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Attorneys for Plaintiff Martin Sohal

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

ALEX HERNANDEZ, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act; MARTIN
SOHAL, individually, on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act;

Plaintiffs,

vs.

CHEP SERVICES, LLC, a Delaware limited
liability company; BRAMBLES USA, INC., an
unknown business entity; and DOES 1 through
100, inclusive;

Defendants.

Case No. CIVSB2123946

Honorable Jessica Morgan
Department S26

CLASS ACTION

**DECLARATION OF JEREMY F.
BOLLINGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 13, 2024
Time: 8:30 a.m.
Department: S26

Complaint Filed: August 16, 2021
Trial Date: None Set

DECLARATION OF JEREMY F. BOLLINGER

I, Jeremy F. Bollinger, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California, a partner in the law firm Moss Bollinger, LLP, and co-counsel of record for Plaintiff Yolanda Alonzo (“Plaintiff”) in the PAGA action entitled Hernandez et al. v. CHEP Services, LLC, San Bernardino County Superior Court Case No. CIVSB2123946. I have been counsel for Plaintiff Alonzo since the inception of this case. If called to testify, I could truthfully attest to the statements herein.

2. On November 11, 2022, Plaintiff Sohal provided written notice to the LWDA by certified mail and to Defendants of the specific provisions of the California Labor Code that Defendants are alleged to have violated. A true and correct copy of the notice is attached hereto as “**EXHIBIT A.**”

3. On January 27, 2022, Plaintiff Sohal filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in Stanislaus Superior Court, Case No, CV-22-000376.

4. My co-counsel and I have fully investigated the claims alleged and defenses raised in this lawsuit for nearly two years, including extensive research, interviews with Plaintiffs, the review of documents produced by Defendant and Plaintiffs, and the informal exchange of data in preparation for mediation in this litigation. The Parties have engaged in extensive settlement negotiations and participated in a formal, full-day mediation on May 15, 2023, conducted by Hon. Jeffrey Winikow (Ret.), a well-respected mediator experienced in mediating complex labor and employment matters. Prior to and during the mediation and settlement discussions, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case.

5. I submitted a copy of the Stipulation of Class Action and PAGA Settlement (“Settlement Agreement”) in this case to the LWDA on June 6, 2024. A true and correct copy of the June 6, 2024 confirmation of submission to the LWDA of the Settlement Agreement in this matter is attached hereto as “**EXHIBIT B.**”

1 6. Based on my investigation and evaluation, I am of the opinion that the Settlement
2 with Defendant for the consideration and on the terms set forth in the Stipulation of Class Action
3 and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) is fair,
4 reasonable, and adequate and is in the best interest of the putative Class, PAGA Members, and the
5 State of California in light of all known facts and circumstances, including the the strengths and
6 weaknesses of the case, the inherent costs and risks of further litigation, and the costs and risks
7 associated with class certification, representative adjudication, trial, and/or appeals.

8 7. My opinion regarding the Settlement is based in substantial part on my experience

9 8. My beliefs about the reasonableness of the settlement, the statements attested to
10 herein, the risks involved in this litigation, and the things to which I have testified, are, in large
11 part, based on my extensive experience. Upon graduation from Harvard College in 1991, I
12 embarked on a different career path before attending law school in 2002. I graduated Loyola Law
13 School of Los Angeles and was admitted to the bar in 2005. Upon Graduation from law school, I
14 joined the law firm Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”). At Akin Gump, I
15 worked in Litigation matters of various size and complexity, including defending some of the
16 largest employers in the retail, food and beverage, and oil and gas industries in employment class
17 action lawsuits. In May 2016, I left Akin Gump to form Moss Bollinger, LLP, a plaintiff’s
18 employment law firm specializing in class action litigation. Currently, I am counsel of record in
19 fifteen class matters throughout California, in both state and federal courts. I have been intimately
20 involved in litigating and settling class action lawsuits for the last 18 years.

