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9 SUPERIOR COURT OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SAN JOAQUIN

11 JAREMEY PEDRO, an individual,

12 Plaintiff,

13 vs.

14 STANLEY STEEMER OF EVANSVILLE,
15 INC., a corporation; and DOES 1-100,
16 inclusive,

17 Defendants.

Case No.: STK-CV-UOE-2021-0001560

STIPULATION OF SETTLEMENT UNDER
PRIVATE ATTORNEYS GENERAL ACT OF
2004; [PROPOSED] ORDER

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19 The Parties hereto, Plaintiff Jaremey Pedro ("Plaintiff"), as a proxy for the Labor and
20 Workforce Development Agency ("LWDA"), and Defendant Stanley Steemer of Evansville, Inc.
21 ("Defendant"), by and through their respective counsel of record, hereby stipulate and agree as follows:

22 1. WHEREAS, on December 18, 2020, counsel for Plaintiff sent a letter to the California
23 Labor and Workforce Development Agency ("LWDA") and Defendant alleging violations of Labor
24 Code sections 201, 202, 204, 226, 226.7, 246, and 510 alleged to have occurred during Plaintiff's
25 employment with Defendant ("LWDA Letter").

26 2. WHEREAS, on February 23, 2021, Plaintiff filed the above-captioned civil action in
27 this Court, alleging a single cause of action under the Private Attorneys General Act ("PAGA", Lab.
28 Code, § 2698 *et seq.*), alleging violations of the aforementioned statutes (the "PAGA Claim");

1 3. WHEREAS, subsequent to the filing of the Complaint, the Parties have engaged in
2 informal discovery through which Defendant has provided information regarding the number of
3 California employees believed to have been affected by the alleged violations during the relevant time
4 period. The total number of aggrieved employees potentially affected by the PAGA Claim as of the
5 date of this order is 138.

6 4. WHEREAS, on September 23, 2021, the Parties attended private mediation with the
7 Hon. Hurl Johnson (Ret.), a retired Judge of the Superior Court of California and an experienced
8 mediator of employment cases, including representative actions under the PAGA;

9 5. WHEREAS, Defendant denies all of Plaintiff's allegations, both on factual and legal
10 bases.

11 6. WHEREAS, the Parties engaged in settlement negotiations primarily through their
12 respective attorneys: John P. Briscoe, a shareholder of Mayall Hurley P.C. and a member of that firm's
13 employment litigation group; and Andrea Close, an associate attorney at Smith McDowell & Powell,
14 both experienced litigators with knowledge of employment law and the PAGA.

15 7. WHEREAS, and subsequent to arms'-length negotiations with the assistance of an
16 experienced, competent and neutral mediator, the Parties reached agreement on the terms of settlement
17 regarding the PAGA Claim (and also Plaintiff's individual claims, by way of a separate, confidential
18 settlement agreement).

19 8. WHEREAS, Labor Code section 2699(l) requires that the court review and approve any
20 proposed settlement agreement pursuant to PAGA.

21 9. WHEREAS, Plaintiff and Plaintiff's counsel concluded—after taking into account the
22 sharply disputed factual and legal issues involved in the Action, the risks attending further prosecution,
23 the discovery and investigation conducted to date, and the substantial benefits received and to be
24 received pursuant to the compromise and settlement of the Action, the nature of the claimed violations
25 and the wide discretion of the Court to reduce civil penalties imposed—that settlement on the terms
26 herein set forth is in the best interest of all interested parties, including the LWDA, and that the
27 settlement adequately serves the deterrent purposes of the PAGA.

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1 10. WHEREAS, Plaintiff and Plaintiff's counsel have balanced their evaluation of the
2 validity and strength of the asserted claims against the problems of proof and the legal standards
3 governing the claims alleged. Based on this evaluation, Plaintiff's counsel believes that the settlement
4 reached is eminently fair and reasonable and satisfies the public policies of PAGA to punish past
5 violations and deter future violations of the Labor Code.

6 11. WHEREAS, similarly, Defendant and Defendant's counsel concluded there were
7 benefits associated with settling. Although Defendant denies the various allegations and challenges
8 the validity of each of the causes of action in the Action, Defendant took into account the sharply
9 disputed factual and legal issues involved in the Action, the risk attending further defense, the expense,
10 time and burden of protracted litigation, and the desire to put the controversy to rest. Based on these
11 factors, Defendant and Defendant's counsel agreed to this settlement without any admission of fault
12 or liability. Nothing in this Agreement, nor any action taken in implementation thereof, nor any
13 statements, discussions or communications, nor any materials prepared, exchanged, issued, or used
14 during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute,
15 nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case
16 or any judicial, arbitral, administrative, investigative, or other forum or proceeding as evidence of any
17 violation of any federal, state, or local law, statute, ordinance, regulation, rule, or executive order, or
18 any obligation or duty at law or in equity, against Defendant or any other Released Party (as defined
19 in paragraph 13, *infra*).

