plaintiff's Legaspi's Motion for Appointment of Lead Counsel, which
2 was filed on April 28, 2022, and which detailed significant and widespread evidence of unethical
3 conduct and incompetence by counsel for Mauries and Marroquin, a copy of which is on file
4 with the Court. At the hearing on Plaintiff's Motion to Appoint Lead Counsel, which took place
5 on May 24, 2022, the Court declined to rule on the motion in light of the settlement which had
6 been reached by Plaintiff Legaspi and Defendants, reasoning that if the settlement were approved
7 by the Court, it would moot the need to appoint lead counsel.

8 9. In advance of mediation, Defendants provided Plaintiff with a 10% sampling of
9 the aggrieved employees' timekeeping and payroll data, in addition to producing all of the
10 relevant written policies at issue and various data points pertaining to the aggrieved employees
11 (including the total aggregate number of pay periods worked during the PAGA period). Plaintiff
12 retained an expert with a Ph.D. in labor economics who completed a comprehensive analysis of
13 the payroll and timekeeping data to assist Plaintiff's counsel in preparing an exposure model for
14 the claims at issue. On April 27, 2022, the parties attended a full-day mediation session with Mr.
15 Ortman where the parties debated the legal bases for their claims and defenses and their
16 respective data analyses. At the conclusion of mediation, the parties were able to reach a
17 resolution of Plaintiff's PAGA claim and executed a binding memorandum of understanding.
18 Over the following months, the parties negotiated the final terms of the proposed Settlement now
19 before this Court for approval. A true and correct copy of the fully-executed long-form settlement
20 agreement is attached hereto as **Exhibit 1**.

21 10. Plaintiff alleges that Defendants maintained an unlawful written rest period policy
22 which required employees to remain on company premises and supervise residents during rest
23 periods. Defendants counter that Section 12(C) of Wage Order 5 provides an exception to the
24 California rest period rules for employees of residential care facilities who are in "sole charge of
25 residents," which Defendants argue would apply to most, if not all, of their employees.
26 Defendants also produced a revised rest period policy which was issued in February 2021 which
27 expressly permitted employees to leave company premises during rest periods subject to limited
28

1 exceptions in compliance with Wage Order 5, arguing that any alleged liability for this theory
2 would be cut off as of that date.

3 11. Plaintiff alleges that Defendants failed to provide Plaintiff and other non-exempt
4 employees with all lawful meal periods to which they were entitled. Specifically, Plaintiff alleges
5 that Defendants' written meal period policy required employees to remain on duty during meal
6 periods, which is only permitted in limited circumstances where the nature of the work prevents
7 an employee from being relieved of duties. Plaintiff's expert's analysis of the timekeeping
8 records however showed that employees clocked out for meal periods approximately half of the
9 time, which Plaintiff argues undercuts the argument that the nature of the work prevents
10 employees from being relieved of duty for meal periods. Furthermore, Plaintiff argues that
11 Defendants had a duty to record the beginning and ending of even on-duty meals to show that
12 they were timely and at least 30-minutes in duration. Defendants contend that the applicability
13 of Section 11(A) of Wage Order 5 would need to be analyzed on a case-by-case basis, and the
14 fact that some employees were able to take duty-free meal periods on certain shifts does not
15 mean that other shifts could not qualify for on-duty meal periods. Additionally, Defendants
16 produced revised meal period and timekeeping policies which were issued in February 2021 that
17 differentiated between employees of residential care facilities in charge of supervising residents
18 (who would receive on-duty meal periods) and non-residential employees (who would receive
19 duty-free meal periods) and created a system for recording on-duty meal periods in the
20 timekeeping records.

21 12. Plaintiff also alleges that employees frequently had to use their personal cell
22 phones for work-related purposes such as communicating with supervisors and doctors, but that
23 Defendants maintained no mechanism for reimbursing employees for these expenses.
24 Defendants argue in response that Plaintiff could not show that her cell phone usage was
25 "necessary" rather than merely for her own convenience, as there were other methods of
26 contacting supervisors and doctors, such as land line phones in the homes. Defendants also
27 produced a "Personal Device Policy" that was issued in January 2021 which provided a process
28 for employees to request and receive reimbursement for work-related personal cell phone use.

1 13. Plaintiff alleges that Defendants failed to accurately capture all hours worked by
2 employees due to situations when employees would begin their shifts outside of the facilities,
3 such as when an employee needed to pick residents up from daytime activities. In such instances,
4 Plaintiff alleges that the practice was to call a supervisor to have the supervisor clock the
5 employee in remotely, but that supervisors would frequently forget or fail to do so. Defendants
6 argue that these situations were extremely rare, and that there would be no manageable method
7 of identifying any supposed violations under this theory.

8 14. Plaintiff also alleged that Defendants were rounding employees' hours in an
9 uneven manner, but Plaintiff's expert's analysis of the timekeeping records confirmed that the
10 rounding of time entries had been completely discontinued prior to the beginning of the PAGA
11 period.

12 15. As a result of Defendant's failures to pay all meal and rest period premiums, and
13 wages for all hours worked, Plaintiff alleges derivative PAGA claims for failure to issue accurate
14 and itemized wage statements and failure to pay all wages owed at separation. In response,
15 Defendants argue that Plaintiff's underlying claims will fail and, as a result, the derivative claims
16 will also fail. Defendants also maintain that any "derivative" PAGA claims for violations of
17 Labor Code Sections 226 or 203 would be entirely duplicative and would be unlikely to be
18 awarded in any significant manner by a Court. Given their good faith defenses and prompt
19 remedial measures, Defendants argue that this Court would exercise its discretion to substantially
20 reduce any PAGA penalties awarded.

21 16. The United States Supreme Court's opinion in in *Viking River Cruises, Inc. v.*
22 *Moriana* ("*Viking River*") was a significant factor that informed Plaintiff's evaluation of this
23 case for settlement purposes. At the time that this settlement was reached, *Viking River* had been
24 fully briefed and oral argument had already occurred, and it appeared that an adverse ruling
25 would have the potential to eliminate Plaintiff's ability to pursue any sort of representative relief
26 in this case. Less than two months after Plaintiff entered into this Settlement, this risk became a
27 reality and the Supreme Court issued its opinion in *Viking River*, which overturns the California
28 Supreme Court's holding in *Iskanian v. CLS Transportation Los Angeles, LLC* which held that

1 a representative PAGA claim could not be compelled to arbitration. *See Viking River Cruises,*
2 *Inc. v. Moriana* (June 15, 2022, No. 20-1573) 596 U.S. ____ [____ S.Ct. ____, 2022 WL 2135491;
3 *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348. In effect, this ruling
4 meant that Plaintiff's rights under PAGA would be limited to pursuing her "individual" PAGA
5 claim through arbitration. As a result, absent this settlement, it is likely that no representative
6 PAGA recovery would be possible at all.

7 17. In addition to the monetary component of the settlement, beginning in late 2020
8 and continuing through 2021, during which time this lawsuit was filed, Defendants undertook a
9 comprehensive overhaul of their wage and hour policies and practices, including implementing
10 a new employee handbook, implementing revised meal and rest period policies, implementing
11 revised timekeeping practices, and issuing a "personal device policy" which provided a process
12 for requesting reimbursement for work-related cell phone use. This overhaul was coupled with
13 the creation of employee training materials to ensure that existing and new employees were fully
14 informed of their rights and understood how to use the new systems. Defendants produced copies
15 of their updated handbook, policies, and training materials to my office as part of their pre-
16 mediation data production. As a result of these changes, Defendants contend that all of the
17 violations alleged by Plaintiff had been remedied by March 1, 2021, and in some cases earlier
18 than that.

19 18. In light of the significant policy updates made by Defendants in early 2021,
20 Defendants contend that all or substantially all of the potential violations had been cured as of
21 March 1, 2021. Because Plaintiff's claims were primarily based on facial challenges to
22 Defendants' written policies, the issuance of updated, compliant policies did present a significant
23 bar to recovery of penalties for pay periods worked after the policies were updated. There were
24 a total of 7,840 total pay periods worked from the beginning of the PAGA period until March 1,
25 2021. Plaintiff's expert's analysis confirmed that Plaintiff's primary substantive theories of relief
26 (non-compliant meal and rest period policies, and failure to reimburse for work-related cell
27 phone use) would be triggered in virtually every pay period prior to the policies being updated.
28 Therefore, assuming that Plaintiff could prove at least one Labor Code violation in each pay

period prior to the policy updates, Plaintiff calculated Defendants' likely PAGA exposure at \$784,000 (7,840 pay periods x \$100 per violation). In the face of Defendants' defenses on the merits, the Court's discretion to reduce PAGA penalties, and the threat (which has since become reality) of an adverse *Viking River* ruling, Plaintiff felt that the negotiated settlement of \$415,000, which was equivalent to approximately 53% of the maximum PAGA civil penalties, was clearly in the best interests of the LWDA and the aggrieved employees and was well within the range of reasonableness.

19. My office is requesting attorneys' fees of one-third of the Maximum Settlement Amount, equal to \$138,333.33. Based on my experience in similar wage and hour class and representative actions in California state courts, fee awards in matters such as this one generally equal about one-third of the gross recovery. In addition, and as explained below and in the accompanying Motion, the requested fee is fair compensation for undertaking complex, risky, expensive, and time-consuming litigation on a purely contingent basis.

20. The requested fee award is also supported by counsel's lodestar. In total, my firm has a lodestar of approximately \$115,000.00, which results in a modest multiplier of 1.2 when compared with the \$138,333.33 fee request. A general summary showing the number of hours of work performed by each attorney and the paralegals from my firm is set forth below:

Name	Rate	Hours	Pre-Multiplier Lodestar
Paul K. Haines (16th Year Attorney)	\$675	35.5	\$23,962.50
Fletcher W. Schmidt (10th Year Attorney)	\$650	101.7	\$66,105
Matthew K. Moen (7th Year Attorney)	\$475	45.0	\$21,375
Firm Paralegals	\$175	20.2	\$3,535
Total Lodestar			\$114,977.5

21. Paul K. Haines, who is also counsel of record for Plaintiff in this matter, is a 2006 graduate of Pepperdine University School of Law, where he graduated cum laude. Mr. Haines was admitted to the California State Bar in January 2007. Since that time, Mr. Haines has

1 practiced exclusively in the area of wage and hour class action litigation. Mr. Haines transitioned
2 into litigating wage and hour class actions from the Plaintiff's side in July 2012, first as a Partner
3 with the law firm of Boren, Osher & Luftman, LLP, and since February 2016, as a Shareholder
4 of Haines Law Group, APC. Mr. Haines was recognized by Thomson Reuters as a Southern
5 California "Rising Star" in 2015, 2016, and 2017, an honor awarded to no more than 2.5% of
6 attorneys under the age of forty in Southern California each year and was selected as a Southern
7 California "Super Lawyer" for each year from 2018-2022, an honor awarded to no more than
8 5% of all attorneys in Southern California each year. Currently, over ninety percent (90%) of his
9 practice is dedicated exclusively to the prosecution of wage and hour class actions, and he is
10 currently responsible for prosecuting over thirty (30) wage and hour class actions filed in both
11 State and Federal courts throughout California. Mr. Haines has been appointed as class counsel
12 in over seventy-five (75) wage and hour class action settlements in state and federal courts within
13 California. Mr. Haines' billable rate of \$675 per hour has been approved by multiple courts in
14 California.

15 22. Matthew K. Moen, who is also counsel of record for Plaintiff in this matter, is a
16 2015 graduate of Loyola Law School, Los Angeles. Mr. Moen was admitted to the California
17 State Bar in December 2015. Since that time, Mr. Moen has practiced exclusively in the area of
18 plaintiff's employment litigation. Mr. Moen has been employed at my firm since April 2016,
19 first as an Associate Attorney and currently as a Senior Associate Attorney and is currently
20 staffed on approximately thirty (30) active wage and hour class actions and representative PAGA
21 actions in which he plays a significant role. Mr. Moen has been appointed as class counsel in
22 numerous wage and hour class action settlements in both state and federal court. In 2020-2022,
23 Thomson Reuters recognized Mr. Moen as a Top Young Attorney in Southern California in the
24 annual Rising Stars Edition of Super Lawyers. Mr. Moen's billable rate of \$475 per hour has
25 previously been approved as reasonable in Los Angeles County.

26 23. I believe the proposed hourly rates are reasonable in light of my firm's skills,
27 wage and hour litigation experience (including significant experience litigating PAGA actions),
28 as well as fee awards to other attorneys of similar experience in California, and are in line with

1 rates at which I and/or other attorneys in my firm have been approved in other matters. In
2 addition, the respective hourly rates requested by the attorneys at my firm are in line with the
3 current Laffey Matrix, a true and correct copy of which is attached hereto as **Exhibit 3**. The
4 Laffey Matrix has been recognized by California courts as “a widely recognized compilation of
5 attorney and paralegal rates based on various levels of experience.” *Theme Promotions, Inc. v.*
6 *News America Mktg. FSI, Inc.*, 731 F.Supp.2d 937, 948 (N.D. Cal. 2010); *see also Reed v. 1-800*
7 *Contacts, Inc.*, No. 12-cv-02359 JM (BGS), 2014 WL 29011 at **8-9 (S.D. Cal. Jan. 2, 2014)
8 (cross-checking requested hourly rates against the Laffey Matrix and finding that “the Laffey
9 matrix lends further credibility” to counsel’s requested hourly rates).

10 24. My office has expended significant time and effort in this case, including but not
11 limited to: conducting pre-filing investigation, analyzing Plaintiff’s claims, conducting legal
12 research regarding Plaintiff’s claims (including potential defenses based on exceptions in Wage
13 Order 5 for employees of residential care facilities), drafting Plaintiff’s complaint and notice to
14 the LWDA, interviewing potential witnesses, preparing written discovery, attending various
15 court hearings, researching and drafting a motion to be appointed as lead counsel, reviewing
16 substantial documents and data produced by Defendants, meeting and conferring with
17 Defendants’ counsel regarding Defendants’ informal document production, evaluating the
18 timekeeping and payroll data with a retained expert prior to mediation, drafting a mediation brief,
19 preparing for and attending mediation, negotiating and drafting the long-form Settlement
20 Agreement and Notice, preparing this Motion for settlement approval and all supporting
21 documents hereto, and otherwise litigating the case. My office will also oversee the settlement
22 administration process and work with the administrator to prepare a post-disbursement
23 declaration.

24 25. Since undertaking representation of Plaintiff, my firm has dedicated substantial
25 resources to this litigation without receiving any compensation to date. As part of this settlement,
26 my office is requesting one-third of the MSA (\$138,333.33) in attorneys’ fees, plus \$13,773.23
27 in actual litigation costs. An itemized list of the costs incurred by my office in connection with
28 this case is attached hereto as **Exhibit 4**. My firm’s costs records reflect our actual costs as of

1 the date of this filing (\$13,583.23). However, the total amount that my firm is requesting for
2 expense reimbursements, \$13,773.23, includes an additional \$190.00 in expected future costs for
3 the filing and service of this Motion, as well as the CourtCall costs to attend the hearing on this
4 Motion, which will have been incurred by the time this motion is heard.