21 9. My partner, Dennis Moss, has been an employment/labor lawyer since 1977 and
22 handled numerous cases in all aspects of employment and labor law, including but not limited to
23 numerous federal and state wage and hour class action cases, National Labor Relations Board
24 proceedings, wrongful discharge litigation, discrimination cases, administrative appeals involving
25 wage and hour and other employment issues, numerous arbitrations, and various other matters
26 involving both traditional labor-law (union/management law) and employment law issues in the
27 non-union context. His litigation experience has included over twenty-five arguments in various
28 courts of appeal, including the Ninth Circuit, Federal Circuit, and the First, Second, Third, Fourth

1 and Sixth Appellate Districts of the California Courts of Appeal. Several of the appellate cases I
2 argued grew out of wage and hour lawsuits. He successfully briefed and argued a number of cases
3 in the California Supreme Court, including *Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th 785,
4 a case in which Defendants asserted sales exemptions in the California Supreme Court; *Alvarado*
5 *v. Dart* (March 5, 2018) 4 Cal. 5th 542 (2018), *Melendez v. San Francisco Baseball Associates*
6 (April 25, 2019) 7 Cal. 5th 1, *Ferra v. Loews Hollywood Hotel, LLC*, No. S259172, ---P.3d---,
7 2021 WL 2965438 (Cal. July 15, 2021), and most recently in *Serova v. Sony Music Enter.*, No.
8 S260736 (Cal. Aug. 18, 2022).

9 10. Mr. Moss has been lead counsel in dozens of class, collective and representative
10 actions over the course of my career. These actions have been prosecuted in state as well as in
11 federal court. He has argued and won several separate contested class certification motions. A
12 writ was taken in one such motion in state court, and he prevailed in the Court of Appeal (the
13 Appellate Court Opinion was unpublished). He has written amicus briefs in several employment
14 law cases, including the landmark case of *Sav-on v. Superior Court* (2004) 34 Cal.4th 319. He
15 has lectured on employment law matters before bar groups at least 25 times in the last ten years
16 primarily on wage and hour and class action issues. He has been a principal negotiator in wage
17 and hour class action settlements that have yielded in excess of Eighty Million Dollars
18 (\$80,000,000.00). He has directly participated in over sixty mediations of wage and hour class
19 actions. He authored articles published in the Daily Journal on class action waiver agreements. He
20 has been litigating class actions for over 20 years (including FLSA cases in the 1990's). During
21 that period, he has successfully moved, when motions were contested, for class certification in
22 wage and hour class actions somewhere between 7 and 15 times. He has tried to verdict two wage
23 and hour class actions in Superior Court and tried in an arbitration tribunal a class claim involving
24 over charging of dental premiums to State employees. He has tried individual wage and hour cases
25 in Superior Court not less than five times. In his career, he has tried at least 10 individual wage
26 and hour claims in arbitration and or Labor Commissioner Proceedings

27 11. Since starting Moss Bollinger, LLP in 2016, we have been appointed class counsel in
28 the following cases in California, among others, including by this Court:

- a. *Bustillo v. Matrix Aviation Services, Inc.*, Los Angeles County Sup. Ct. Case No. BC535618 (2017)
- b. *Correa v. Mikawaya*, Los Angeles County Sup. Ct. Case No. BC596179 (2017)
- c. *Medina-Yeppez v. River Ranch Farms, LLC*, Kings County Sup. Ct. Case No. 17C-0109 (2018)
- d. *Fajardo v. Crothall Healthcare, Inc.*, San Joaquin County Sup. Ct. Case No. STK-CV-UOE-2016-11240 (2018)
- e. *Pineda v. Grimmway Enterprises, Inc.*, Kern County Sup. Ct. Case No. BCV-15-101333 (2018)
- f. *Bright v. Glendale Adventist Medical Center*, Los Angeles County Sup. Ct. Case No. BC619998 (2019)
- g. *Leong v. Mortgage Capital Partners, Inc.*, Los Angeles County Sup. Ct. Case No. BC701515 (2019)
- h. *Cruz v. C2 Educational Systems, Inc. et al.*, Los Angeles County Sup. Ct. Case No. BC704017 (2019)
- i. *Gomez v. SunSelect Produce (California), Inc.*, Kern County Sup. Ct. Case No. BCV-17-100855 (2019)
- j. *Martinez v. Gemperle Egg Packing Co.*, Stanislaus County Sup. Ct. Case No. CV-18-001904 (2019)
- k. *Rangel v. Gerawan Farming*, Fresno County Sup. Ct. Case No. 16CECG02372 (2019)
- l. *Covarrubias v. Western Milling, LLC*, Tulare County Sup. Ct. Case No. VCU273798 (2019)
- m. *Flores v. Diestel Turkey Ranch et al.*, San Joaquin County Sup. Ct. Case No. STK-CV-UOE-2017-8167 (2019)
- n. *Aguirre v. Grimmius Cattle Company, Inc.*, Kings County Sup. Ct. Case No. 19C-0012 (2020)

