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Attorneys for Defendants

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ARNOLD PARTIDA, on behalf of the State of
California and other aggrieved persons,

Plaintiff,

v.

PRO WALL LATH & PLASTER, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 37-2021-00046724-CU-OE-CTL

PAGA REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Richard S.
Whitney, Dept. C-68]

**JOINT STIPULATION REGARDING
APPROVAL OF SETTLEMENT UNDER
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT; [PROPOSED] ORDER**

[Filed concurrently with: Declaration of Justin
F. Marquez in Support of Joint Stipulation
Regarding Approval of Settlement Under
California Private Attorneys General Act]

Complaint filed: November 3, 2021
Trial date: Not set

1 **IT IS HEREBY STIPULATED AND AGREED BY THE BELOW PARTIES,**
2 **THROUGH THEIR RESPECTIVE COUNSEL OF RECORD, AS FOLLOWS:**

3 **WHEREAS**, on November 3, 2021, Plaintiff Arnold Partida (“Plaintiff”) filed a Private
4 Attorneys General Act (“PAGA”) action against Defendant Pro Wall Lath & Plaster, Inc.
5 (“Defendant” and together with Plaintiff, the “Parties”) in the Superior Court of California, County
6 of San Diego (the “Action”). (Declaration of Justin F. Marquez [“Marquez Decl.”], ¶ 2);

7 **WHEREAS**, Defendant denies all allegations raised by Plaintiff in the Action;

8 **WHEREAS**, on August 8, 2024, the Parties reached a resolution through private mediation
9 with Gig Kyriacou, Esq. (Marquez Decl., ¶ 3);

10 **WHEREAS**, the Parties entered into an Agreement Re: Settlement Terms setting forth the
11 material terms of the Parties’ settlement on or around August 9, 2024. (*Id.* at ¶ 4);

12 **WHEREAS**, on August 28, 2024, the Parties fully executed a long-form settlement
13 agreement which includes an explanatory letter which will be mailed out to the Aggrieved
14 Employees¹ by the Settlement Administrator. (*Id.* at ¶ 5, Ex. A, (PAGA Settlement Agreement
15 [“Settlement Agreement”])); ²

16 **WHEREAS**, California Labor Code (“Cal. Lab. Code”) section 2699(1)(2) requires judicial
17 review and approval of any proposed settlement involving a PAGA claim.

18 **WHEREAS**, Plaintiff and Plaintiff’s counsel concluded, after taking into account the
19 sharply disputed factual and legal issues involved in the Action, the risks associated with further
20 prosecution, and the substantial benefits received and to be received pursuant to the Settlement,
21 that the Settlement is in the best interest of all interested parties and beneficiaries. (*Id.* at ¶ 6);

22 **WHEREAS**, Plaintiff’s PAGA claim is based on Defendant’s alleged failure to pay for
23 all hours worked (minimum, straight time, and overtime wages), failure to provide legally
24 compliant meal periods, failure to authorize and permit rest periods, failure to pay all earned wages
25 twice per month, failure to maintain accurate records of hours worked and meal periods, failure to

26
27 ¹ The “Aggrieved Employees” means a person employed by Defendant in California and classified as a non-
exempt or hourly-paid employee who worked for Defendant during the PAGA Period.

28 ² Plaintiff is also concurrently submitting the Settlement Agreement to the California Labor & Workforce
Development Agency (“LWDA”) in compliance with Cal. Lab. Code section 2699(1)(2).