5 26. After this Settlement was reached, I requested settlement administration quotes
6 from three reputable administrators, Rust Consulting, Inc., KCC Class Action Services, LLC,
7 and ILYM Group, Inc., each of which I believe would be able to competently perform the
8 functions of the settlement administrator. Rust Consulting, Inc. was selected as the administrator
9 because they returned the least expensive quote, at \$5,679.00, compared to \$7,950.00 from
10 ILYM Group, Inc. and \$20,864 from KCC Class Action Services, LLC. True and correct copies
11 of the quotes received from ILYM Group, Inc. and KCC Class Action Services, LLC are attached
12 hereto as **Exhibit 5**.

13 27. I believe the requested \$5,000 enhancement payment to Plaintiff is appropriate
14 given Plaintiff's efforts in this case. As stated in Plaintiff's declaration, Plaintiff dedicated
15 significant time to assisting my office in gathering facts and preparing for mediation.
16 Furthermore, while I understand that there is no direct statutory support for enhancement awards
17 in the text of PAGA, this is also true for class actions, and class action enhancement awards are
18 a result of judicial precedent. Similarly, there is a well-established history of courts awarding
19 incentive payments in PAGA-only settlements. Attached hereto as **Exhibit 6** are a sampling of
20 court orders granting enhancement awards in PAGA-Only settlements

21 I declare under penalty of perjury under the laws of the state of California that the
22 foregoing is true and correct. Executed on July 29, 2022, at El Segundo, California.

23
24 
25 Fletcher W. Schmidt
26
27
28

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement”) of claims brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.*, is made and entered into between Plaintiff Brittney Legaspi, acting in her capacity as private attorney general, and Defendants Mercedes Diaz Homes, Inc., MDH Specialized Care Homes I, MDH Specialized Care Homes II, and MDH Specialized Care Homes III.

I. DEFINITIONS

The following terms, when used in this Settlement, will have the following meanings:

1. “Action” means the consolidated matters entitled *Brittney Legaspi v. Mercedes Diaz Homes, Inc.*, Case No. 20STCV45683 (“*Legaspi*”), *Isabella Mauries v. Mercedes Diaz Homes, Inc.*, Case No. 21STCV20211 (“*Mauries*”) and *Tania Marroquin v. MDH, Inc., et al.*, Case No. 21NWCV00493 (“*Marroquin*”).

2. “Aggrieved Employees” means all current and former non-exempt employees of Defendants in California at any time from September 1, 2019 through April 27, 2022.

3. “Defendants” means Mercedes Diaz Homes, Inc., MDH Specialized Care Homes I, MDH Specialized Care Homes II, and MDH Specialized Care Homes III.

4. “Court” means the Superior Court of California for the County of Los Angeles.

5. “Effective Date” means the later of : (a) the date upon which the Court signs an Order approving this Settlement; (b) if any timely objections or intervenor requests are filed and not subsequently withdrawn, the 60th day after the Court’s Order approving this Settlement; or (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the material terms of the Settlement.

6. “Individual Settlement Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

7. “LWDA” means the California Labor and Workforce Development Agency.

8. “Maximum Settlement Amount” is the non-reversionary sum of \$415,000.00, which includes payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiffs’ attorney’s fees and costs, payment of Plaintiff’s enhancement award, and payment to the Settlement Administrator for administration costs.

9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (subject to Court approval) are deducted from the Maximum Settlement Amount: (a) Plaintiff’s attorneys’ fees of up to one-third of the Maximum Settlement Amount, or \$138,333.33; (b) Plaintiff’s reasonable verified litigation costs in an amount not to exceed \$20,000.00; (c) Plaintiff’s representative enhancement award of \$5,000.00; and (d) reasonable third-party administration costs up to \$5,679.00.

10. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

11. “PAGA Period” means the time period from September 1, 2019 through April 27, 2022.

12. “PAGA Released Claims” means all claims for civil penalties under the PAGA, that were alleged in the Action or that could have been alleged based on the facts alleged in Plaintiff’s PAGA notice and in the Action, arising from Aggrieved Employees’ employment with Defendants during the PAGA Period including without limitation claims for PAGA civil penalties based on alleged violations of Labor Code §§ 201-204, 226, 226.2, 226.7, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, and 1198, and applicable Industrial Welfare Commission Wage Orders in conformity with Labor Code section 2699.3.

13. “Parties” means Plaintiff and Defendants.

14. “Plaintiff” means Brittney Legaspi.

15. “Plaintiff’s Counsel” means Paul K. Haines, Fletcher W. Schmidt, and Matthew K. Moen of Haines Law Group, APC.

16. “Settlement Administrator” means Rust Consulting, Inc.

II. OPERATIVE TERMS OF SETTLEMENT

The Parties agree as follows:

1. **Non-Admission of Liability.** Nothing in this Settlement will be construed to be an admission by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Settlement and any related court documents or orders are not, and may not be, cited or admitted as evidence of liability.

2. **Maximum Settlement Amount.** Defendant will pay \$415,000.00 as the non-reversionary Maximum Settlement Amount. The Maximum Settlement Amount will be deposited with the Settlement Administrator no later than 30 calendar days after the Effective Date.

3. **Representation as to Number of Pay Periods.** Defendants represent that there are approximately 14,579 pay periods worked by Aggrieved Employees for Defendants in California during the PAGA Period (“Affected Pay Periods”). If the actual number of Affected Pay Periods is more than 5% greater than this number (i.e., if there are 15,308 or more Affected Pay Periods), Defendants shall increase the Maximum Settlement Amount in proportion to the increase in Affected Pay Periods (i.e. if there is a 6% increase in Affected Pay Periods, Defendants shall increase the Maximum Settlement Amount by 6%).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be deducted from the Maximum Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

- a. Plaintiff's Attorney's Fees and Costs. Defendants will not oppose Plaintiff's request for attorneys' fees in the amount of up to one-third of the Maximum Settlement Amount (\$138,333.33) and actual costs incurred in prosecuting this Action, up to \$20,000.00 as supported by declaration. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on an IRS Form 1099-MISC issued to Plaintiff's Counsel.
- b. Plaintiff's Enhancement Award. Defendant will not oppose Plaintiff's request for an enhancement award in the amount of \$5,000.00 for her service to the State of California and the Aggrieved Employees. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on an IRS Form 1099-MISC issued to Plaintiff.
- c. Administration Costs. Defendant will not oppose the Settlement Administrator's costs in the amount up to \$5,679.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on an IRS Form 1099-MISC issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** The Net Settlement Amount will be distributed 75% to the LWDA and 25% to the Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% portion to be paid to Aggrieved Employees will be allocated to the Aggrieved Employees as follows: Individual Settlement Payments will be calculated based on the proportionate number of pay periods worked by each Aggrieved Employee during the PAGA Period, by multiplying the 25% portion of the Net Settlement Amount by a fraction, the numerator of which is each Aggrieved Employee's total pay periods worked during the PAGA Period, and the denominator of which is the total aggregate number of pay periods worked by all Aggrieved Employees during the PAGA Period.

6. **PAGA Released Claims.** In consideration for the payments awarded pursuant to the terms of this Settlement, Plaintiff, in her capacity as a private attorney general, acting on behalf of herself, the State of California, and the Aggrieved Employees, agrees that upon the Effective Date, Plaintiff and the Aggrieved Employees, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns, and the State of California, on behalf of itself and its administrators, representatives, and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Defendants and their former, present and future owners, parents, and subsidiaries, and all of their current, former and future officers, directors, members, managers, partners, shareholders, joint venturers, successors, assigns, accountants, insurers, current and former employees, agents, affiliates, their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, and legal representatives from any and all liability for the PAGA Released Claims to the fullest extent permitted by law.

7. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff will submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and which retains jurisdiction of the Court over the Action for the purpose of

enforcing the terms of the Settlement following approval of the Settlement pursuant to Cal. Code Civ. Proc. § 664.6. This Settlement is expressly conditioned upon the Court entering an order as set forth herein. If this Settlement is not approved by the Court, it shall be null and void in its entirety.

III. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Rust Consulting, Inc. to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within five (5) business days after the Effective Date, Defendants will provide the Settlement Administrator with information for the Aggrieved Employees. Defendants will, in good faith, compile from their records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and will include each Aggrieved Employee's full name, last known mailing address, last known telephone number, pay period information, and Social Security numbers. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access will be limited to those with a need to use the list as part of the administration of the Settlement.

Within ten (10) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual Settlement Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator will also determine whether any modification to the Maximum Settlement Amount pursuant to Paragraph II.3 has been triggered. The Settlement Administrator will obtain approval from all counsel for the Parties of the calculations before mailing Individual Settlement Payments.

3. **Explanatory Letter and Individual Settlement Payments.** Within five (5) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph III.2, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within twenty-one (21) calendar days of Defendants' deposit of the Maximum Settlement Amount, and after receiving approval from all counsel for the Parties pursuant to Paragraph III.2, the Settlement Administrator will mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English and Spanish, along with the Individual Settlement Payments to all Aggrieved Employees via First-Class U.S. Mail.

Each Individual Settlement Payment will be deemed 100% penalties and reported using an IRS Form 1099-MISC. Checks will remain negotiable for one hundred eighty (180) days from the date they are mailed by the Settlement Administrator. Any check that is not negotiated within one hundred eighty (180) days of mailing to an Aggrieved Employee shall escheat to the California State Controller's Office for deposit in the Unclaimed Property Fund, in the name of the Aggrieved Employee.

4. **Undeliverable Letters.** The Settlement Administrator will exercise its best judgment to determine the current mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via First-

Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a Skip-Trace or other search using the name, address or Social Security number of the Aggrieved Employee involved, and will perform a re-mailing.

Defendants fully discharge their obligations to those Aggrieved Employees to whom they will pay an Individual Settlement Payment through the Settlement Administrator's initial mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Aggrieved Employees will not have any right to opt-out or object to this Settlement.

5. **Payment of Remainder.** Within twenty-one (21) calendar days of Defendants' deposit of the Maximum Settlement Amount, and after receiving approval from all counsel for the Parties pursuant to Paragraph III.2, the Settlement Administrator will issue the following payments: (1) the 75% share of the Net Settlement Fund to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** The Settlement Administrator will provide an accounting declaration under oath to the Parties of the amounts paid from the Settlement as soon as practicable after the check cashing deadline described in Paragraph III.3.

7. **Tax Consequences.** Individual Settlement Payments made under this Settlement will be attributed 100% as penalties and paid via IRS Form 1099-MISC issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

IV. MISCELLANEOUS PROVISIONS

1. **Non-Publicity.** The Parties agree that no Party will issue any press release nor other public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. The Parties and their counsel agree that they will not initiate or have any contact with the press, respond to any press inquiry, or have any communication with the press about this case.

2. **Successors.** This Settlement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Governing Law.** This Settlement will be construed under and governed by the laws of the State of California, without regard to choice of law principles. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement will be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it will be brought in the State of California, County of Los Angeles.

4. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action.

5. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

6. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction per California Code of Civil Procedure § 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement; (ii) settlement administration matters; and (iii) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement.

7. **Amendment or Modification.** This Settlement may be amended or modified only by a written instrument, signed by the Parties or their successors-in-interest or counsel for the Parties.

8. **Authorization to Enter into Settlement.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If they are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of the Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

10. **No Transfer/Assignment of Claims.** Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement. Plaintiff is solely responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the released parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes or attorneys' fees that may be imposed against or incurred by any of the released parties as a result of the action of any lien holder or any lien claimant or any court in relation to any interest which any third party may have in any claim which Plaintiff is releasing under this Settlement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement.

11. **Liens and Attorneys' Fees/Indemnification.** Plaintiff solely is responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, or expert witnesses. Each Party solely is responsible for any fees and costs he, she, or it has incurred including without limitation fees for attorneys, consultants, and expert witnesses. Plaintiff acknowledges that none of the released parties are responsible for the payment of any fees incurred on behalf of Plaintiff or the Aggrieved Parties in connection with the prosecution of the Action, except to the extent the Settlement provides for payment of attorneys' fees and costs.

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

14. **Enforcement Action.** In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the prevailing Party will be entitled to recover non-prevailing Party reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

15. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

16. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

17. **Cooperation and Execution of Necessary Documents.** The Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to seek the Court's approval of this Agreement are timely filed. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with any motion to approve this Settlement to Defendant's attorneys for review and approval prior to filing. Plaintiff's Counsel shall prepare and submit any other Court filings as necessary to seek approval of this Settlement—in its entirety—by the Court presiding over the Action.

18. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

\

IN WITNESS THEREOF, the Parties to this Settlement each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

BRITTNEY LEGASPI

Dated: Jul 5, 2022


Brittney Legaspi (Jul 5, 2022 17:57 PDT)
Brittney Legaspi, Plaintiff

**MERCEDES DIAZ HOMES, INC.
MDH SPECIALIZED CARE HOMES I
MDH SPECIALIZED CARE HOMES II
MDH SPECIALIZED CARE HOMES III**

Dated: _____

By: _____

IN WITNESS THEREOF, the Parties to this Settlement each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

BRITTNEY LEGASPI

Dated: _____

Brittney Legaspi, Plaintiff

**MERCEDES DIAZ HOMES, INC.
MDH SPECIALIZED CARE HOMES I
MDH SPECIALIZED CARE HOMES II
MDH SPECIALIZED CARE HOMES III**

Dated: 2/11/22

Mercedes Diaz
By:

EXHIBIT A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Legaspi v. Mercedes Diaz Homes, Inc., et al., Los Angeles County Superior Court, Case No. 20STCV45683
(consolidated with *Mauries v. Mercedes Diaz Homes, Inc.*, Case No. 21STCV20211 and
Marroquin v. MDH, Inc., et al., Case No. 21NWCV00493)

[NAME]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]
XXX-XX-[LAST 4 SSN]

I. NOTICE OF PAGA SETTLEMENT

The Los Angeles County Superior Court (the “Court”) has approved the PAGA Settlement Agreement (“Settlement”) in the above-captioned lawsuit filed by Brittney Legaspi (“Plaintiff”) on behalf of herself and all other aggrieved employees, including you.

In this lawsuit, Plaintiff seeks to recover civil penalties for alleged violations of the California Labor Code through a California law known as the Private Attorneys General Act (“PAGA”). Plaintiff is acting as a “private attorney general” on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other employees of Defendants Mercedes Diaz Homes, Inc., MDH Specialized Care Homes I, MDH Specialized Care Homes II, and MDH Specialized Care Homes III (“Defendants”). Plaintiffs allege that Defendants are liable for civil penalties because Defendants failed to pay all minimum and overtime wages; failed to authorize and permit all required rest periods; failed to provide all required meal periods; failed to pay all final wages at termination; failed to issue accurate, itemized wage statements; and failed to reimburse employees for all business expenses.

The Court has ***not*** ruled on Plaintiff’s claims. You should not take this notice as an expression of any opinion by the Court about whether Plaintiff is right or wrong. Defendants maintain that Plaintiff’s allegations are without merit and enter into this Settlement with no admission of liability.

You are receiving this Notice because you are in the group of employees referred to as the “Aggrieved Employees,” which is defined as: all current and former non-exempt employees of Defendants in California at any time from September 1, 2019 through April 27, 2022. The time period from September 1, 2019 through April 27, 2022 is also known as the “PAGA Period.”