- 1 o. *Zepeda v. Silicon Valley Self Direct, Inc. et al.*, Alameda County Sup. Ct.
2 Case No. RG16802121 (2020)
- 3 p. *Palacio v. Central Cal. Foundation for Health et al.*, Kern County Sup. Ct.
4 Case No. BCV-18-101221 (2020)
- 5 q. *Eppard et al. v. Drivetime Car Sales Company, LLC*, San Bernardino County
6 Sup. Ct. Case No. CIV-DS1929629 (2020)
- 7 r. *Rodriguez v. Kaiser Foundation Hospitals*, San Bernardino County Sup. Ct.
8 Case No. CIVDS1818367 (2020)
- 9 s. *Hernandez v. Stanislaus Food Products Company*, Stanislaus County Sup.
10 Ct. Case No. CV-19-006977 (2020)
- 11 t. *Elizarraz v. S.J. Distributors, Inc.*, Santa Clara County Sup. Ct. Case No.
12 18CV333810 (2020)
- 13 u. *Rangel v. Nina's Mexican Foods, Inc. et al.*, Los Angeles County Sup. Ct.
14 Case No. BC587941 (2020)
- 15 v. *Mendoza v. Weimer Farms*, Merced County Sup. Ct. Case No. CV-19-03306
16 (2021)
- 17 w. *Fadiya v. CourierRx, LLC et al.*, Los Angeles County Sup. Ct. Case No.
18 20STCV07220 (2021)
- 19 x. *Clay v. Greenfield Care Center of Gardena, Inc.*, Los Angeles County Sup.
20 Ct. Case No. BC658806 (2021)
- 21 y. *Leyva v. Southern California Permanente Medical Group*, Los Angeles
22 County Sup. Ct. Case No. BC621718 (2021)
- 23 z. *Swoboda v. Brand Energy Services, LLC et al.*, Los Angeles County Sup. Ct.
24 Case No. BC708547 (2021)
- 25 aa. *Paul v. Staples The Office Superstore, LLC*, Los Angeles County Sup. Ct.
26 Case No. 19STCV22782 (2022)
- 27 bb. *Brooke et al. v. Lusamerica Foods, Inc.*, Santa Clara County Sup. Ct. Case
28 No. 20CV361692 (2023)

cc. *Lopez v. Wioss Bakersfield LP*, Kern County Sup. Ct. Case No. BCV-22-100852 (2024)

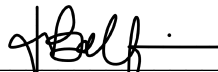
dd. *Gonzalez v. Fletchline, Inc. et al.*, San Joaquin County Case No. STK-CU-UOE-2022-0003439 (2024)

ee. *Reyes v. Van Groningen & Sons, Inc.*, San Joaquin County Case No. STK-CU-UOE-2021-0009368 (2024)

12. I do not have any conflicts of interest with the State or with the representative Plaintiffs. I am not related to either Plaintiff. I have not previously represented the Defendant in any matter. Other than a professional relationship arising out of prior experiences administering settlements, I do not have an interest or relationship, financial or otherwise, with the proposed settlement administrator.

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

Executed on this 6th day of June 2024, at Sherman Oaks, California.



Jeremy F. Bollinger

EXHIBIT A

to

**Declaration of
Jeremy F. Bollinger**



Moss Bollinger
LLP

JEREMY F. BOLLINGER
310.982.2984/fax: 818.963.5954
jeremy@mossbollinger.com

November 22, 2021

VIA PAGA ONLINE FILING

Secretary Natalie Palugyai
Labor & Workforce Development Agency
PAGA ADMINISTRATOR
1515 Clay Street, Ste. 801
Oakland, California 94612

**VIA U.S. CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Chep Services, LLC
c/o C T Corporation System
330 N Brand Blvd, Suite
Glendale, CA 91203

Re: Notice pursuant to Labor Code Section 2699.3
Private Attorneys General Act ("PAGA")

Employer: Chep Services, LLC

Employee: Martin Sohal, on behalf of himself and on behalf of all current and former hourly-paid individuals employed by Chep Services, LLC in California.

