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Attorneys for Defendants
LEON C. WILLARD and L.C. WILLARD
ROOFING

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JOSE D. MEJIA, an individual,

Plaintiff,

v.

LEON C. WILLARD, individually &
doing business as L.C. WILLARD
ROOFING; and DOES 1 through 20,
Inclusive,

Defendants.

Case No. 21STCV20776

**JOINT STIPULATION AND
[PROPOSED] ORDER APPROVING
PAGA SETTLEMENT**

Complaint Filed: June 3, 2021

1) Plaintiff filed this action on June 3, 2021.

2) The Complaint asserts various Labor Code claims as well as a cause of action under the Private Attorneys General Act, Labor Code section 2699, et seq. predicated on multiple violations of the Labor Code.

3) Defendants filed an Answer on July 7, 2021.

4) After having engaged in voluntary disclosure of documents and records and conducted

1 independent analysis, the parties attended a mediation session with Steve Young on November
2 22, 2021. As a result of the mediation, the parties reached a resolution.

3 5) This settlement meets the various standards for approval required by Labor Code §
4 2699(1)(2), which states: “The superior court shall review and approve any settlement of any civil
5 action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the
6 same time that it is submitted to the court.” There is no noteworthy case law setting forth the
7 standard for a court’s review and approval of PAGA penalties.

8 6) The Senate Daily Journal for the 2003-2004 Regular Session, pages 4754-55 contained
9 the following letter dated July 29, 2004, from Senator Joseph L. Dunn, regarding the intent of the
10 PAGA: “The purpose of the court review of penalties in subdivision (1) is to ensure that
11 settlements involving penalties arising under Labor Code Section 2699 do not undercut the dual
12 statutory purposes of punishment and deterrence, or result in unjust, arbitrary and oppressive, or
13 confiscatory settlements.”

14 7) Plaintiff’s main claims center around Defendants’ alleged failure to pay correct
15 overtime rates to aggrieved employees, of which there are a total of 4.

16 8) Under the recent California Supreme Court case Z.B., NA v. Superior Court (2019) 8
17 Cal.5th 175, 241, unpaid wages may not be collected as part of an action under the PAGA for
18 remedies under Labor Code § 558.

19 9) Only civil penalties are recoverable in a PAGA action; statutory penalties are not
20 recoverable under the PAGA. Tanguilig v. Bloomingdale’s, Inc. (2016) 5 Cal.App.5th 665, 676. 3

21 10) Against this backdrop, the parties have agreed to a PAGA payment of \$1,000
22 distributed as follows: \$333.33 to Sirmabekian Law Firm for PAGA Counsel’s fees, \$75.00 for
23 PAGA Counsel’s costs, with 75% of the remainder being paid to the State and 25% of the
24 remainder being paid in equal shares to the 4 aggrieved employees. In addition to the PAGA
25 penalties, the aggrieved employees, including Plaintiff, have individually negotiated and settled in
26 full their underlying wage and hour claims that cannot be recovered through a PAGA settlement.
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28

1 11) The parties submit that payment of a \$1,000 civil penalty for the claims alleged in the
2 Complaint does not undercut the statutory purposes of the PAGA, or result in an unjust, arbitrary
3 and oppressive, or confiscatory settlement. Defendant represents to the Court that Defendant is a
4 small sole proprietorship that has very limited financial means, did not engage in intentional
5 misconduct in violation of the Labor Code, and corrected its internal procedures before this
6 lawsuit was filed.

7 12) Defendant ("Settlement Administrator") shall administer the PAGA settlement checks,
8 and provide Plaintiff a detailed declaration of compliance. Each aggrieved employee ("PAGA
9 Settlement Group Member") must receive or cash his or her Settlement Share payment or
10 check within 180 calendar days after it is mailed to him or her. If a check is returned to the
11 Settlement Administrator, the Settlement Administrator will make all reasonable efforts to
12 re-mail it to the PAGA Settlement Group Member at his or her correct address. If any
13 PAGA Settlement Group Member's Settlement Share check is not cashed within one hundred
14 twenty (120) calendar days after its last mailing to the PAGA Settlement Group Member,
15 the Settlement Administrator will send the PAGA Settlement Group Member a letter or postcard
16 informing him or her that unless the check is cashed in the next sixty (60) calendar days,
17 it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced
18 but not cashed. If a PAGA Settlement Group Member fails to cash the check for his or her
19 Settlement Share within one hundred eighty days (180) calendar days after it is mailed to him or
20 her, the funds shall be distributed by the Settlement Administrator to the State Controller's
21 Unclaimed Property Fund in the Settlement Group Member's name.

22 13) This Stipulation was submitted to the LWDA on 12/02/2021, in compliance
23 with Labor Code § 2699(1)(2).

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1 DATED: December 1, 2021

SIRMABEKIAN LAW FIRM PC

2
3 By:


SARKIS SIRMABEKIAN
Attorney for Plaintiffs

4
5
6 DATED: December 1, 2021

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

7
8
9 By:


KARINA B. STERMAN (SBN 249867)
JAMES W. HILL (SBN 293971)
Attorneys for Defendants
LEON C. WILLARD and L.C.
WILLARD ROOFING

ORDER:

Having reviewed and considered the above JOINT STIPULATION, and GOOD CAUSE appearing therefore, the Court hereby ORDERS as follows:

1. The Court APPROVES the Parties' JOINT STIPULATION and PAGA SETTLEMENT on the terms set forth in the JOINT STIPULATION;
2. The Entire Action is Dismissed With Prejudice; The Court shall retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement per California Code of Civil Procedure Section 664.6.

OTHER ORDERS:

_____.

IT IS SO ORDERED.

DATED: _____

Honorable Michael P. Linfield
Judge of the Superior Court; Dept. 34

PROOF OF SERVICE
(§ 1013a, 2015.5 C.C.P.)

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

I am a citizen of the United States of America; I am over the age of eighteen years and not a party to the within entitled action; my business address is: 3435 Wilshire Boulevard, Suite 1710, Los Angeles, California 90010.

On the below-indicated date, I served the following document:

JOINT STIPULATION AND [PROPOSED] ORDER APPROVING PAGA SETTLEMENT

on the interested parties in said action by placing:

___X,___ a true and correct copy,

and addressed as set forth on the attached Service List and delivered by one or more of the means set forth below:

☒ **BY ELECTRONIC SERVICE IN LIEU OF SERVICE BY MAIL, EXPRESS MAIL, OVERNIGHT DELIVERY, OR FACSIMILE TRANSMISSION:** In accordance with California Code of Civil Procedure section 1010.6, I caused the document to be sent to the person(s) below at the e-mail address(es) listed below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED: December 2, 2021
At Los Angeles, California

Grigor Gregg Sirmabekhian
Grigor Gregg Sirmabekhian

[SIGNATURE PAGE FOLLOWS]

SERVICE LIST

Counsel	Representing
Karina B. Sterman [SBN 193182] James W. Hill [SBN 293971] GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP 2049 Century Park East, Suite 2600 Los Angeles, California 90067 Email: <i>KSterman@ggfirm.com</i> Email: <i>JHill@ggfirm.com</i>	<i>Attorneys for Defendants LEON C. WILLARD and L.C. WILLARD ROOFING</i>
Labor and Workforce Development Agency Department of Industrial Relations LWDA Attn. PAGA Administrator 1515 Clay Street, Ste. 801 Oakland, California 94612	<i>Labor and Workforce Development Agency ("LWDA") filed/served online at: https://www.dir.ca.gov/Private-Attorneys- General-Act/Private-Attorneys-General- Act.html</i>