II. CALCULATION OF INDIVIDUAL SETTLEMENT PAYMENT

Based on Defendants’ records, you worked a total of <<# OF UNIQUE WORKWEEKS>> weeks during the PAGA Period. The total number of workweeks worked by all Aggrieved Employees during the PAGA Period is <<TOTAL WORKWEEKS>>. Based on these figures, your Individual Settlement Payment has been calculated at <<\$UNIQUE ISP>>. Your payment is enclosed with this Notice.

III. RELEASE

On <<PAGA APPROVAL DATE>>, the Court entered a final order and judgment approving the Settlement.

By operation of the Settlement's terms, all Aggrieved Employees are releasing all claims for civil penalties under the PAGA, that were alleged in the Action or that could have been alleged based on the facts alleged in Plaintiff's PAGA notice and in the Action, arising from Aggrieved Employees' employment with Defendants during the PAGA Period including without limitation claims for PAGA civil penalties based on alleged violations of Labor Code §§ 201-204, 226, 226.2, 226.7, 516, 558, 1174, 1182.12, 1194, 1194.2, 1197, and 1198, and applicable Industrial Welfare Commission Wage Orders in conformity with Labor Code section 2699.3

This release is solely limited to civil penalties that are recoverable under PAGA. Aggrieved Employees are not releasing any claims for unpaid wages or statutory penalties that are otherwise recoverable under the California Labor Code.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CONTACT THE COURT ABOUT THIS NOTICE.

You may contact the Court-approved Settlement Administrator, Rust Consulting, at <<ADMINISTRATOR INFO>> with any questions.

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. Any check not deposited or cashed within one hundred eighty (180) days of mailing to an Aggrieved Employee shall escheat to the California State Controller's Office for deposit in the Unclaimed Property Fund, in your name. **If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.**

EXHIBIT 2

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

September 1, 2020

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Brittney Legaspi v. Mercedes Diaz Homes Inc., et al.*

To Whom It May Concern:

Please be advised that this law firm represents Brittney Legaspi in claims arising from her employment with Mercedes Diaz Homes Inc., and Does 1 through 100 (“Defendants”). Ms. Legaspi is an “aggrieved employee” within the meaning of Labor Code section 2699.3 as to all of the violations alleged herein. *See Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, 754 (“any Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least *one* of the violations alleged in the complaint.”)(emphasis added). The purpose of this letter is to comply with Labor Code § 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, “aggrieved employees” includes all of Defendants’ non-exempt employees who worked for Defendants in California during the one year immediately preceding the date of this letter through the present.

Defendants provide in-home health care and hospice services to elderly and disabled persons throughout California. Ms. Legaspi was employed by Defendants in the non-exempt position of “Direct Support Professional” from approximately 2011 to July 24, 2020. Ms. Legaspi worked directly at assisted residential living facilities. On May 4, 2020, Ms. Legaspi submitted a written personnel records request to Defendants. Defendants failed to respond to Ms. Legaspi’s records request within 21 days from the date of the request, in direct violation of Labor Code section 226(c), and did not respond until July 24, 2020.

During Ms. Legaspi’s employment with Defendants, Defendants did, and upon information and belief, still utilize a timekeeping system which resulted in Ms. Legaspi and other aggrieved employees not being compensated for all hours worked. Specifically, Defendants required Ms. Legaspi and other aggrieved employees to clock-in using a kiosk located at the care home facilities, which recorded their time worked to the minute, but Defendants’ timekeeping mechanism failed to pay Ms. Legaspi and other non-exempt employees for all hours that they worked “on-the-clock,” whether by rounding and/or

truncating of hours. Further, Defendants' rounding mechanism was not even-handed over time, as is required to be lawful. Additionally, on occasions, Ms. Legaspi and other aggrieved employees would begin their shift outside of the care home, such as when they were required to pick up residents from various recreational facilities, but they could not clock-in until they arrived at the care home facilities. Upon information and belief, Defendants did not accurately record and compensate Ms. Legaspi and other aggrieved employees for this time worked prior to arriving at the care home facilities. Therefore, Ms. Legaspi and other aggrieved employees were not compensated for all hours actually worked, depriving them of all required minimum and overtime wages earned.

Defendants also required Ms. Legaspi and other aggrieved employees to use their personal mobile phones for work related communications. Ms. Legaspi and other aggrieved employees had an inherent requirement to use their personal mobile phones to communicate with supervisors, call doctors for residents, manage the schedule of the home, and engage in required company group chats with supervisors and coworkers. However, Defendants never reimbursed Ms. Legaspi for a reasonable portion of her cellular phone expenses, as mandated by *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137 (2014), and Labor Code § 2802.

Defendants also failed to provide Ms. Legaspi and other non-exempt employees with all required meal periods because, upon information and belief, Defendants did not maintain a lawful meal period policy and failed to provide for duty-free meal periods to Ms. Legaspi and other non-exempt employees. Assuming *arguendo* that Ms. Legaspi and Defendants entered into a lawful written on-duty meal period agreement, such an agreement inherently concedes that the nature of Ms. Legaspi's work precluded duty-free rest periods.

Defendants also failed to provide Ms. Legaspi and other non-exempt employees with all required duty-free rest periods because, upon information and belief, Defendants did not maintain a lawful rest period policy and the nature of the work being performed by Ms. Legaspi and other non-exempt employees did not permit for duty-free rest periods while working. Additionally, despite Defendants' failure to provide Ms. Legaspi with all meal and rest periods to which she was legally entitled due to Defendants' uniform and unlawful policies and/or practices, Defendants never provided Plaintiff with an hour of pay at her regular rate for each meal and rest period violation as required by Labor Code § 226.7.

As a result of Defendants' failure to pay all earned minimum and overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records, issued inaccurate wage statements to Ms. Legaspi and other aggrieved employees, and failed to pay all final wages owed to Ms. Legaspi and other aggrieved employees upon their respective separations from employment.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 5 ("Wage Order 5"):

Meal Period Violations

As alleged above, Defendants failed to provide Ms. Legaspi and other aggrieved employees with all required and compliant meal periods. See Labor Code §§ 226.7 and 512; Wage Order 5, § 11. As a result, Ms. Legaspi and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. See Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”).

Rest Period Violations

As described above, Defendant also failed, and continues to fail, to authorize and permit Ms. Legaspi and similarly aggrieved employees to take all required and compliant rest periods, due to Defendants’ rest policies/practices that fail to relinquish control of employees for their entire 10-minute rest period. See Labor Code §§ 226.7 and 516; Wage Order 5, § 12. As a result, Ms. Legaspi and similarly aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that all rest periods were not authorized and permitted. See Labor Code § 226.7.

Overtime Wage Violations

Defendants were required to properly pay Ms. Legaspi and other aggrieved employees for all overtime hours worked pursuant to California Labor Code § 1194 and Wage Order 5. Wage Order 5, § 3 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of 8 hours per work day and/or in excess of 40 hours of work in the workweek. Defendants caused Ms. Legaspi and other aggrieved employees to work overtime hours but did not compensate Ms. Legaspi or other aggrieved employees at one and one-half times their regular rate of pay for all such hours.

Minimum Wage Violations

Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes Defendants’ failure to pay Ms. Legaspi and other aggrieved employees for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 5. Wage Order 5, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal

minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

Failure to Reimburse Necessary Business Expenses

Defendants failed to reimburse Ms. Legaspi and other aggrieved employees for necessary work expenses, including the use of their personal cellular phones for business purposes. Defendants' policy of not providing reimbursement for necessary work-related expenses violates Wage Order 5, § 8, and Labor Code §§ 2802 and 2804 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or obedience to the directions of the employer.") Ms. Legaspi and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Record Keeping Violations

Defendants are subject to Labor Code § 226 (c) which states that upon receipt of a written or oral request to inspect or copy records, the employer "shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request." Labor Code § 226 (f) further provides that "[a] failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer." Although Ms. Legaspi made a written request pursuant to subdivision (c), Defendants failed to respond within 21 days.

Wage Statement Violations

Defendants was required to furnish Ms. Legaspi and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their rates of pay, corresponding number of hours worked at each rate of pay, total gross wages earned, and total net wages earned. *See* Labor Code §§ 226(a) and 1174(d); Wage Order 5, § 7. As a result of Defendants' failure to pay all meal period premiums, rest period premiums, and minimum and overtime wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Legaspi and other aggrieved employees in violation of Labor Code § 226. Defendants' failure to comply with its wage statement obligations was knowing and intentional, and Ms. Legaspi and other aggrieved employees have suffered injury as a result.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separations of employment. Defendants failed to timely pay Ms. Legaspi and other aggrieved employees all of their final wages at the time of separation, which included, among other things, underpaid overtime and minimum wages, meal period

premium wages, and rest period premium wages. Pursuant to Labor Code § 203, Defendants' failure to pay all final wages due to Ms. Legaspi and other aggrieved employees was willful and, consequently, entitles Ms. Legaspi and other aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendants failed to pay their final wages after their separations, up to a maximum of thirty days.

As an "aggrieved employee," Ms. Legaspi will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties (including an amount equal to the unpaid wages) resulting from the wage and hour violations alleged herein. Based on Ms. Legaspi's own investigation, and on information and belief, Defendants committed and continue to commit the following Labor Code violations:

- a. Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all meal periods as required by law and failing to pay meal period premiums to Ms. Legaspi and similarly aggrieved employees at these employees' respective regular rates of compensation for meal period violations;
- b. Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to authorize and permit Ms. Legaspi and similarly aggrieved employees to take all of their statutorily-mandated, duty-free rest periods and failing to pay rest period premiums to Ms. Legaspi and similarly aggrieved employees at these employees' respective regular rates of pay for rest period violations;
- c. Defendants violated Labor Code §§ 204, 510, 558, 1194 and 1198 by failing to pay Ms. Legaspi and other aggrieved employees all overtime compensation earned;
- d. Defendants violated Labor Code §§ 558, 1182.12, 1194, 1194.2, and 1197 by failing to pay Ms. Legaspi and other aggrieved employees the statutory minimum wage for all hours worked;
- e. Defendants violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Legaspi and other aggrieved employees for all work-related expenses incurred;
- f. Defendants violated Labor Code § 226, *et seq.*, by failing to furnish Ms. Legaspi and other aggrieved employees with accurate and complete itemized wage statements, and by failing to respond to Ms. Legaspi and other aggrieved employees' requests to inspect and/or copy employment records;
- g. Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Ms. Legaspi and other aggrieved employees;

- h. Defendants violated Labor Code § 204 by failing to pay Ms. Legaspi and other aggrieved employees all wages earned at least twice during each calendar month; and
- i. Defendants violated Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Ms. Legaspi and other aggrieved employees.

Pursuant to Labor Code § 2699.3, please notify us and Defendants if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Fletcher W. Schmidt

cc: Mercedes Diaz Homes Inc. c/o Mercedes A. Diaz, agent for service of process (via certified mail)
MDH Specialized Care Homes 1 c/o Mercedes A. Diaz, agent for service of process (via certified mail)
MDH Specialized Care Homes 2 c/o Mercedes A. Diaz, agent for service of process (via certified mail)
MDH Specialized Care Homes 3 c/o Ramon Alberto Diaz, agent for service of process (via certified mail)

7019 2970 0001 5250 4150

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OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage MDH Specialized Care Homes 1

Sent To c/o Mercedes A. Diaz
 Street and 7239 Washington Ave.
 City, State Whitter, CA 90602 (JR)

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



7019 2970 0001 5250 6444

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OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage MDH Specialized Care Homes 3

Sent To c/o Ramon Alberto Diaz
 Street and 7239 Washington Ave.
 City, State Whitter, CA 90602 (JR)

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



7019 2970 0001 5250 6277

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OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage Mercedes Diaz Homes, Inc.

Sent To c/o Mercedes A. Diaz
 Street and 7239 Washington Ave.
 City, State Whitter, CA 90602 (JR)

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



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Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage MDH Specialized Care Homes 2

Sent To c/o Mercedes A. Diaz
 Street and 7239 Washington Ave.
 City, State Whitter, CA 90602 (JR)

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mercedes Diaz Homes, Inc.
c/o Mercedes A. Diaz
7239 Washington Ave.
Whitter, CA 90602



9590 9402 5238 9122 7244 85

2. Article Number (Transfer from service label)

7019 2970 0001 5250 6277

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X JL

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

262

C. Date of Delivery

9/3

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

C19



3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MDH Specialized Care Homes 1
c/o Mercedes A. Diaz
7239 Washington Ave.
Whitter, CA 90602



9590 9402 5238 9122 7244 92

2. Article Number (Transfer from service label)

7019 2970 0001 5250 4150

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X JL

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

262

C. Date of Delivery

9/3

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

C19



3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MDH Specialized Care Homes 2
c/o Mercedes A. Diaz
7239 Washington Ave.
Whitter, CA 90602



9590 9402 5238 9122 7245 08

2. Article Number (Transfer from service label)

7019 2970 0001 5250 6451

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X JL

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

262

C. Date of Delivery

9/3

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

C19



3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Registered Mail
☐ Registered Mail Restricted Delivery (over \$500)
- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MDH Specialized Care Homes 3
c/o Ramon Alberto Diaz
7239 Washington Ave.
Whittier, CA 90602



9590 9402 5238 9122 7245 15

2. Article Number (Transfer from service label)

7019 2970 0001 5250 6444

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

JL

☐ Agent☐ Addressee

B. Received by (Printed Name)

262

C. Date of Delivery

9/3

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

G19



3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☐ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery

d Mail

d Mail Restricted Delivery

(over \$500)

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation

Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

EXHIBIT 3

LAFFEY MATRIX

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[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been

approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 4

July 27, 2022

Brittney Legaspi

Additional Charges :

		<u>Qty/Price</u>	<u>Amount</u>
8/31/2020	PKH Postage for August, 2020.	1 6.90	6.90
	PKH Copying cost for August, 2020.	17 0.25	4.25
9/1/2020	PKH Filing fee for LWDA	1 75.00	75.00
9/30/2020	PKH Postage for September, 2020.	1 29.60	29.60
	PKH Copying cost for September, 2020.	24 0.25	6.00
11/30/2020	PKH First Legal's fee for filing of Intial complaint	1 461.15	461.15
1/7/2021	PKH First Legal's fee for service of Service of Summons	1 55.75	55.75
	PKH First Legal's fee for service of Service of Summons	1 55.75	55.75
	PKH First Legal's fee for service of Service of Summons	1 55.75	55.75
	PKH First Legal's fee for service of Service of Summons	1 55.75	55.75
	PKH First Legal's fee for service of Service of Summons	1 135.65	135.65

7/27/2022

			<u>Qty/Price</u>	<u>Amount</u>
1/11/2021	PKH	First Legal's fee for filing of Proof of Service by Substituted Service	1 12.95	12.95
3/31/2021	PKH	Copying cost for March, 2021.	2 0.25	0.50
4/1/2021	PKH	First Legal's fee for service of Stip and Order	1 2.40	2.40
	PKH	First Legal's fee for filing of Joint Stip to Cont	1 33.75	33.75
4/2/2021	PKH	First Legal's fee for service of CMS	1 2.40	2.40
	PKH	First Legal's fee for filing CMS	1 12.95	12.95
	PKH	First Legal's fee for service of Courtesy Delivery	1 29.75	29.75
4/5/2021	PKH	First Legal's fee for service of Courtesy Delivery	1 29.75	29.75
4/24/2021	PKH	CourtCall fee for hearing on 04/19/2021.	1 15.00	15.00
5/31/2021	PKH	Westlaw cost for May, 2021.	1 1.05	1.05
	PKH	Postage for May, 2021.	1 5.86	5.86
6/1/2021	PKH	Document Purchase Fee	1 8.60	8.60
6/16/2021	PKH	Free Conference Call's Service Fee	1 8.10	8.10
	PKH	Free conference call for month of June	1 21.89	21.89
6/30/2021	PKH	Postage for June, 2021.	1 5.86	5.86
	PKH	Copying cost for June, 2021.	21 0.25	5.25
9/29/2021	PKH	Document Purchase Fee	1 8.60	8.60