1 timely pay final wages at termination, failure to furnish accurate itemized wage statements, and
2 failure to indemnify for necessary business expenditures. (*Id.* at ¶ 2.) Plaintiff and Plaintiff's
3 counsel have balanced their evaluation of the validity and strength of these asserted allegations
4 against the problems of proof, collectability, and the legal standards governing said allegations,
5 and found significant risk in proceeding. Based on this evaluation, Plaintiff's counsel believes
6 that the Settlement satisfies the public policies of PAGA and is fair to all parties and
7 beneficiaries. (*Id.* at ¶ 7);

8 **WHEREAS**, similarly, Defendant and Defendant's counsel concluded there were
9 benefits associated with settling. Although Defendant disputes the various allegations in the
10 Action, Defendant took into account the risk attending further defense, the expense, time, and
11 burden of protracted litigation, and the desire to put the controversy to rest, and based on these
12 factors, Defendant and Defendant's counsel agreed to the Settlement without any admission of
13 fault or liability;

14 **WHEREAS**, as part of the Settlement, Defendant has agreed to pay a sum of
15 \$875,000.00 (the "Gross Settlement Amount"), which includes payments to all Aggrieved
16 Employees (25% of the Net Settlement Amount [as defined in §1.15 of the Settlement
17 Agreement and in accordance with Cal. Lab. Code section 2699(i)]), payment to the LWDA
18 (75% of the Net Settlement Amount, in accordance with Cal. Lab. Code section 2699(i)),
19 payment of Plaintiff's counsel's fees and costs, payment to Plaintiff for service as the PAGA
20 representative and in exchange for executing a general release of claims, and payment to the
21 Settlement Administrator for administration costs. (Marquez Decl., ¶ 8);

22 **WHEREAS**, the fee award requested here is \$291,666.67, representing one third
23 (33.3333%) of the Gross Settlement Amount. Plaintiff's counsel contends that the requested
24 fee award is justified because Plaintiff's counsel achieved a significant monetary recovery for
25 the Aggrieved Employees and the LWDA in an uncertain and risky case while bearing the
26 substantial burdens of representation on a contingency basis, and the fees requested are in line
27 with market rates. Plaintiff's counsel represents that it expended significant time and resources
28 in litigating this case, which resulted in a favorable result for the LWDA, Plaintiff, and the

1 Aggrieved Employees. Plaintiff's counsel represents that it elected to bear the contingency risk
2 of this litigation for the benefit of the Aggrieved Employees, as well as for the State of California
3 (who elected not to take the case after receiving the PAGA notice³). Defendant does not oppose
4 Plaintiff's counsel's requested fee award. (*Id.* at ¶ 9);

5 **WHEREAS**, Plaintiff's counsel represents that: it has dedicated substantial resources to
6 this litigation, including approximately \$16,616.52 in costs as of August 26, 2024, without
7 receiving any compensation, that all of Plaintiff's counsel's litigation costs are documented and
8 reasonably incurred, and that Plaintiff anticipates incurring \$300.00 in anticipated future costs
9 for filing fees, messenger costs, and copying costs following the Court's Order regarding the
10 Parties' Joint Stipulation, and requests reimbursement of such as well. (*Id.* at ¶ 16, Ex. C [Costs
11 Summary].) Accordingly, Plaintiff requests \$16,916.52 for reimbursement of current and future
12 litigation costs;

13 **WHEREAS**, Plaintiff requests an enhancement fee of \$10,000.00 for his service as the
14 PAGA representative and in exchange for executing a general release of all claims. The
15 requested enhancement fee is intended to recognize: (1) the substantial time and effort that
16 Plaintiff has expended on behalf of the State and Aggrieved Employees; (2) the risks faced by
17 Plaintiff as a result of bringing this Action; (3) the fact that Plaintiff put the interests of the State
18 of California and other Aggrieved Employees ahead of his own; and (4) the substantial benefit
19 conferred upon the State and the Aggrieved Employees as a result of Plaintiff's actions. (*Id.* at
20 ¶ 17);

21 **WHEREAS**, the Settlement Administrator's, Apex Class Action Administration, costs
22 are estimated to be \$8,000.00. (*Id.* at ¶ 18, Ex. D [Settlement Administrator Bid]);

23 **WHEREAS**, the Parties jointly stipulate and request that the Court approve the
24 Settlement Agreement in accordance with the terms outlined above.