20 12. WHEREAS, the parties hereby agree to settle the PAGA Claim at issue in the Action
21 ("the PAGA Settlement") for a total payment of \$105,000.00 and dismiss with prejudice the First
22 Cause of Action under the PAGA.

23 13. WHEREAS, the persons covered by the PAGA Settlement will be Plaintiff and all other
24 persons who were employed by Defendant in California at any time between December 20, 2019 and
25 the date this order is approved by the Court. The time period covered by the PAGA Settlement will be
26 from December 20, 2019 through the date of this order ("the PAGA Timeframe"). The Released
27 Parties include Defendant, its parents, predecessors, successors, related companies, subsidiaries,
28 affiliates, partners, officers, directors, managers, servants, agents, employees, former employees,

1 future employees, future entities, trusts, employment agencies and professional employer
2 organizations, and their employees, officers, agents, representatives, attorneys, past or present,
3 insurers, stockholders, fiduciaries, and other service providers, and their successors and assigns, and
4 all persons acting under, by, through, or in concert with any of them (hereinafter collectively referred
5 to as the "Released Parties"). Upon the Effective Date (the date of this stipulated order), the LWDA
6 and each of the Other Aggrieved Employees, including Plaintiff, hereby voluntarily and knowingly
7 release and forever discharge any and all claims seeking civil penalties under the PAGA predicated on
8 any violation of Labor Code sections 201, 202, 204, 226, 226.7, 246, and 510, arising from December
9 20, 2019 through the date of this order.

10 14. This Stipulation of Settlement shall not operate as a waiver of any person's individual
11 (i.e., non-PAGA) claims.

12 15. WHEREAS, the sum of \$105,000 (the "Gross PAGA Settlement Sum") shall be
13 allocated as follows:

- 14 a. \$35,000.00, representing approximately 33 1/3% of the Gross PAGA Settlement
15 Sum as attorneys' fees incurred for prosecution of the PAGA Claim;
16 b. \$2,750.00 as professional fees and costs of the Settlement Administrator, Phoenix
17 Settlement Administrators.
18 c. \$2,605.75 representing costs of suit incurred in prosecution of the PAGA claim; and
19 d. \$5,000.00 to Plaintiff as a service enhancement award.

20 The Net PAGA Settlement Amount will be further allocated as follows:

- 21 e. \$14,911.06, or 25 percent (25%) of the Net PAGA Settlement Sum will be
22 distributed by the Settlement Administrator to Plaintiff and the Other Aggrieved
23 Employees who worked during the PAGA Timeframe. Each employee will receive
24 a proportional share of the net PAGA Settlement Sum based on the number of pay
25 periods he/she was employed during the PAGA Timeframe. (These payments are
26 referred as "Individual Settlement Payments.") Any such employees still employed
27 with or on behalf of Defendant will receive the appropriate credit apart from their
28 regular pay. The Settlement Administrator will send each Other Aggrieved
Employee their portion of the settlement by mail to the last known address.
Settlement checks issued to the Other Aggrieved Employees pursuant to this
Agreement shall expire 180 days from the date they are issued. Any unclaimed
funds after the 180 days shall be remitted to the LWDA.
- f. \$44,733.19, or 75 percent (75%) of the Net PAGA Settlement Sum, shall be paid
to the LWDA in accordance with Section 2699(i) of the California Labor Code.

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2 16. WHEREAS, on the condition that the Court approves this Stipulation and enters the
3 attached Order: the PAGA Settlement Sum will be paid as follows:

- 4 a. Within ten (10) calendar days after the Effective Date, Defendant shall pay the
5 Gross PAGA Settlement Sum to the Settlement Administrator and shall provide the
6 Settlement Administrator with a list of the names and last-known addresses of the
7 Other Aggrieved Employees. Within ten (10) calendar days of receipt of the Gross
8 PAGA Settlement Sum, the Settlement Administrator shall (1) pay attorney's fees
9 to Mayall Hurley P.C. in the amount of \$35,000.00, (2) pay costs of suit to Mayall
10 Hurley P.C. in the amount of \$2,605.75, (3) pay \$44,733.19 to the LWDA; (4) pay
11 the Individual Settlement Payments to the Other Aggrieved Employees; (5) pay the
12 enhancement award to Plaintiff (mailed to Mayall Hurley P.C.); and (6) retain
13 \$2,750.00 for its fees and costs.
- 14 b. With regard to the Other Aggrieved Employees with the exception of Plaintiff, their
15 Individual Settlement Payments shall be sent to each Other Aggrieved Employee
16 by U.S. First Class mail to the Other Aggrieved Employee's last known address. A
17 letter explaining this Settlement Agreement will be included in the mailing of each
18 Other Aggrieved Employee's check. Plaintiff's payment will be sent with the other
19 consideration provided for resolution of his individual claims. It will be
20 conclusively presumed that any Other Aggrieved Employee's check was received
21 if the payment check has not been returned within thirty (30) days of the original
22 mailing of the payment check.
- 23 c. Settlement checks shall remain valid and negotiable for one hundred eighty (180)
24 calendar days from the date of their issuance. If there are uncashed checks
25 following this period, Defendant will ensure that uncashed funds shall be forwarded
26 to the LWDA in the name of the Other Aggrieved Employee who did not cash his
27 or her Individual Settlement Payment, if practicable.
- 28 d. The settlement payments set forth above will be reported on IRS Form 1099s.
Plaintiff, Mayall Hurley P.C., and the Other Aggrieved Employees shall be solely
responsible for the reporting and payment of their share of any federal, state and/or
municipal income or other taxes on payments made pursuant to this Agreement, and
shall hold Defendant and Defendant's counsel free and harmless from any claims
resulting from treatment of such payments as non-taxable, including the treatment
of such payments as not subject to withholding or deduction for payroll and
employment taxes. No party has made any representation to any of the other Parties
as to the taxability of any payments pursuant to this agreement, including the
payments to Plaintiff and the Other Aggrieved Employees, the payments to
Plaintiff's counsel, or otherwise as to the tax implications of any provision of this
Agreement.

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1 17. The Parties jointly request that the Court approve the penalties sought as part of the
2 PAGA Settlement and approve the dismissal of the PAGA Claim in the Complaint attendant therewith.

3 18. This Stipulation is made for the sole purpose of settling this Action. This Stipulation
4 and the settlement it evidences are made in compromise of disputed claims. Because this action was
5 pleaded as a PAGA action, this Stipulation must receive approval by the Court. Accordingly, the
6 Parties enter into this Stipulation and associated settlement on a conditional basis. If the Court does
7 not enter an order granting approval of this Stipulation, this Stipulation shall be deemed null and void;
8 it shall be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose
9 whatsoever; and the negotiation, terms and entry of the Stipulation shall remain subject to the
10 provisions of California Evidence Code sections 1119 and 1152, Federal Rule of Evidence 408, and
11 any other analogous rules of evidence that may be applicable. If the Court does enter an order granting
12 approval of this Stipulation, the Parties shall file a Request for Dismissal which includes a dismissal
13 of the PAGA Claim in the Complaint.

14 19. The Parties and their counsel agree that they will not issue any press releases, initiate
15 any contact with the press, respond to any press inquiry or have any communication with the press
16 about the fact, amount or terms of this Stipulation. In addition, the Parties and their counsel agree that
17 they will not engage in any advertising or distribute any marketing materials relating to this Stipulation
18 or this action in any manner that identifies Defendant, including but not limited to any postings on any
19 websites maintained by Plaintiff's counsel. Neither Plaintiff nor Plaintiff's Counsel will discuss the
20 terms or the fact of this Agreement with third parties other than (1) their immediate family members,
21 or (2) their respective accountants or lawyers as necessary for tax purposes. Plaintiff and Plaintiff's
22 Counsel agree not to publish any of the terms or conditions of this Stipulation in any manner that
23 identifies Defendant.

24 20. Plaintiff's attorney has calculated the attorneys' fees included in paragraph 15. The
25 Parties agree that if the Court approves an amount of attorneys' fees less than the amount set forth in
26 Paragraph 15, the unapproved portion shall revert to the Net PAGA Settlement Amount to be
27 distributed between the Plaintiff, the Other Aggrieved Employees and the LWDA in the same
28 percentages as set forth in Paragraph 15.

1 **IT IS SO STIPULATED.**

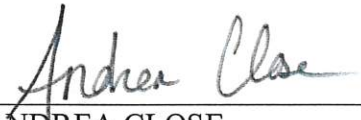
2 **DATED:** October 10, 2021

MAYALL HURLEY P.C.

3
4 By: 
5 JOHN P. BRISCOE
6 Attorneys for Plaintiff

7 **DATED:** October 11, 2021

SMITH, MCDOWELL & POWELL

8
9 By: 
10 ANDREA CLOSE
11 Attorneys for Defendant

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14 **ORDER**

15 Upon review of the foregoing stipulation entered into by and between the parties in the above-
16 referenced action, and good cause appearing therefor,

17 **IT IS HEREBY ORDERED** that the foregoing stipulation is hereby approved and the Court
18 approves the Parties' PAGA Settlement pursuant to Labor Code § 2699(1).
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20 **DATED:**

21 Judge of the Superior Court
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