7/27/2022

			<u>Qty/Price</u>	<u>Amount</u>
9/29/2021	PKH	Document Purchase Fee 2	1 8.60	8.60
12/10/2021	KI	First Legal Service Fee for: Status Conference Statement (eServed)	1 7.20	7.20
	KI	First Legal Filing Fee for: Status Conference Statement	1 12.95	12.95
1/6/2022	KI	Filing Fee from LASC Journal Tech for: Plaintiff's Statement ISO Motion to Stay	1 7.26	7.26
1/31/2022	PKH	Westlaw cost for January, 2022.	1 25.34	25.34
	KI	FedEx cost for January 2022	1 51.99	51.99
	PKH	Copying cost for January, 2022.	12 0.25	3.00
2/18/2022	PKH	Ortman mediation fee - Invoice #2651 4/27/22 mediation	1 5,000.00	5,000.00
2/28/2022	KI	FedEx cost for Feb 2022	1 19.56	19.56
	ALL	Copying cost for February, 2022.	3 0.25	0.75
3/31/2022	ALL	Westlaw cost for March, 2022.	1 57.61	57.61
4/14/2022	KI	Filing Fee from LASC Journal Tech for: Court Trans Fee Case Management and Order to Show Cause re Setting Mediation Statement	1 2.25	2.25
4/21/2022	KI	Filing Fee from LASC for: Notice of Rulings at CMC	1 2.25	2.25
4/27/2022	KI	One Legal Filing Fee for: Motion re Order, Decl, POS	1 16.99	16.99
4/28/2022	KI	One Legal Filing Fee for: Motion re Order, Decl, POS	1 21.31	21.31
	KI	First Legal Service Fee for: Picking Up 1 Bankers Box and Delivering to Lawyers for Justice, PC	1 90.34	90.34
	KI	First Legal Service Fee for: Picking up 1 Bankers Box and Delivering to Sherman & Sherman APC	1 123.44	123.44

7/27/2022

			<u>Qty/Price</u>	<u>Amount</u>
4/29/2022	KI	First Legal Service Fee for: ASAP Delivery to LASC	1 74.12	74.12
4/30/2022	ALL	Postage for April, 2022.	1 1.46	1.46
	ALL	Westlaw cost for April, 2022.	1 127.88	127.88
	PKH	Secretariat Economists expert fee - Invoice #30807	1 4,916.00	4,916.00
	ALL	Copying cost for April, 2022.	5,120 0.25	1,280.00
5/17/2022	PKH	FedEx - May 2022	1 29.26	29.26
5/31/2022	ALL	Postage for May, 2022.	1 1.06	1.06
	ALL	FedEx cost for May 2022	1 29.26	29.26
	ALL	Westlaw cost for May, 2022.	1 62.58	62.58
	PKH	Postage for May 2022	1 1.06	1.06
	ALL	Copying cost for May, 2022.	64 0.25	16.00
6/3/2022	ALL	TSG Transcript Cost for reporter superior court scheduling fee on 5/24/22 - Invoice #2083501.1	1 447.50	447.50
Total additional charges				<u>\$13,583.23</u>
Balance due				<u><u>\$13,583.23</u></u>

EXHIBIT 5

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Legaspi v. Mercedes Diaz Homes

Requesting Attorneys Name: Fletcher Schmidt
 E-Mail: fschmidt@haineslawgroup.com
 ILYM Contact: Sean Hartranft
 E-Mail: Sean@ilymgroup.com
 Contact Number: 949.690.2564

ASSUMPTIONS

Total Estimated Number of Aggreived Employees	425
Remail of Undeliverables	Yes
Certified Spanish Translation	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	3	\$450.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	5	\$600.00
NCOA	Flat Rate	\$86.55	1	\$86.55
Toll-Free Telephone Support	Flat Rate	\$124.70	1	\$124.70
Certified Spanish Translation	Flat Fee	\$750.00	1	\$750.00
Storage, Photocopies, Deliveries	Flat Fee	\$250.00	1	\$250.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$2,261.25

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*

Distribution Setup & Management	Hourly	\$150.00	3	\$450.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	3	\$375.00
Fullfilment of Notice & Check - (including 1099)	Per Check	\$2.00	425	\$850.00
USPS First Class 1oz Postage	Per Piece	\$0.55	425	\$233.75
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$3.00	85	\$255.00
Preparation of Taxes	Hourly	\$125.00	10	\$1,250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$4,913.75

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	4	\$400.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$775.00

Total Case Estimate: \$7,950.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.



Administration Services Estimate
Legaspi v. Mercedes Diaz Homes - PAGA Settlement Administration

June 29, 2022

Frank Gatto; fgatto@kccllc.com; 310.647.7828

Key Assumptions Used in Estimate Preparation

Size of Class:	425 class members
Case Duration:	12 months
# of Electronic, Finalized Data Files Provided (Excel, Access, etc.):	1 file(s)
# of States that Employed Class Members:	1 (CA)
CAFA Notice Required?	No
Claims Processing:	No
Address Searches:	Yes
% of returned notices to be forwarded:	1%
% of returned undeliverable notices:	10%
% of successful address searches:	90%
Media Campaign Required:	No
Translations Required:	Yes (Spanish)
# of Email Campaigns:	N/A
Reminder Mailing:	No
Duration of Claims Filing Period:	N/A
Type of Telephone Support:	Live
% of class that will call:	5%
% of callers that will request a Notice Packet:	0%
Duration of Telephone Support:	12 months
Type of Website Support:	None

SUMMARY OF COSTS

Project Set-Up	\$18,150
Telephone Support	\$1,211
Disbursements & Tax Reporting	\$11,725
Sub-Total Administration Costs	\$31,086
Plus Estimated Postage*	\$278
Total Estimated Cost**	\$31,364
Less Client Courtesy Discount****	(\$10,500)
Total Est. Cost, with Discount**	\$20,864

PROJECT SET-UP	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Data and Forms Set-up					
- Intake and Process Data, Set up Case Management System		15 hrs	\$160.00	\$2,400	
- Format Document(s)		15 hrs	\$85.00	\$1,275	
- Translate Documents into Spanish		827 words	\$0.42 /word	\$350	
- NCOA Updates		425 units		\$250	
Sub-total of Data and Forms Set-up					\$4,275
Case Management and Declaration of Notice Procedures		75 hrs	\$185.00	\$13,875	
Sub-total of Case Management and Declaration of Notice Procedures					\$13,875
SUB-TOTAL OF PROJECT SET-UP					\$18,150

TELEPHONE SUPPORT	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Call Center Support					
- Script Drafting and Management		3 hrs	\$160.00	\$480	
- Monthly Maintenance Fees		12 mos	\$50.00	\$600	
- Estimated # of Calls	5%	21 calls			
- Average Call Duration (minutes)		5 mins			
- Live Operator Line Charges		105 mins	\$1.25 /min	\$131	
SUB-TOTAL OF TELEPHONE SUPPORT					\$1,211

DISBURSEMENTS & TAX REPORTING	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Funds Management, Obtain Tax ID		10 hrs	\$160.00	\$1,600	
Distribution Calculations & Prep		20 hrs	\$120.00	\$2,400	
Initial Payroll Set-up Fee (Includes 1 state)			Non- Wage Payments per Client		
Print/Mail Checks w/ 1-page Letter in English & Spanish		425 cks	\$3.00	\$1,275	
Distribution Management		10 hrs	\$290.00	\$2,900	
Returned Undeliverable Checks	10%	43 units			
- Handling of Returned Undeliverable Mail		2 hrs	\$85.00	\$170	
Address Searches					
- Number of Address Searches Performed		43 units	\$1.50	\$65	
- Number of New Addresses Found	90%	39 units			
- Staff Time for Address Searches		2 hrs	\$85.00	\$170	



Administration Services Estimate
Legaspi v. Mercedes Diaz Homes - PAGA Settlement Administration

June 29, 2022

Frank Gatto; fgatto@kccllc.com; 310.647.7828

Reissue Checks	39 cks	\$5.00	\$195
Post-Distribution Follow-up & Reports	10 hrs	\$120.00	\$1,200
Settlement Fund Tax Returns (annual)	1 yrs	\$1,750.00	\$1,750
SUB-TOTAL OF DISBURSEMENTS & TAX REPORTING			\$11,725
SUB-TOTAL ADMINISTRATION COSTS			\$31,086
Plus Estimated Postage*			\$278
TOTAL ESTIMATED COST**			\$31,364
LESS CLIENT COURTESY DISCOUNT****			(\$10,500)
TOTAL ESTIMATED COST, WITH DISCOUNT			\$20,864

¹ Due to a global paper shortage, the final pricing will be determined prior to the mailing once final counts are provided, mailing dates are set and paper availability has been confirmed.

STANDARD HOURLY RATES		RATE PER UNIT
KCC Standard Hourly Rates		
- Principal		\$290.00 /hour
- Director		\$235.00 /hour
- Sr. Manager		\$185.00 /hour
- Manager		\$160.00 /hour
- Supervisor		\$120.00 /hour
- Staff		\$60.00 - \$85.00 /hour

OTHER SERVICES AND OUT-OF-POCKET EXPENSES		RATE PER UNIT
Other Services and Ad Hoc Reporting, as needed or requested		(standard hourly rates)
Other Charges and Out-of-Pocket Costs***		(actual)

* Estimated Postage and Handling.

** Does not include applicable taxes or escheatment services.

*** Includes, but is not limited to long distance calls, overnight shipping, photocopies, storage, PO Box rentals, broker fees, etc.

**** Discount is contingent upon no significant change in the scope of work.

This Class Action Administration Services Estimate and the attached Cost Summary & Scope of Services (together, the "Proposal") are valid for ninety days from 6/29/2022. After such period, KCC reserves the right to amend the Proposal (including, without limitation, by increasing fees and costs) or to withdraw the Proposal in its sole discretion.

All services to be provided to the undersigned (the "Client") and all fees and costs set forth in the Proposal are subject to the terms, specifications, assumptions and conditions set forth in the Proposal and the attached Terms and Conditions (the "Terms of Service"). The estimated fees and charges in the Proposal are based on certain information provided to KCC as well as significant assumptions. Accordingly, this estimate is not intended to limit KCC's actual fees and charges, which may be less or more than estimated due to the scope of actual services or changes to the underlying facts or assumptions.

KCC Class Actions Services, LLC

BY: _____ DATE: _____

TITLE:

Haines Law Group

BY: _____ DATE: _____

TITLE:



TERMS AND CONDITIONS

All services to be provided by KCC Class Action Services, LLC (together with its affiliates, "KCC"), including services provided to Client as set forth in the attached Proposal, are subject to the following Terms and Conditions:

1. SERVICES. KCC agrees to provide the services set forth in the Proposal attached hereto (the "Services"). Capitalized terms not otherwise defined herein have the meanings given to such terms in the Proposal. KCC will often take direction from Client's representatives, employees, agents and/or professionals (collectively, the "Client Parties") with respect to the Services. The parties agree that KCC may rely upon, and Client agrees to be bound by, any direction, advice or information provided by the Client Parties to the same extent as if provided by Client. Client agrees and understands that KCC shall not provide Client or any other party with any legal advice.

2. PRICES, CHARGES AND PAYMENT. KCC agrees to charge and Client agrees to pay, subject to the terms herein, KCC for its fees and charges as set forth in the Proposal. Client acknowledges that any estimate in the Proposal is based on information provided by Client to KCC and actual fees and charges may vary depending on the circumstances and length of the case. Notwithstanding the foregoing, where total charges are expected to exceed \$10,000 in any single month, KCC may require advance payment from Client due and payable upon demand and prior to the performance of services. KCC's prices are inclusive of commission and other charges and are generally adjusted periodically to reflect changes in the business and economic environment. KCC reserves the right to reasonably increase its prices, charges and rates annually. If any such increase exceeds 10%, KCC will give thirty (30) days written notice to Client. Client agrees to pay the reasonable out of pocket expenses incurred by KCC in connection with Services, including, but not limited to, transportation, lodging, and meals.

KCC agrees to submit its invoices to Client and Client agrees that the amount invoiced is due and payable upon receipt. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Client further agrees to pay a late charge (the "Finance Charge"), calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, Client shall give written notice to KCC within twenty (20) days of receipt of the invoice by Client. Client agrees the Finance Charge is applicable to instances where KCC agreed to provide certain pre-settlement work while deferring the billing of said work until the settlement phase.

3. FURTHER ASSURANCES. Client agrees that it will use its best efforts to include provisions reasonably acceptable to KCC in any relevant court order, settlement agreement or similar document that provide for the payment of KCC's fees and expenses hereunder. No agreement to which KCC is not a party shall reduce or limit the full and prompt payment of KCC's fees and expenses as set forth herein and in the Proposal.

4. RIGHTS OF OWNERSHIP. The parties understand that the software programs and other materials furnished by KCC to Client and/or developed during the course of the performance of Services are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. Client agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished to Client. Fees and expenses paid by Client do not vest in Client any rights in such property, it being understood that such property is only being made available for Client's use during and in connection with the Services provided by KCC.

5. CONFIDENTIALITY. Each of KCC and Client, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information. These provisions shall survive termination of Services. KCC will not accept, and Client agrees not to send, any information that may be deemed protected health information under state or federal law without the consent of the data subjects or pursuant to the terms of an agreed qualified protective order entered by a court of competent jurisdiction.

6. BANK ACCOUNTS. At Client's request, KCC shall be authorized to establish accounts with financial institutions as agent for Client or as otherwise agreed by the parties. All Client accounts established by KCC shall be deposit accounts of commercial banks with capital exceeding \$1 billion and an FIR rating of above Investment Grade or higher (each, an "Approved Bank"). Notwithstanding the foregoing, the parties may utilize any financial institution or electronic payment service provider specified in the Proposal in connection with the services to be provided hereunder, or as otherwise agreed to in writing, which institution or provider will be deemed an Approved Bank. In some cases, KCC may derive financial benefits from financial institutions resulting from settlement funds and other moneys on deposit or invested with them including, for example, discounts provided on certain banking services and service fees. The amounts held pursuant to these Terms and Conditions ("Amounts Held") are at the sole risk of Client and, without limiting the generality of the foregoing, KCC shall have no responsibility or liability for any diminution of the fund that may result from any deposit made with an Approved Bank including any losses resulting from a default by the Approved Bank or other credit losses. KCC shall have no responsibility or liability for any claims or losses arising from or related to the delivery of electronic payments. It is acknowledged and agreed that KCC will have acted

prudently in depositing the fund at any Approved Bank, and KCC is not required to make any further inquiries in respect of any such bank.