25 ///

26 ///

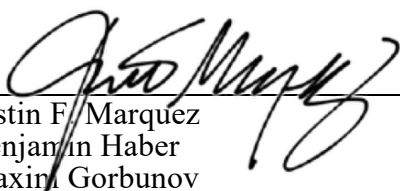
27

28 ³ Plaintiff's PAGA notice is attached to the Declaration of Justin F. Marquez as Exhibit B.

1 Dated: September 17, 2024

Respectfully submitted,

2 **WILSHIRE LAW FIRM**

3
4 By: 

Justin F. Marquez
Benjamin Haber
Maxim Gorbunov

6 Attorneys for Plaintiff

7
8 Dated: September 17, 2024

KRING AND CHUNG LLP

9
10 By: /s/ Kyle D. Kring

Kyle D. Kring
Kerri N. Kramer

12 Attorneys for Defendants

1 **[PROPOSED] ORDER**

2 The Court, having reviewed the Parties' Joint Stipulation Regarding Approval of
3 Settlement Under California Private Attorneys General Act, orders as follows:

- 4 1. Defendant Pro Wall Lath & Plaster, Inc. shall pay the Gross Settlement Amount of
5 \$875,000.00 according to the terms of the Settlement;
- 6 2. The Net Settlement Amount means the Gross Settlement Amount minus the
7 following: (a) \$291,666.67 allocated to Attorneys' Fees; (b) \$16,916.52 allocated
8 to litigation costs; (c) \$8,000.00 allocated to the Settlement Administrator Costs;
9 and (d) \$10,000.00 allocated to Plaintiff Arnold Partida as a Service Award;
- 10 a. The Court approves payment to Plaintiff's counsel, Wilshire Law Firm, of
11 Attorneys' Fees in the amount of \$291,666.67, to be paid from the Gross
12 Settlement Amount;
- 13 b. The Court approves payment to Plaintiff's counsel, Wilshire Law Firm, of
14 litigation costs in the amount of \$16,916.52, to be paid from the Gross
15 Settlement Amount;
- 16 c. The Court approves payment to the Settlement Administrator, Apex Class
17 Action Administration, for its reasonable costs and fees to administer the
18 Settlement, in the amount of \$8,000.00, to be paid from the Gross Settlement
19 Amount;
- 20 d. The Court approves \$10,000.00 to be paid to Plaintiff as a Service Payment
21 for his efforts as a named plaintiff and representative for the Aggrieved
22 Employees and the State of California, to be paid from the Gross Settlement
23 Amount.
- 24 3. Of the Net Settlement Amount, 75% is allocated to the LWDA and 25% is allocated
25 to the Aggrieved Employees;
- 26 4. The "PAGA Period" is defined as the period from March 2, 2020 to October 10,
27 2024;
- 28 5. The "Aggrieved Employees" consist of all persons employed by Defendant in

California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the PAGA Period;

6. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement;
7. The Court directs Defendant to fully fund the Gross Settlement Amount by transmitting the funds to the Settlement Administrator within 30 calendar days after the Effective Date;
8. The Court directs the Parties and the Settlement Administrator to carry out the terms of the Settlement;
9. Under California Code of Civil Procedure section 664.6, the Court retains jurisdiction over the Parties to enforce the Settlement until performance in full of the Settlement’s terms;
10. Plaintiff’s counsel shall submit a copy of this Order to the LWDA within seven (7) days of the entry of the Order;
11. All claims asserted by Plaintiff, individually and in a representative capacity, against Defendant are hereby dismissed, with prejudice.

IT IS SO ORDERED.

Dated: September 17, 2024

Honorable Richard S. Whitney
San Diego County Superior Court

Partida v. Pro Wall Lath & Plaster, Inc., et al.
37-2021-00046724-CU-OE-CTL

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rebecca.padilla@wilshirelawfirm.com.

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Attorneys for Defendant

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

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

Executed on **September 17, 2024**, at Los Angeles, California.

Rebecca Padilla