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Attorneys for Plaintiff Trevor Marshall, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

TREVOR MARSHALL, on behalf of
himself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

DSI LOGISTICS, LLC, a Delaware limited
liability company, and DOES 1 through 10,
inclusive,

Defendants.

CASE No. STK-CV-UOE-2021-3347

*Assigned for All Purposes to Judge Robert T.
Waters in Department 11B*

UNLIMITED JURISDICTION

**STIPULATION AND [PROPOSED] ORDER
APPROVING SETTLEMENT OF CLAIMS
AND DISMISSING ACTION WITH
PREJUDICE**

Complaint Filed: April 16, 2021

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Whereas, Plaintiff filed this representative action, pursuant to the Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, “PAGA”) on April 16, 2021 alleging multiple violations of the Labor Code, after complying with the administrative requirements set forth in Labor Code § 2699.3 on February 5, 2021 (Declaration of Evan S. Gaines [“Gaines Decl.”] at ¶ 3; Exhibit “A” to Gaines Decl.).

2. Whereas, the parties conducted informal discovery through which they ascertained the size of the allegedly aggrieved employee group and the number of pay periods worked by them during the applicable statutory period to ascertain the total value of Plaintiff’s claims. (Gaines Decl. at ¶ 4.)

3. Whereas, the parties thereafter engaged in arm’s-length negotiations and reached a resolution of the PAGA claims asserted in the action.

4. Whereas, Defendant has concluded that, because of the substantial expense of defending against the PAGA claims, the length of time necessary to resolve the issues presented herein, the inconvenience involved, and the concomitant disruption to their business operations, it is in its best interests to accept the terms of this Agreement. Defendant denies each of the allegations and claims asserted by Plaintiff. However, Defendant has decided to settle these claims for purpose of avoiding the burden, expense and uncertainty of continuing litigation and for the purpose of putting to rest the Litigation.

5. Whereas, based on discovery completed, the maximum value of the civil penalty claims asserted for the time period reviewed, as to Plaintiff’s alleged (i) failure to pay overtime and (ii) failure to pay sick pay, is \$140,000 and the amount of the settlement is \$90,000, or 64% of the maximum recoverable penalties (based on approximately 700 affected pay periods worked by 183 Aggrieved Employees at the rate of \$100 for each violation) together with an apportionment for attorneys’ fees, costs, a release payment to Plaintiff Marshall, and expenses required to administer the settlement. (Gaines Decl. at ¶ 5.)

1 6. Whereas, the parties have entered into a settlement agreement to resolve the PAGA
2 claim on behalf of all non-exempt employees of DSI Logistics LLC employed in California who
3 earned any bonus compensation (including “appreciation pay”) at any time between March 1, 2020
4 and August 31, 2020 (Gaines Decl. at ¶ 6; Exhibit “B” to Gaines Decl.)

5 7. Whereas, based on his extensive experience litigating over 100 representative
6 actions, counsel for Plaintiff believes the Settlement Agreement and Release is fair and reasonable
7 and warrants approval by the Court. (Gaines Decl. at ¶¶ 2, 5; Exhibit “C” to Gaines Decl.)

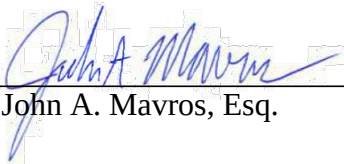
8 8. Whereas, the parties request that the Court enter the accompanying order, approving
9 their Settlement Agreement and Release (attached to the Gaines Declaration as Exhibit “B”), as
10 permitted by Labor Code § 2699(l), and dismissing the Action with prejudice.

11 **IT IS SO STIPULATED.**

12 For Plaintiff:
13 GAINES & GAINES, APLC

For Defendant:
FISHER & PHILLIPS LLP

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15 By: Evan S. Gaines
16 Evan S. Gaines, Esq.

By: 
John A. Mavros, Esq.

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ORDER

The Court, having reviewed the parties' Settlement Agreement and Release attached as Exhibit "B" to the concurrently-filed Declaration of Evan S. Gaines, together with the Stipulation of the Parties and the Declaration of Evan S. Gaines, and exhibits attached thereto, hereby ORDERS:

1. The Court finds the Settlement Agreement and Release was entered into in good faith, that the settlement is fair, reasonable, and adequate, and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

2. The Court approves the payments to be paid to the Aggrieved Employees and the State of California as set forth in the Settlement Agreement and Release, pursuant to Labor Code § 2699(l). The Court approves all payments to be made to Plaintiff, Plaintiff's counsel and the parties' chosen settlement administrator, ILYM Group, Inc., based on the terms and timelines set forth in the Settlement Agreement and Release.

3. The Court approves and confirms the release and waiver of claims and rights under PAGA as to Plaintiff, all Aggrieved Employees, and the LWDA, as provided for in the Settlement Agreement and Release and recited above in the Stipulation of the Parties

4. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement Agreement and Release based on the provisions and timelines set forth within it.

5. This Action is hereby DISMISSED WITH PREJUDICE.

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1 6. This Court shall retain jurisdiction, pursuant to Code of Civil Procedure section
2 664.6 and as otherwise provided by law, with respect to all matters related to the administration
3 and consummation of the Settlement Agreement and Release, and any and all claims asserted in,
4 arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters
5 related to the settlement and the determination of all controversies relating thereto.

6 **IT IS SO ORDERED.**

7
8 Dated: _____

JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
3 the within action; my business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301

4 _____ (For messenger) my business address is:

5 On May 4, 2021, I served the foregoing document described **STIPULATION AND [PROPOSED] ORDER**
6 **APPROVING SETTLEMENT OF CLAIMS AND DISMISSING ACTION WITH PREJUDICE** the interested
7 parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

8 **John A. Mavros, Esq.**
9 **Fisher & Phillips LLP**
10 **2050 Main Street Suite 1000**
11 **Irvine, CA 92614**

12 **Labor & Workforce Development Agency**
13 **(Service via Online Submission to www.dir.ca.gov)**

14 X (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
15 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection
16 and processing correspondence for mailing. It is deposited with United States postal service on that same
17 day in the ordinary course of business. I am aware that on motion of party served, service is presumed
18 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for
19 mailing in affidavit.

20 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
21 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an
22 authorized carrier or driver authorized by the express carrier to receive documents.

23 _____ (BY FACSIMILE TRANSMISSION) On _____, at _____, at Calabasas, California, I served the above-
24 referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of
25 the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-
26 8984 and the telephone number(s) of the receiving facsimile machine was (916) 920-4402. A
27 transmission report was properly issued by the sending facsimile machine, and the transmission was
28 reported as complete and without error. Copies of the facsimile transmission cover sheet and the
transmission report are attached to this proof of service.

29 X (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor Workforce
30 Development Agency via online process at the PAGA Filing website in accordance with the procedure
31 imposed by the LWDA.

32 I certify that the above document was printed on recycled paper.

33 I declare under penalty of perjury that the foregoing is true and correct.

34 Executed on May 4, 2021, at Calabasas, California.

35 Beatriz Franco
36 BEATRIZ FRANCO