7. TERMINATION. The Services may be terminated by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to Client, (ii) the failure of Client to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services where KCC reasonably believes it will not be paid. Termination of Services shall not relieve Client of its obligations to pay all fees and expenses incurred prior to such termination.

In the event that the Services are terminated, regardless of the reason for such termination, KCC shall reasonably coordinate with Client to maintain an orderly transfer of data, programs, storage media or other materials furnished by Client to KCC or received by KCC in connection with the Services. Client agrees to pay for such services in accordance with KCC's then existing prices for such services.

8. LIMITATIONS OF LIABILITY AND INDEMNIFICATION. Client shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance of Services. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. Client shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that Client becomes aware of with respect to the Services provided by KCC.

Except as provided herein, KCC's liability to Client or any person making a claim through or under Client or in connection with Services for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC's liability for any Losses, whether direct or indirect, arising out of the Services exceed the greater of (i) the total amount billed and paid by or through Client for the Services and (ii) solely in the event of any loss of the Amount Held caused by KCC's gross negligence or willful misconduct, the total Amount Held under Section 6. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the Services. Except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity. The provisions of this Section 8 shall survive termination of Services.

9. FORCE MAJEURE. KCC will not be liable for any delay or failure in performance when such delay or failure arises from circumstances beyond its reasonable control, including without limitation acts of God, acts of government in its sovereign or contractual capacity, acts of public enemy or terrorists, acts of civil or military authority, war, riots, civil strife, terrorism, blockades, sabotage, rationing, embargoes, epidemics, pandemics, outbreaks of infectious diseases or any other public health crises, earthquakes, fire, flood, other natural disaster, quarantine or any other employee restrictions, power shortages or failures, utility or communication failure or delays, labor disputes, strikes, or shortages, supply shortages, equipment failures, or software malfunctions.

10. INDEPENDENT CONTRACTORS. KCC is and shall be an independent contractor of Client and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of the Services or these Terms and Conditions.

11. NOTICES. All notices and requests hereunder shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth in the Proposal or to such other address as the party to receive the notice or request so designates by written notice to the other.

12. APPLICABLE LAW. These Terms and Conditions will be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law principles.

13. ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY; BINDING EFFECT. These Terms and Conditions, together with the Proposal delivered pursuant hereto, constitutes the entire agreement and understanding of the parties in respect of the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof. If any provision herein shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. These Terms and Conditions may be modified only by a written instrument duly executed by the parties. All of the terms, agreements, covenants, representations, warranties and conditions of these Terms and Conditions are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

EXHIBIT 6

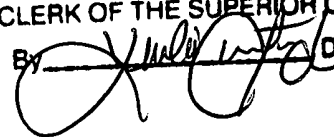


14964107

FILED
ALAMEDA COUNTY

AUG 02 2018

CLERK OF THE SUPERIOR COURT

By  Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA - OAKLAND - RCD COURTHOUSE

VALERIE ENOMBANG, individually and
on behalf of all other similarly situated
aggrieved employees,

Plaintiff,

v.

TARGET CORPORATION, and DOES
1-10, inclusive,

Defendants.

CASE NO. RG17853948

~~PROPOSED~~ ORDER GRANTING JOINT
MOTION FOR APPROVAL OF
SETTLEMENT AND JUDGMENT
THEREON; AND AWARDING
ATTORNEYS' FEES, COSTS, AND
SERVICE AWARDS

Date: July 24, 2018

Time: 3:00 p.m.

Dept: 23

Judge: Hon. Brad Seligman

The hearing on the parties' Joint Motion for Approval of Settlement came for hearing on July 24, 2018, in the Alameda County Superior Court, the Honorable Brad Seligman, presiding. The Court has reviewed the materials submitted by the parties, including the Settlement Agreement ("Settlement") and various motions and supplemental briefs.

During the hearing, the Court expressed concern about Section II(E)(2) of the Settlement, which sets forth a waiver of rights under Civil Code section 1542. The parties have agreed to strike Section II(E)(2) from the Settlement. With that revision, the Court finds the Settlement is entitled to judicial approval and meets all of the requirements for approval under the Labor Code Private Attorneys General Act, including the notice of the Settlement having been properly provided to the California Labor and Workforce Development Agency

1 ("LWDA"). The Court also finds that the LWDA has not objected to, and is deemed to have
2 approved of, the terms of the Settlement. The Court further finds that, although no one other
3 than the LWDA has standing to object to the terms of the Settlement, no other objection to the
4 Settlement has been received by the Court.

5 The Court further finds that executing the seating program set forth in Section
6 II(B)(2)(a-d) of the Settlement, namely notifying each affected employee of the right to request
7 and be provided with a suitable seat or stool, and by actually providing a suitable seat or stool
8 if requested, complies with Section 14 of Wage Order 7-2001.

9 The Court additionally finds that the dismissal of the PAGA cause of action in
10 *Thompson* without prejudice as to non-Cashiers comports with the requirements of PAGA, that
11 because the PAGA cause of action in *Thompson* was brought solely as a representative action
12 under PAGA, and not as a class action, the non-Cashiers have no legally cognizable interest
13 that is impacted by the dismissal of *Thompson*, the non-Cashiers in *Thompson* have no right to
14 notice of the dismissal, and the non-Cashiers in *Thompson* have no standing to object or
15 otherwise challenge the dismissal.

16 Accordingly, the Court hereby orders, adjudges, and decrees as follows:

17 1. The Parties, their Counsel, and the Settlement Administrator shall take all steps
18 necessary to implement and consummate the Settlement according to the terms and provisions,
19 including but not limited to the parties effectuating the dismissals of *Murphy v. Target*
20 *Corporation*, U.S. District Court for the Southern District of California Case No. 09-1436 and
21 *Thompson v. Target Corporation*, U.S. District Court of the Central District of California Case
22 No. 16-0839, pursuant to Section II(D)(2) of the Settlement.

23 2. The Court awards plaintiffs' counsel attorneys' fees in the amount of Three
24 Million, Six Hundred Thousand Dollars and No Cents (\$3,600,000.00), plus costs in the
25 amount of Two Hundred Thousand Dollars and No Cents (\$200,000.00). The Court finds the
26 attorney hours, hourly rates, and costs incurred by plaintiffs' counsel over this nine-year
27 litigation as reflected in their declarations were reasonable, and further that plaintiffs' counsel
28 are entitled to a multiplier given the novelty of the claims and the contingent nature of the fee.

The Court further awards the representative plaintiffs, Valerie Enomtang, Danyell Murpy, Candi Perry, and Stacy Thompson, Twenty Thousand Dollars (\$20,000.00) each for the time they spent, and the risk they undertook, in prosecuting these actions on behalf of the State and the aggrieved employees. All of these amounts shall be deducted from the \$9 million settlement fund. Attorneys' fees shall be distributed consistent with the Settlement.

3: Without affecting the finality of this Judgment or the Settlement, this Court shall, pursuant to Section II(F)(3) of the Settlement, retain continuing jurisdiction over the parties to this action to ensure effectuation of the Settlement in accordance with the terms of the Settlement and this Judgment.

4. To the extent any settlement checks are uncashed by the deadline provided in the Settlement, or in the event there any other undistributed settlement funds, such funds shall be paid to the Equal Access Fund of the Judicial Branch, to be distributed in accordance with Bus. & Prof. Code sections 6216 to 6223.

5. Judgment and dismissal is hereby entered as to Plaintiff Valerie Enombang, the LWDA, and all individuals who worked for Defendant in California as a Cashier as that term is defined in the Settlement Agreement at any time from April 14, 2008 through the date of this Order.

6. Except as otherwise provided by the Settlement, each side shall bear their own attorneys' fees and costs.

IT IS SO ORDERED.

DATED:

HON. BRAD SELIGMAN
JUDGE OF THE SUPERIOR COURT

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Case Number: RG17853948

Case name: Enombang v. Target Corporation

CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause and that a true and correct copy of this Order was emailed to the addresses shown on at the bottom of this document.

Dated: August 03, 2018

Jhalisa A. Castaneda

Courtroom Clerk, Dept. 23

James Clapp <jclapp@clapplegal.com>; Marita Lauinger <mlauinger@clapplegal.com>;
Wilson Claudette G. <CWilson@wilsonturnerkosmo.com>; allen@gravesfirm.com;
'jeffwohl@paulhastings.com'; Kevin McInerney kevin@mcinerneylaw.net

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE**

MINUTE ORDER

DATE: 07/24/2018

TIME: 02:00:00 PM

DEPT: 53

JUDICIAL OFFICER PRESIDING: David Brown

CLERK: E. Brown

REPORTER/ERM: T. Huffman CSR# 13789

BAILIFF/COURT ATTENDANT: M. Oreschak, M. Meraz

CASE NO: **34-2017-00220347-CU-OE-GDS** CASE INIT.DATE: 10/10/2017

CASE TITLE: **Grace vs. Flowmaster Inc**

CASE CATEGORY: Civil - Unlimited

EVENT TYPE: Motion - Other - Civil Law and Motion

APPEARANCES

Theresa Mak, counsel, present for Defendant(s).

Jill Vecchi, counsel present for plaintiff, telephonically

Nature of Proceeding: Motion for Approval of Settlement

TENTATIVE RULING

Plaintiff Carrie Grace's unopposed motion for approval of settlement of claims brought pursuant to the Private Attorney General Act of 2004 ("PAGA") is granted.

Plaintiff seeks an order approving settlement of claims brought in this action on behalf of herself and all persons employed by Defendant Flowmaster, Inc. in non-exempt positions in its warehouses between August 7, 2016 and July 27, 2018 or the date the Court approves the settlement, whichever is earlier. The PAGA claims were premised on six alleged violations of Labor Code (e.g., failure to pay wages, failure to provide meal and rest breaks, failure to provide itemized wage statements). Approximately 323 employees suffered the alleged Labor Code violations during the relevant period. Plaintiff calculated Flowmaster's maximum potential exposure at approximately \$3,459,000 based on multiplying 5,765 pay periods by 6 PAGA violations by \$100. Flowmaster contends its exposure is limited to \$576,500. Flowmaster asserted numerous defenses including that the case could not be managed. The parties reached a settlement for \$750,000. The settlement includes attorneys' fees of \$247,500 (33% of the settlement), \$15,588.67 in costs, a \$10,000 service payment to Plaintiff, and up to \$5,000 in claims administration costs. The net settlement amount is \$471,911.33. 75% of that amount (\$353,933.50) will be distributed to the Labor and Workforce Development Agency [LWDA] and 25% (\$117,977.83) to the aggrieved employees based on the number of pay periods worked during the relevant time period.

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." Thus, the settlement of a PAGA claim requires court approval pursuant to the operative PAGA statute, which states that the "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part." (See Labor Code § 2699(1)(2).) As with any settlement, the Court must be mindful in conducting its inquiry that "[s]ettlement is a compromise, which balances the possible recovery against the risks inherent in litigating further." (See *In re TD Ameritrade Account Holder Litig.*, 2011 U.S. Dist. LEXIS 103222, 24 (N.D. Cal. Sept. 12, 2011).) Indeed, "the very essence of a

settlement is ... 'a yielding of absolutes and an abandoning of highest hopes'" [*Officers for Justice v. Civil Service Com.*, 688 F.2d 615, 624 (9th Cir., 1982)], as "it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements." (See *Id.*, at 625.) As such, "the settlement or fairness hearing is not to be turned into a trial or rehearsal for trial on the merits" or "judged against a hypothetical or speculative measure of what might have been achieved by the negotiators." (See *Id.*)

Although the operative PAGA statute does not set forth the criteria on which a PAGA settlement is to be judged, it is presumed that a reviewing court may utilize some of the factors for review of a class action settlement under Fed. R. Civ. P. 23 ("Rule 23"), CCP. § 382 and Rule 3.769, Cal. Rules of Court, as courts within California have approved settlements of PAGA claims encompassed within class action settlements using Rule 23 criteria. However, it is important to underscore that not all Rule 23 factors can be applied, as "a PAGA claim asserted on a non-class representative basis . . . is not considered a class action but a law enforcement action, and therefore does not have to meet the requirements of Rule 23." (See *Casida v. Sears Holdings Corp.*, 2012 U.S. Dist. LEXIS 9302, 8 (E.D. Cal. Jan. 25, 2012); *Thomas v. Aetna Health of Cal. Inc.* 2011 U.S. Dist. LEXIS 59377 (E.D. Cal. June 2, 2011); *Mendez v. Tween Brands, Inc.*, 2010 U.S. Dist. LEXIS 66454 (E.D. Cal. June 30, 2010). Based thereon, a court's review of a PAGA settlement necessarily implicates the following unique features that render the approval process completely distinct from approval of a class action settlement under Rule 23 or CCP. § 382 and 15 Rule 3.769, Cal. Rules of Court.

First, in evaluating the adequacy of the settlement amount, the Court's focus is not concerned with the amount which "aggrieved employees" are to receive, but rather, must focus on the total settlement amount in achieving PAGA's objective. Indeed, "[t]he remedy sought in a PAGA suit consists of civil penalties, not individual or class damages" [*Mendez v. Tween Brands, Inc.*, 2010 U.S. Dist. LEXIS 66454, 11 (E.D. Cal. June 30, 2010)], and "[u]nlike class actions, these civil penalties are not meant to compensate unnamed employees because the action is fundamentally a law enforcement action." (See *Ochoa-Hernandez v. CJADERS Foods, Inc.*, 2010 U.S. Dist. LEXIS 32774, 12 (N.D. Cal. Apr. 2, 2010). Second, consistent with the fact that unnamed employees have no properly interest in a PAGA claim, "[u]named employees need not be given notice of the PAGA claim, nor do they have the ability to opt-out of the representative PAGA claim." (See *Ochoa-Hernandez*, 2010 U.S. Dist. LEXIS 32774, at 13.) Finally, unlike a class action settlement under Rule 23(e) or CCP. § 382, the scope of release permitted in a PAGA settlement is limited. While "judgment in [a PAGA] action is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding" [*Arias v. Superior Court* (2009) 46 Cal. 4th 969, 986], "the nonparty employees, because they were not given notice of the action or afforded any opportunity to be heard, would not be bound by the judgment as to remedies other than civil penalties." (See *Id.*, at 987.) Thus, the scope of a release in a PAGA settlement is necessarily strictly confined to the civil penalties alleged in the first amended complaint.

In deciding whether to grant approval of the proposed Settlement, the primary issue to be decided is whether the Settlement is fair, adequate and reasonable. As set forth herein, the proposed Settlement embodies all of the features of a settlement that is fair, reasonable, and adequate, as it is the product of (1) arms-length negotiations, (2) negotiated by attorneys experienced in wage and hour issues, (3) subsequent to undertaking sufficient investigation necessary to evaluate the relative strength and value of the PAGA claim, and (4) it reflects a reasoned compromise based directly on the relative strength and value of the PAGA claim, as well as the risks, expense, complexity and likely duration of further litigation. The settlement was the product of arms-length negotiations reached at mediation and was negotiated by counsel with significant experience in wage and hour litigation and occurred after counsel conducted significant investigation to evaluate the strength and potential value of the PAGA claims and risks of litigating through trial. (Turley Decl. ¶¶ 2-29) In addition, the settlement achieves a significant benefit given it results in a recovery of \$750,000 for the PAGA penalties. Further, the scope of the release is

narrowly tailored and is only limited to the civil penalties asserted in the action under PAGA, in conformity with *Arias, supra*, 46 Cal.4th at 987. In addition, Plaintiff submitted the proposed settlement to the Labor and Workforce Development Agency at the same time it was presented to the Court as required by Labor Code § 2699(l)(2). (Id. ¶ 18.) As a result, the Court finds that the instant settlement is fair, adequate and reasonable and it is approved.

In addition, the Court approves Plaintiff's Counsel's request for fees and costs. Counsel is entitled to recover attorneys' fees and costs under the "common fund" doctrine as a matter of right. As held by the U.S. Supreme Court, "a lawyer who recovers a common fund for the benefit of persons other than himself or his client is entitled to a reasonable attorney's fee from the fund as a whole." (See *Boeing Co. v. Van Gemert* (1980) 444 U.S. 472, 478.) In *Glendale City Employees' Association v. City of Glendale* (1975) 15 Cal.3d 328, 341 fn. 19, the California Supreme Court upheld an attorneys' fee award based on a percentage of the common benefit obtained in a lawsuit by a city employees' association for retroactive wages. "When assessing whether the percentage requested is reasonable, courts look to factors such as: (a) the results achieved; (b) the risk of litigation; (c) the skill required, (d) the quality of work; (e) the contingent nature of the fee and the financial burden; and (f) the awards made in similar cases." (See *Vasquez v. Coast Valley Roofing, Inc.*, 266 F.R.D. 482, 492 (E.D. Cal. 2010).) Plaintiff's Counsel's request for attorneys' fees in the amount of \$247,500 (33%) from the \$750,000 PAGA Settlement Sum falls well within the "zone of reasonableness." It is important to highlight at the outset that the fee amount presently sought is not extraordinary, but actually falls at the "average" fee deemed reasonable under California State court authority, as it is recognized that "courts may award attorney's fees in the 30-40% range in wage and hour class actions that result in recovery of a common fund under \$10 million." (See, e.g. *Martin v. AmeriPride Servs.*, 2011 U.S. Dist. LEXIS 61796, 23 (S.D. Cal. June 9, 2011). Moreover, taking into account the contingency risk Plaintiff's Counsel agreed to incur for the benefit of the State of California (which elected not to take the case after receiving the PAGA Notice), and the significant results achieved - facts which justify the requested fee - Plaintiff's Counsel's requested fee is reasonable under all applicable standards. In addition the \$15,588.67 in litigation costs are reasonable.

Further, the \$10,000 service payment to Plaintiff is appropriate. Case authority supports the award of incentive payments in private attorney general actions. A named plaintiff's "willingness to act as a private attorney general" can justify an award of an incentive payment. (*Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 959.)

In addition, the \$5,000 in administration costs for Simpluris, Inc. to administer the settlement is reasonable.

The Court will sign the proposed order.

COURT RULING

The tentative ruling was affirmed as modified on the record.

CASE NAME: Resendez v. Bridgestone Retail Operations, LLC
CASE NO.: BC596892
HEARING DATE: 6/13/16
DEPARTMENT: 37
CALENDAR NO.: 9
TRIAL DATE: 2/14/17
NOTICE: OK
SUBJECT: Motion for Approval of Settlement of Claims Brought Under the Private Attorneys General Act
MOVING PARTY: Plaintiff Sophia P. Resendez, on behalf of herself and all others similarly situated
OPPOSING PARTY: None

FILED
Superior Court of California
County of Los Angeles

JUN 13 2016

Sherril A. Carter, Executive Officer/Clerk
By K. Mason Deputy
K. Mason

COURT'S TENTATIVE RULING

The unopposed motion is granted. Counsel for Plaintiff to give notice.

STATEMENT OF THE CASE

This is an action for civil penalties under the Private Attorneys General Act of 2004 (PAGA), which is codified in the Labor Code (Lab. Code, § 2698 et seq.). Defendant Bridgestone Retail Operations, LLC operates a chain of auto care and tire stores and employed Plaintiff Sophia P. Resendez from August 18, 2013 until May 14, 2015. Plaintiff alleges that Defendant failed to include its address on employee wage statements in violation of Labor Code section 226, subdivision (a)(8), and that Defendant paid meal period premiums to non-exempt employees pursuant to Labor Code section 226.7, thereby acknowledging that it had violated Labor Code section 512 regarding the provision of meal periods. Plaintiff filed suit on October 5, 2015, and the parties settled the matter during mediation with the Honorable Ronald M. Sabraw (Ret.) on February 25, 2016.

DISCUSSION

I. General Legal Principles Applicable to PAGA Settlements

A. The PAGA

Plaintiff moves the court to review and approve the civil penalties sought as part of the settlement of her PAGA claims. (Lab. Code, § 2699, subd. (f).) The PAGA is "a procedural statute allowing an aggrieved employee to recover civil penalties—for Labor Code violations—that otherwise would be sought by state labor law enforcement agencies." (*Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009) 46 Cal.4th 993, 1003.) The statute provides a mechanism for private enforcement of Labor Code violations for the public benefit. (See *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986; *Ochoa-Hernandez v. Cjaders Foods, Inc.* (N.D.Cal. 2010) 2010 WL 1340777, at p. *4.) To incentivize employees to bring PAGA actions, the statute

06/15/2016

provides aggrieved employees 25 percent of the recovered civil penalties. (Lab. Code, § 2699, subd. (i).) The remaining 75 percent is distributed to the Labor and Workforce Development Agency (LWDA) "for enforcement of labor laws and education of employers and employees about their rights and responsibilities under [the Labor Code]." (*Ibid.*)

B. Settlement Generally

In reviewing the terms of a settlement agreement, the court determines whether the settlement is fair, reasonable, and adequate to all concerned, and not the product of fraud, collusion, or overreaching. (*Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 337; *Nordstrom Commission Cases* (2010) 186 Cal.App.4th 576, 581.) In the context of a class action settlement, the court considers various factors including whether (1) the settlement is the result of arm's length bargaining, (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently, (3) counsel is experienced in similar litigation, and (4) the percentage of objectors is small. (*Nordstrom*, at p. 581; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 245.) In considering the amount of settlement, the court is mindful that compromise is inherent and necessary in the settlement process. (*Wershba*, at p. 250.)¹

II. Application of General Principles

A. Terms of the Settlement

The settlement provides for Defendant to pay a Gross Settlement Amount (GSA) of \$950,000. After deducting one-third of the GSA (\$316,666.66) for attorney fees, attorney costs (\$7,005.82), an enhancement award for Plaintiff (\$10,000), and settlement administration costs (\$30,000), the settlement provides for distribution of a PAGA penalty fund of no less than \$585,833.34, with no less than \$439,375 to be paid to the LWDA, and no less than \$146,458.34 to be paid to the aggrieved employees. The parties have agreed to use CPT Group, Inc. (CPT) as the third-party settlement administrator. In that capacity, CPT will attempt to notify the aggrieved employees based on information provided by Defendant and distribute payments to the

¹ As Plaintiff points out, a PAGA settlement is different from a class action settlement in at least two respects. First, in considering a PAGA settlement, the court considers whether the total settlement amount achieves the PAGA's objective. Civil penalties are not meant to compensate employees but to serve law enforcement purposes by deterring unlawful conduct. Second, because the PAGA does not create property or substantive rights, aggrieved employees represented by the PAGA representative need not be given notice of the PAGA claim and cannot "opt out" of such a claim. Notwithstanding these difference, the general principles applicable to class action settlements apply equally in this context.

employees.² Aggrieved employees will not be required to submit claim forms to participate, will automatically receive the share of the settlement, and will have 180 days to cash their settlement checks. The amount of any checks that are returned as undeliverable or not cashed within 180 days shall be tendered to a fund benefitting Defendant's employees with personal or family emergencies.

B. Analysis of the Civil Penalties

The settlement represents a compromise with respect to the strength of Plaintiff's claims and Defendant's defenses to those claims. For instance, while Plaintiff contends that Defendant violated Labor Code section 226 by failing to include its address on wage statements, she acknowledges that Labor Code section was amended shortly before she filed suit to permit employers to "cure" such a violation by providing compliant wage statements to affected employees. The parties dispute whether Defendant timely cured the defective wage statements. Similarly, while Plaintiff contends that Defendant violated Labor Code section 512, which obligates employers to provide meal periods, Defendant maintains that it provided employees an extra hour of pay as a "meal period premium" pursuant to Labor Code section 226.7. Although Plaintiff disagrees, it is Defendant's position that it should not be penalized twice for the same violation. After considering the parties' respective positions before and during mediation, Plaintiff calculated civil penalties of \$842,511 for the failure to include an address on wage statements and \$178,145 for the failure to provide meal periods. The GSA represents about 93 percent of Plaintiff's projected total recovery of \$1,020,656.

The parties arrived at the settlement amount with the benefit of informal discovery and experienced counsel. For instance, Defendant provided Plaintiff with payroll data and calculations for aggrieved employees, including the number of deficient wage statements and the number of pay periods in which meal period premiums were paid. Plaintiff's counsel is experienced in wage-and-hour class actions, who believes the settlement to be fair and adequate for all involved. In addition, the parties reached their agreement with the benefit of a neutral mediator. These circumstances demonstrate that the agreement represents an arm's length transaction untainted by fraud, collusion, or self-dealing. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.) Accordingly, for these reasons, the court determines that the settlement is fair, adequate, and reasonable.

C. Attorney Fees and Costs

The PAGA contains a fee-shifting provision providing the prevailing party recovery of attorney fees and costs. (Lab. Code, § 2699, subd. (g).) Here, the one-third fee award is reasonable and consistent with fee awards in class action cases. (See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66, fn. 11 ["Empirical studies show

² Plaintiff represents that based on the latest information, there are 3,002 persons who fall into the definition of "aggrieved employees" in this case. The estimated average payment for each aggrieved employee is \$48.23.

that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery' "). In addition, the GSA exceeds other PAGA awards that have been approved by courts in this state. (E.g., *Aguirre v. DSW, Inc.* (C.D.Cal. 2012) 2012 WL 11875296, at p. *3 [approving \$10,000 PAGA payment]; *Boyd v. Bank of America Corp.* (C.D.Cal. 2014) 2014 WL 6473804, at p. *8 [approving \$18,750 PAGA payment].) The success of the litigation and the experience of counsel in handling similar matters also favors an award of one-third of the recovery.

The reimbursement of costs of \$7,005.82 is also warranted. Plaintiff presents an itemization of costs, which consists of (1) copying, postage, and research costs; (2) mediation fees; (3) filing and jury fees; (4) CourtCall fees; and (5) parking and mileage. (Declaration of Paul K. Haines, Exh. F.) Similarly, Plaintiff demonstrates that the \$30,000 of administrative costs for CPT is reasonable and warranted. CPT is experienced as a settlement administrator (Declaration of Julie Green ¶¶ 4-7), and Plaintiff represents that the bid of \$30,000 was low and discounted. Accordingly, the attorney and administrative costs are approved as well.

D. Enhancement Award

Finally, Plaintiff's enhancement award of \$10,000 is reasonable. The purpose of such an award is to incentive aggrieved employees to undertake the risks associated with serving in a representative capacity. (See *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 ["service payments" compensate named plaintiff "for their efforts in bringing the action"]; *Ingram v. The Coca-Cola Co.* (N.D.Ga. 2001) 200 F.R.D. 685, 694 ["Courts routinely approve incentive awards to compensate named plaintiffs for the services they provided and the risks they incurred during the course of the class action litigation' ").) Here, Plaintiff provided factual information and documentation to Plaintiff's counsel, assisted in identifying potential witnesses, and attended meetings with counsel. She estimates that she has spent at least 15 hours on these activities to help move the case forward. (Declaration of Sophia Resendez ¶ 5.) In addition, Plaintiff has agreed to a broader release of all known and unknown claims, including those that are not wage and hour related, subject to a waiver of Civil Code section 1542. Given Plaintiff's participation in the case and the broader waiver she has agreed to, the enhancement award is reasonable.

In sum, the settlement is fair, reasonable, and adequate for those concerned. The unopposed motion is granted.

06/15/2016

**Superior Court of California
County of Los Angeles**

Shelley Pickett, *et al.*,

Plaintiff,

vs.

99 Cents Only Stores, *et al.*

Defendants.

Case **BC473038**

No.:

Tentative Ruling

FILED
Superior Court of California
County of Los Angeles
AUG 01 2017
By Sherri B. Carter, Executive Officer/Clerk
Steve Temblador, Deputy

Hearing Date: August 1, 2017

Department 54, Judge Ernest M. Hiroshige

Motion for Approval of Representative Action Settlement

Moving Party: Plaintiff/Cross-Defendant Shelley Pickett ("Pickett")

Responding Party: Defendant/Cross-Complainant 99 Cents Only Stores ("99 Cents Only") [non-opposition]

T/R: THE MOTION IS GRANTED.

PLAINTIFF TO NOTICE.

The Court considers the moving papers and Defendant/Cross-Complainant's notice of non-opposition.

Plaintiff moves for an order granting approval of the proposed settlement of claims brought pursuant to the Private Attorneys general Act of 2004 ("PAGA"), Cal. Lab Code § 2698, *et seq.* Pursuant to the proposed settlement, the parties agree to the following terms: (1) 99 Cents Only will provide all of its cashiers in its California stores with suitable seating under Section 14(B) of Wage Order 7-2001, and to create, implement, and communicate pertinent policies to its cashiers regarding this change in policy; (2) \$75,000 to be paid to the California Workforce Development Agency; (3) \$12,500 to be paid to each of the two Plaintiffs; and (4) \$1,190,000 to be paid to Plaintiffs' Counsel for attorney fees and litigation costs. 99 Cents Only filed a statement of non-opposition. Based on the moving papers, the Court finds that the settlement is reasonable and meets the requirements of PAGA. Accordingly, the motion is GRANTED.

Date: August 1, 2017


Judge Ernest M. Hiroshige

08/03/2017

ORIGINAL

FILED
Superior Court of California
County of Los Angeles

RECEIVED

JUN 19 2020

Filing Window

Sherri R. Carter, Executive Officer/Clerk of Court
By *[Signature]*, Deputy

FILED
Superior Court of California
County of Los Angeles

SEP 24 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By *[Signature]*, Deputy
Lori M. Greene

FAXED

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Attorneys for Plaintiff
and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

HELEN CATALINA VARGAS, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

GRUMA CORPORATION, a Nevada
Corporation; and DOES 1 through 100,

Defendants.

Case No. BC707897

[Assigned for all purposes to the Carolyn B.
Kuhl, Dept. SSC-12]

~~PROPOSED~~ JUDGMENT AND ORDER
GRANTING PLAINTIFF'S MOTION
FOR APPROVAL OF SETTLEMENT OF
CLAIMS BROUGHT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT, REASONABLE ATTORNEYS'
FEES, COSTS, AND SERVICE AWARD

Date: July 21, 2020

Time: 1:45 p.m.

Dept.: SSC-12

Complaint Filed: June 5, 2018

Trial Date: None Set

RECEIVED
LOS ANGELES SUPERIOR COURT
JUN 19 2020

I. LOVO

09/25/2020

1 *CSK* This matter came on regularly for hearing before this Court on *Sept. 24, 2020 at 10:00 am* ~~July 21, 2020 at 1:45 p.m.~~

2 Having considered the parties' Stipulation for PAGA Settlement ("Settlement");¹ the documents
3 and evidence presented in support thereof; and recognizing the outcome of Plaintiff's
4 investigation of her claims and allegations, the disputed factual and legal issues involved in this
5 case, the risks of further prosecution, the substantial benefits to be received by the State of
6 California and the Allegedly Aggrieved Employees pursuant to the Settlement, and the fair,
7 reasonable, and adequate nature of the settlement obtained as a result of good faith arm's-length
8 negotiations between the parties; and the absence of any objection or comment from the California
9 Labor and Workforce Development Agency ("LWDA") after having received notice of the
10 parties' Settlement and Plaintiff's motion; the Court hereby makes a final ruling that the
11 Settlement is approved pursuant to Labor Code section 2699(l). Good cause appearing therefor,
12 the Court hereby GRANTS Plaintiff's Motion for PAGA Settlement Approval of Claims and
13 ORDERS as follows:

- 14 1. The "Allegedly Aggrieved Employees" shall be defined as:
15 All individuals who worked for Defendant Gruma Corporation as
16 nonexempt employees within the State of California at any time from
17 June 11, 2017 through the date the Court Order granting approval of the
18 PAGA Settlement Agreement.
- 19 2. The "PAGA Period" means June 11, 2017 through the date the Court Order
20 granting approval of the Settlement.
- 21 3. The Court hereby approves the settlement set forth in the Settlement as fair,
22 reasonable, and adequate, and directs the parties to effectuate the Settlement according to its
23 terms.
- 24 4. The Court orders that Defendant Gruma Corporation ("Defendant") shall pay the
25 Settlement Fund of \$1,917,500 to the Settlement Administrator within thirty (30) days after the
26 Court's order granting final approval of the PAGA Settlement Agreement and is no longer subject
27 to appeal.

28 ¹ All terms used in this Order shall have the same meaning as that assigned to them in the Settlement, attached as Exhibit A to the Declaration of Paul K. Haines submitted concurrently with the Motion for Approval of PAGA Settlement.

1 5. The Court hereby approves, as to form and content, the explanatory Notice
2 submitted by the parties and included as Exhibit A to the Settlement.

3 6. The Court hereby appoints Phoenix Settlement Administrators as the Settlement
4 Administrator.

5 7. Within fourteen (14) business days of the Effective Date, Defendant shall provide
6 the Settlement Administrator with a list containing the Allegedly Aggrieved Employees' names,
7 last known addresses, social security numbers, and dates of employment and/or number of pay
8 periods worked during the PAGA Period.

9 8. The Settlement Administrator is directed to mail the individual PAGA payments
10 and the Notice to the Allegedly Aggrieved Employees within five (5) business days after
11 Defendant provides the Settlement Fund to the Settlement Administrator.

12 9. The Court finds that attorneys' fees in the amount of \$639,166.67 for Plaintiff's
13 counsel, and reimbursement of litigation costs of \$29,396.60 to Plaintiff's counsel, are fair,
14 *in light of the benefit obtained for the state and the class* reasonable, and adequate, and orders the Settlement Administrator to distribute these payments
15 to Plaintiff's counsel as provided for in the Settlement.

16 10. The Court orders that Phoenix Settlement Administrators shall be paid \$11,000 for
17 all of its work done and to be done until the completion of this matter, and finds that sum
18 appropriate.

19 11. The Court finds that the Representative Plaintiff Service Award of \$5,000.00 to
20 Plaintiff Helen Catalina Vargas, is fair and reasonable in recognition of the unique contributions
21 she has made and the risks she undertook in representing the State of California and the LWDA
22 in this action, on behalf of the Allegedly Aggrieved Employees and the State, and orders that the
23 Settlement Administrator distribute this payment to Plaintiff as provided for in the Settlement.

24 12. The Court finds that the distribution of the PAGA Fund to the LWDA and to
25 Allegedly Aggrieved Employees as provided for in the Settlement, is fair, adequate, and
26 reasonable, and orders that payment be made to the LWDA and Allegedly Aggrieved Employees
27 in accordance with the terms of the Settlement.

28 13. The court approves the scope of the release set forth in the Settlement. Following

1 entry of this Judgment and Order and upon the Effective Date, the State of California, Plaintiff
2 and Allegedly Aggrieved Employees, on behalf of themselves and each of their heirs,
3 representatives, successors, assigns, and attorneys, hereby release, and settle any and all claims
4 against the Released Parties for civil penalties they and the State of California may have under
5 the California Labor Code, Wage Orders, regulations, and/or any other provisions of state law
6 arising from allegations that the Allegedly Aggrieved Employees (including Plaintiff) suffered
7 California Labor Code Violations based on (1) non-compliant rest breaks, (2) non-compliant meal
8 periods, (3) non-compliant meal and rest period premium payments, (4) unpaid minimum and
9 overtime wages, (5) failure to pay all wages at the agreed-upon rate and/or without discount, (6)
10 untimely payment of earned wages during employment and at separation of employment, (7) non-
11 compliant wage statements, (8) failure to maintain complete and accurate records, and (9) any
12 other Labor Code violations that were alleged in the Complaint, or that could have been alleged
13 in the Complaint based on the facts alleged in the Complaint, which includes alleged violations
14 of Labor Code sections 201-204, 210, 221-223, 226, 226.3, 226.7, 510, 512, 516, 558, 1174,
15 1174.1, 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198 (collectively, the "Released Claims").
16 "Released Parties" means Defendant and each and all of its present, former and future controlling
17 persons, parents, affiliates, business partners, subsidiaries, successors-in-interest, benefit plans
18 sponsored by such companies, shareholders, owners, officers, directors, principals, employees,
19 agents, attorneys, insurers, managers, trustees, fiduciaries, representatives, divisions,
20 predecessors, successors, and assigns.

21 */// This release in no way*
22 */// affects any claim an Allegedly Aggrieved*
23 */// Employee may have against the Released*
24 */// Parties for unpaid wages.*

25 *///*
26 *///*
27 *///*
28 *///*

Cik

14. ~~Upon entry of this Final Order and Judgment and upon the Effective Date, the~~ *(Upon payment being made in accordance with paragraph 4 hereof,*

2 Court permanently enjoins and forever bars the Plaintiff or the Allegedly Aggrieved Employees
3 from instituting or prosecuting any of the "Released Claims" against the "Released Parties,"
4 which were fully and completely resolved as part of the Settlement. Without affecting the finality
5 of this Final Order and Judgment in any way, the Court retains jurisdiction to enforce the terms
6 of the Settlement.

7 15. The Settlement Administrator shall make a final report confirming the final
8 distribution of funds on or before Aug. 4, 2021. A Non-Appeal
9 Case Review Re: Submission of the Final Report of Disbursement is scheduled for
10 Aug. 11, 2021 at 4:30 a.m./p.m.

Cik

11 **IT IS SO ORDERED.**

12
13 Dated: Sept. 24, 2020 By: Carolyn B. Kuhl
14 Honorable Carolyn B. Kuhl
15 Judge of the Superior Court
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09/25/2020

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Attorneys for Plaintiff
Rachael Buhl

(Additional counsel of record on next page)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

RACHAEL BUHL, as an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

SDX HOME CARE OPERATIONS, LLC, a
California Limited Liability Company; and
DOES 1 through 100,

Defendants.

No. 19STCV23623

**~~[PROPOSED]~~ ORDER GRANTING
JOINT MOTION FOR APPROVAL OF
PAGA SETTLEMENT (Cal. Lab. Code
§ 2699(1)(2)) AND PLAINTIFF'S
MOTION FOR APPROVAL OF
REASONABLE ATTORNEYS' FEES
AND COSTS AND ENHANCEMENT
AWARD**

Date: July 29, 2020
Time: 8:30 a.m.
Dept.: 20, 111 North Hill St., 3rd Flr.,
Los Angeles, CA
Judge: Hon. David J. Cowan

Complaint filed: July 1, 2019
Trial date: None set

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11 Attorneys for Defendant
12 SDX Home Care Operations, LLC
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1 On July 29, 2020, a hearing was held on the joint motion of plaintiff Rachael Buhl and
2 defendant SDX Home Care Operations, LLC, for approval of the settlement of this action under
3 the California Labor Code Private Attorneys General Act (“PAGA”), Cal. Lab. Code §§ 2698 *et*
4 *seq.*, and on plaintiff’s motion for reasonable attorneys’ fees and costs and enhancement award.

5 The Court having read and considered the parties’ Settlement Agreement (the “Settlement
6 Agreement” or “Settlement”), the papers on the motions, the arguments of counsel, the parties’
7 joint supplemental brief in support of the joint motion, and the law, and recognizing the disputed
8 factual and legal issues involved in this case, the risks of further prosecution, the substantial
9 benefits to be received by the State of California and the alleged aggrieved employees pursuant to
10 the Settlement, the Court hereby makes a final ruling pursuant to California Labor Code section
11 2699(*l*) that the Settlement is fair, reasonable, and adequate, and is the product of good faith, arm’s
12 length negotiations between the parties. Good cause appearing therefor, the Court hereby
13 GRANTS the parties’ joint motion and plaintiff’s motion and HEREBY ORDERS as follows:

14 1. All terms used for purposes of this order, not otherwise defined, will have the same
15 meaning as given in the Settlement. A copy of the Settlement Agreement executed between the
16 Parties is attached as Exhibit A to this order.

17 2. Pursuant to PAGA, Cal. Lab. Code § 2699(*l*)(2), the California Labor and
18 Workforce Development Agency (the “LWDA”) has been given notice of the Settlement and the
19 joint motion for approval of the Settlement and plaintiff’s motion; on April 15, 2020, plaintiff
20 submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement Agreement.
21 The Court finds and determines that this notice of the Settlement complied with the statutory
22 requirements of PAGA.

23 3. The Court confirms approval of the Settlement with respect to the following group
24 of individuals (“Settlement Group Members”):

25 All non-exempt employees employed by defendant SDX Home Care Operations,
26 LLC, in California as “Caregivers” or “Home Health Assistants” from April 24,
2018, through June 30, 2020.

27 ///

1 4. The Court finds that the Settlement is, in all respects, fair, reasonable, and adequate.
2 Accordingly, the Court hereby approves the Settlement, and directs the parties to effectuate the
3 Settlement according to its terms.

4 5. The Court finds that the form of Letter Enclosing Settlement Share Checks (the
5 “Cover Letter”), attached as Exhibit A to the Settlement Agreement, fairly and adequately
6 describes the Action, the approved Settlement, and the manner in which Settlement Group
7 Members may ask questions regarding their Settlement Shares, and orders that the Cover Letter
8 be mailed via first-class U.S. mail to the Settlement Group Members in English and Spanish, along
9 with the Settlement Share checks.

10 6. The Court finds that the Total Settlement Amount, Net Settlement Amount, and the
11 methodology used to calculate and pay each Settlement Share, in accordance with the Settlement,
12 are fair and reasonable.

13 7. Phoenix Settlement Administrators is appointed to act as the Settlement
14 Administrator, pursuant to the terms of the Settlement Agreement.

15 8. The Court finds that attorneys’ fees in the amount of 35% of the Total Settlement
16 Amount (\$280,000.00) for plaintiff’s counsel, and reimbursement of litigation costs of \$25,534.58
17 to plaintiff’s counsel are fair, reasonable, and adequate, and orders that the Settlement
18 Administrator distribute these payments to plaintiff’s counsel as provided for in the Settlement.

19 9. The Court orders that the Settlement Administrator shall be paid \$3,500.00 for all
20 of its work done and to be done until the completion of this matter, and finds that sum appropriate.

21 10. The Court finds that a Representative Plaintiff’s Payment of \$5,000.00 to plaintiff
22 is fair and reasonable in recognition of the contributions she has made and the risks she undertook
23 on behalf of the Settlement Group Members and the State of California, and orders that the
24 Settlement Administrator distribute this payment to plaintiff as provided for in the Settlement.

25 11. The Court finds that the amount of \$364,474.06 (representing 75% of the PAGA
26 civil penalties under California Labor Code section 2699(i)) payable to the LWDA as provided
27 for by the Settlement, is fair, adequate, and reasonable, and orders that payment be made to the
28 LWDA in accordance with the terms of the Settlement.

1 12. The Court authorizes the Settlement Administrator to calculate and pay the
2 Settlement Shares, in accordance with the terms of the Settlement, and to pay the LWDA Payment,
3 the Representative Plaintiff's Payment, and the Plaintiff's Counsel Fees and Expenses Payment at
4 the same time as the Settlement Shares.

5 13. Defendant is ordered to provide to the Settlement Administrator not later than 14
6 days after this order becomes Final the names, last known mailing addresses and telephone
7 numbers, Social Security numbers, and Covered Workweeks of all Settlement Group Members.
8 This information will not be disclosed to plaintiff or her counsel, and may be used solely for
9 purposes of administering the Settlement.

10 14. All payments due under the Settlement will be made pursuant to the Settlement.

11 15. If a Settlement Share check comes back to the Settlement Administrator as non-
12 deliverable, the Settlement Administrator will make reasonable efforts to find a current address
13 for the Settlement Group Member and re-mail the check.

14 16. If a Settlement Group Member fails to cash the check for his or her Settlement
15 Shares within 180 days after it is mailed to the Settlement Group Member (or, in the case where
16 the check was returned as non-deliverable, within 180 days after the initial mailing or within 90
17 days after it is mailed to the new address for the Settlement Group Member, whichever is later),
18 the Settlement Administrator will transfer the money represented by the check to the California
19 State Controller's Office Unclaimed Property Fund with an accounting of the amounts being
20 transferred.

21 17. The Court retains exclusive and continuing jurisdiction over this Action under
22 California Code of Civil Procedure section 664.6 for purposes of supervising, administering,
23 implementing, interpreting, and enforcing this order, as well as the Settlement Agreement.

24 18. Nothing in this order or the Settlement Agreement will be construed as an
25 admission or concession by any party, including an admission or concession that defendant bears
26 any liability to the Settlement Group Members or that they were owed the amounts being paid or
27 any amounts. The Settlement Agreement and this resulting order simply represent a compromise
28 of disputed allegations.

1 19. Plaintiff is directed to submit a copy of this order to the LWDA within 10 days of
2 the date of this order.

3 20. Upon entry of this order, plaintiff and the Settlement Group Members will waive
4 and release all claims against the Released Parties that were pled or could have been pled under
5 PAGA under the California Labor Code, Wage Orders, regulations, and/or other provisions of law
6 alleged in the Action to have been violated with respect to herself and the Settlement Group
7 Members during the Covered Period.

8 21. Based on the foregoing, and in accordance with the Settlement Agreement, this
9 action is DISMISSED WITH PREJUDICE, each side to bear its own costs and attorneys' fees
10 except as provided by the Settlement Agreement.

11 IT IS SO ORDERED.

12 Dated: July 30, 2020.



A handwritten signature in black ink, appearing to read "David J. Cowan".

David J. Cowan
Judge of the Superior Court
David J. Cowan / Judge

13
14 Counsel for plaintiff is ordered to give notice.

PROOF OF SERVICE

Rachel Buhl v. SDX Home Care Operations, LLC
Los Angeles County Superior Court Case No. 19STCV23623

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

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 [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On July 29, 2020, I served the foregoing document(s) described as:

[PROPOSED] ORDER GRANTING JOINT MOTION FOR APPROVAL OF PAGA SETTLEMENT (Cal. Lab. Code § 2699(l)(2)) AND PLAINTIFF'S MOTION FOR APPROVAL OF REASONABLE ATTORNEYS' FEES AND COSTS AND ENHANCEMENT AWARD

on the interested party(ies) in this action as follows:

Jeffrey D. Wohl, Esq.
Email: jeffwohl@paulhastings.com
Paul A. Holton, Esq.
Email: paulholton@paulhastings.com
PAUL HASTINGS LLP
101 California Street, 48th Floor
San Francisco, California 94111
Attorneys for Defendant SDX HOME CARE OPERATIONS

[X] (VIA ELECTRONIC MAIL) Pursuant to Emergency Rule # 12 of the California Rules of Court, I caused the document described above to be sent to the persons at the electronic service addresses listed above via third party cloud service First Legal.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 29, 2020, at El Segundo, California.


Jonathan Ramirez

09/19/2019

Sherri R. Carter, Executive Officer / Clerk of Court

By: O. Chavez Deputy

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JORGE GUTIERREZ, as an individual and on
behalf of all other aggrieved employees,

Plaintiff,

vs.

SEIDNER & CO., INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No.: BC724132

*[Assigned for all purposes to the Hon. Holly
J. Fujie; Dept. 56]*

**[PROPOSED] ORDER AND
JUDGMENT GRANTING PLAINTIFF'S
MOTION FOR APPROVAL OF PAGA
SETTLEMENT AND REASONABLE
ATTORNEYS' FEES, COSTS, AND
ENHANCEMENT AWARD**

Date: September 16, 2019

Time: 8:30 a.m.

Dept.: 56

Reservation No.: 122557984660

Action Filed: October 3, 2018

Trial Date: None Set

1 This matter came on regularly for hearing before this Court on September 16, 2019 at
2 8:30 a.m. Having considered the parties' Settlement Agreement, the documents and evidence
3 presented in support thereof, and recognizing the disputed factual and legal issues involved in
4 this case, the risks of further prosecution, the substantial benefits to be received by the State of
5 California and the Aggrieved Employees pursuant to the Settlement, the fair, reasonable, and
6 adequate nature of the settlement obtained as a result of good faith arm's-length negotiations
7 between the parties, the Court hereby makes a final ruling that the settlement is approved pursuant
8 to Labor Code § 2699(l). Good cause appearing therefor, the Court hereby GRANTS Plaintiff's
9 Motion for Approval of PAGA Settlement and Reasonable Attorneys' Fees, Costs, and
10 Enhancement Award and ORDERS as follows:

11 1. The "Aggrieved Employees" shall be defined as:

12 All current and former non-exempt employees of Defendant
13 in California from October 3, 2017, until the date that the
14 Court approves this settlement or September 16, 2019,
15 whichever comes earlier ("PAGA Period").

16 2. The Court hereby approves the Settlement as set forth in the Settlement
17 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
18 according to the terms of the Settlement Agreement.

19 3. The Court orders that Defendant Seidner & Co., Inc. shall deposit the Maximum
20 Settlement Amount of \$325,000.00 to the Settlement Administrator within fourteen (14) business
21 days of the Court's approval of the Settlement Agreement.

22 4. The Court hereby approves, as to form and content, the Notice of PAGA
23 Settlement and Release of Claims, submitted by the parties.

24 5. The Court hereby appoints CPT Group, Inc. as Settlement Administrator.

25 6. Within fourteen (14) business days of Court approval, Defendant Seidner & Co,
26 Inc. ("Seidner") will provide CPT with a list containing the Aggrieved Employees' full name,
27 last known mailing address, last known telephone number, start date(s) of employment, end
28 date(s) of employment, total pay periods worked, and Social Security numbers. The list will also
contain the total of all pay periods worked by Aggrieved Employees during the PAGA Period.

1 Within ten (10) business days of receipt of this information, the Settlement Administrator will
2 circulate to counsel for Plaintiff and Defendant an anonymized spreadsheet containing the
3 Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said
4 payments.

5 7. CPT Group, Inc. is directed to mail the individual settlement payments (which
6 will include the Aggrieved Employees' 25% share of civil penalties paid under Labor Code §
7 2699(i) and their share of civil penalties under Underpaid Wages and Civil Penalty) and Notice
8 of PAGA Settlement and Release of Claims to the Aggrieved Employees after approval of the
9 anonymized spreadsheet containing the individual settlement payments to each Aggrieved
10 Employee and the data used to calculate said payments from the parties.

11 8. The Court finds that attorneys' fees in the amount of \$108,333.33 for Plaintiff's
12 Counsel, and reimbursement of litigation costs of \$10,357.93 to Plaintiff's Counsel are fair,
13 reasonable, and adequate, and orders that the Settlement Administrator distribute these payments
14 to Plaintiff's Counsel as provided for in the Settlement Agreement.

15 9. The Court orders that the Settlement Administrator shall be paid \$7,750.00 for all
16 of its work done and to be done until the completion of this matter and finds that sum appropriate.

17 10. The Court finds that an enhancement award of \$5,000.00 to Plaintiff is fair and
18 reasonable in recognition of the unique contributions he has made and the risks he undertook on
19 behalf of the Aggrieved Employees and the State of California, and orders that the Settlement
20 Administrator distribute this payment to Plaintiff as provided for in the Settlement Agreement.

21 11. The Court finds that the amount of \$15,000.00 (representing 75% of the
22 \$20,000.00 set aside for PAGA civil penalties under Labor Code § 2699(i)) shall to be paid to
23 the California Labor and Workforce Development Agency ("LWDA") as provided for by the
24 Settlement, is fair, adequate, and reasonable, and orders that payment be made to the LWDA in
25 accordance with the terms of the Settlement Agreement.

26 12. The court approves the limited scope of the release. Following entry of this Order
27 and Final Judgment, all Aggrieved Employees will release Defendant Seidner & Co., Inc. and its
28 respective heirs, executors, administrators, successors, assignees, parents, subsidiaries and

1 related entities, officers, directors, shareholders, employees, agents, servants, representatives,
2 members, attorneys, insurers, re-insurers, assigns, and affiliates, and any and all other entities
3 with whom they have been, are now, or may hereafter be affiliated, and any of their affiliated
4 companies, predecessors, successors and assigns, as well as their past or present officers,
5 directors, agents, representatives, attorneys, insurers, re-insurers, assigns, or employees
6 (collectively, the "Released Parties") from any and all claims under PAGA that are pled in
7 Plaintiff's Complaint (including Labor Code § 558), or which could have been pled under the
8 PAGA based on the factual allegations in Plaintiff's Complaint, that arose during the PAGA
9 Period.

10 13. Upon entry of this Order and Judgment, the Court permanently enjoins and
11 forever bars Plaintiff and the Aggrieved Employees from instituting or prosecuting any action
12 against the Released Persons which was released as part of the Settlement Agreement. Without
13 affecting the finality of this Order and Judgment in any way, the Court retains jurisdiction to
14 enforce the terms of the Settlement.

15 14. Plaintiff shall file a declaration confirming the final distribution of funds on or
16 before June 5, 2020.

17
18 **IT IS SO ORDERED.**

19 09/19/2019

20 Dated: _____



Holly J. Fujie

Holly J. Fujie / Judge

Honorable Holly J. Fujie
Judge of the Superior Court

NOV 19 2018

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Attorneys for Plaintiff Silva and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JORGE GONZALEZ, individually and on
behalf of himself and other persons similarly
situated,

Plaintiff,

vs.

CITISTAFF SOLUTIONS, INC., a California
corporation; and DOES 1 through 30,
inclusive,

Defendants.

LUIS SILVA, an individual, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

CITISTAFF SOLUTIONS, INC., a California
Corporation, and DOES 1 through 100,

Defendants.

Case No. BC620115 (Lead Case)
Case No. BC622512

*[Assigned for all purposes to the Honorable
David S. Cunningham III, Dept. 37]*

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFF'S MOTION
FOR APPROVAL OF SETTLEMENT
CLAIMS BROUGHT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT, REASONABLE ATTORNEYS'
FEES, COSTS, ENHANCEMENT
PAYMENT, AND SETTLEMENT
ADMINISTRATION EXPENSES**

Date: September 27, 2018
Time: 8:30 a.m.
Dept.: 37
Reservation ID: 180409304435

Complaint Filed [Lead Case]: May 10, 2016
FSC: October 22, 2018
Trial Date: October 30, 2018

NOVEMBER 19, 2018

This matter came on regularly for hearing before this Court on ~~September 27, 2018~~ at 8:30 a.m. Having considered the parties' Joint Stipulation of Settlement and Release ("Settlement Agreement" or "Settlement"),¹ the documents and evidence presented in support thereof, and recognizing the disputed factual and legal issues involved in this case, the risks of further prosecution, the substantial benefits to be received by the State of California and the Aggrieved Employees pursuant to the Settlement, the fair, reasonable, and adequate nature of the settlement obtained as a result of good faith arm's-length negotiations between the parties, the Court hereby makes a final ruling that the settlement is approved pursuant to Labor Code section 2699(1). Good cause appearing therefor, the Court hereby GRANTS Plaintiffs' Motion for Approval of Settlement of Claims and ORDERS as follows:

1. The "Aggrieved Employees" shall be defined as:

All persons who, at any time during the Settlement and Release Period were employed by Defendant in non-exempt hourly positions in the State of California who were provided with at least one wage statement.

2. "Defendant" means CitiStaff Solutions, Inc.

3. The "Settlement and Release Period" means from May 10, 2015 to September 12, 2016.

4. 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 according to the terms of the Settlement Agreement.

5. The Court orders that Defendant shall pay the Gross Settlement Amount of \$275,000.00 to the Settlement Administrator on the following schedule, as provided for in the Settlement Agreement: Payment 1: \$15,000.00, to be paid within five (5) business days from an Order from the Court approving this Settlement or June 1, 2018, whichever is later, representing Representative Plaintiffs' Enhancement Payments; Payment 2: \$12,146.04 to be paid on July 1, 2018 representing Aggrieved Employees' Counsel Costs; Payment 3: \$30,555.55 to be paid on August 1, 2018, representing the first 1/3 of the Aggrieved Employees' Counsel Fees; Payment 4: \$30,555.55 to be paid on October 1, 2018, representing the second 1/3 of the Aggrieved

¹ All terms used in this Order shall have the same meaning as that assigned to them in the Settlement Agreement.

1 Employees' Counsel Fees; Payment 5: \$30,555.55 to be paid on December 1, 2018,
2 representing the third 1/3 of the Aggrieved Employees' Counsel Fees; Payment 6: \$15,630.78
3 to be paid on January 1, 2019 representing the amounts distributable to the LWDA, Aggrieved
4 Employees and Settlement Administration Costs; Payments 7 through 18: \$12,777.78 to be
5 paid monthly, commencing on February 1, 2019 through December 1, 2019, to be paid on the
6 first date of each month, representing the amounts distributable to the LWDA, Aggrieved
7 Employees and Settlement Administration Costs.² See Settlement, § III.H.2.

8 6. The Court hereby approves, as to form and content, the Notice of Settlement submitted
9 by the parties.

10 7. The Court hereby appoints CPT Group, Inc. as Settlement Administrator.

11 8. Within fifteen (15) business days of settlement approval, CitiStaff will provide CPT
12 with a list containing the Aggrieved Employees' names, last known addresses, last known
13 telephone numbers, and social security numbers.

14 9. CPT Group, Inc. is directed to mail the individual settlement payments and Notice of
15 Settlement to the Aggrieved Employees within ten (10) days of receipt of the Defendant's final
16 payment of the Gross Settlement Amount.

17 10. The Court finds that attorneys' fees in the amount of \$91,666.66 for Plaintiffs' counsel,
18 and reimbursement of litigation costs of ~~\$12,147.00~~ ^{\$11,842.95} to Plaintiffs' counsel, are fair, reasonable,
19 and adequate, and orders that the Settlement Administrator distribute these payments to
20 Plaintiffs' Counsel as provided for in the Settlement Agreement.

21 11. The Court orders that the Settlement Administrator shall be paid up to \$65,000.00 for
22 all of its work done and to be done until the completion of this matter, and finds that sum
23 appropriate.

24 12. The Court finds that Representative Plaintiff Enhancement Payments of \$5,000.00 each
25 to Plaintiffs Jorge Gonzalez, Teresa Nieto, and Luis Silva for a total amount of \$15,000.00, is
26

27 ² The parties have agreed and this Court approves that to the extent that any of the payment
28 deadlines fall prior to the date that this Court issues its approval order, CitiStaff will make any
payments on the due dates with the Settlement Administrator holding the funds in escrow.

1 fair and reasonable in recognition of the unique contributions they have made and the risks they
2 undertook, on behalf of the Aggrieved Employees and the State of California, and orders that
3 the Settlement Administrator distribute this payment to Plaintiffs as provided for in the
4 Settlement Agreement.

5 13. The Court finds that the amount of \$68,389.75, representing 75% of the \$91,186.34
6 allocated as PAGA penalties in this action, to be paid to the California Labor and Workforce
7 Development Agency ("LWDA") as provided for by the Settlement, is fair, adequate, and
8 reasonable, and orders that payment be made to the LWDA in accordance with the terms of the
9 Settlement Agreement.

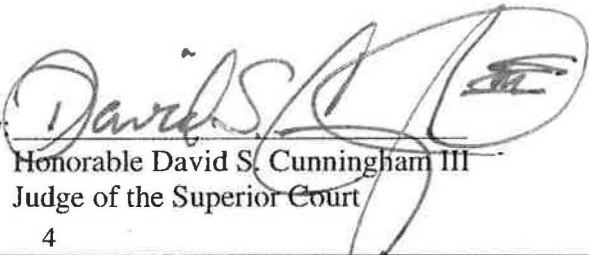
10 14. The court approves the limited scope of the release. Following entry of this Order and
11 Final Judgment, Representative Plaintiffs and Aggrieved Employees will have released all
12 Released Claims against Released Persons, meaning that PAGA civil penalties recoverable
13 under any theory of liability upon which such civil penalties under the PAGA could have been
14 recovered based upon the allegations in the operative Complaint, including specifically any and
15 all claims, causes of action, damages, wages, benefits, expenses, penalties, interest, debts,
16 liabilities, demands, obligations, attorneys' fees, costs, and any other form of relief or remedy
17 in law, equity, or whatever kind or nature that were asserted or could have been asserted
18 pursuant to Labor Code §§ 558 or 2698 et seq. for violation of Labor Code Section 226.

19 15. Upon entry of this Final Order and Judgment, the Court permanently enjoins and
20 forever bars the Representative Plaintiffs, Aggrieved Employees' Counsel, or the Aggrieved
21 Employees from instituting or prosecuting any action against the Released Persons which was
22 resolved as part of the Settlement. Without affecting the finality of this Final Order and
23 Judgment in any way, the Court retains jurisdiction to enforce the terms of the Settlement.
24 Plaintiffs shall file a declaration confirming the final distribution of funds on or before

25 JANUARY 21, ²⁰²⁰~~2019~~.

26 **IT IS SO ORDERED.**

27 Dated: 11-19-2018

28 By: 
Honorable David S. Cunningham III
Judge of the Superior Court