Dear Secretary Palugyai:

Pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA"), representative employee, Martin Sohal ("Sohal" or "Plaintiff"), on behalf of himself and all other similarly situated current and former California employees who work(ed) for Chep Services, LLC ("Chep Services") on a non-exempt, hourly basis, gives notice that his employer violated the California Labor Code within the one year prior to the mailing of this letter.

Chep Services is a Delaware limited liability company with its principal place of business in Florida. Chep Services is a global supplier of pallets and containers to clients in the consumer goods, retail food & beverage, bulk liquid and automotive industries, among others. As part of its operation, Chep Services has warehouses nationwide, including in Modesto and other parts of California. Sohal is a resident of Stanislaus County, California. Sohal was employed by Chep Services on an hourly basis at one of its warehouses in Modesto, California, from 2019 through August 11, 2021.

Violation of Labor Code §§ 212-213

California Labor Code §§ 212 requires employers to compensate employees in a form that may be cashed, without delay, and without a fee or discount. Labor Code § 213 requires that an employer first obtain an employee's voluntary authorization before paying his or her wages through automatic deposit. Moreover, California's Department of Labor Standards Enforcement ("DLSE") issued an opinion letter on July 7, 2008 where it analyzed the compliance of a payroll card program under Labor Code §§ 212 and 213. With respect to Section 213, the DLSE stated:

Since an employee's participation in the payroll card program is optional and provided that the employee has voluntarily and specifically authorized the deposit, the payroll card programs simply provide another alternative for employees to receive their wages by direct deposit. Thus, the two programs sufficiently satisfy the voluntary requirement in Labor Code § 213(d).

As to Section 212, the DLSE stated (*italics added*):

The payroll cards appear to provide a prompt and convenient method of wage payments to employees who have full access to wages on scheduled pay days. The effectiveness of the described wage payment programs, in practice, will of course require that employees are fully informed of the service and procedures and that it is represented as an *alternative* method for wage payment for which their participation is *optional*.

Additionally, Regulation E states, "No financial institution or other person may require a consumer to establish an account for receipt of electronic fund transfers with a particular institution as a condition of employment...". See 12 Code of Federal Regulations § 205.10(e). See also, *Johnson v. Sunrise Senior Living Mgmt., Inc.*, No. CV1600443BRORAOX, 2016 WL 8929249, at *9 (C.D. Cal. May 5, 2016) (noting that the Board of Governors of the Federal Reserve System has acknowledged that Regulation E "precludes an employer from requiring an employee to receive a payroll card and suggests that employees always be given some other option, such as direct deposit to a financial institution of their choice."); Sarah Jane Hughes, Stephen T. Middlebrook & Broox W. Peterson, *Developments in the Law Concerning Stored Value and Other Prepaid Payment Products*, 62 BUS. LAW. 229, 238 (2006) (citing Electronic Fund Transfers, 71 Fed. Reg. 1473-01, 1479 (Jan. 10, 2006)).

While Sohal consented and authorized the payment of his wages through automatic deposit, neither Sohal nor any aggrieved employee ever authorized or consented to the payment of their final paycheck through the Money Network Paycard (“Debit Card”). Thus, the transfer of Sohal and aggrieved employee’s wages to a third-party financial institution constitutes a method of direct deposit for which Chep Services failed to obtain the required voluntary authorization. Accordingly, Sohal alleges that the use of the Debit Card violates Section 212 and Section 213(d) because Chep Services failed to obtain Sohal’s consent or authorization for payment in this manner and also failed to provide Sohal any alternative (i.e., the option of simply receiving a regular check instead).

Sohal also alleges that the use of the Debit Card violates Section 212 in that it is not negotiable and payable in cash, on demand, without discount, at the time of issuance. Sohal received his payroll Debit Card with no instructions (other than a letter explaining how to activate the card) and therefore could not immediately determine how to use the Debit Card nor could he figure out what fees there were associated with the use of the Debit Card. More importantly, after using the Debit Card, Sohal could not access the remaining 20 cents in this account. Indeed, the Money Network account showed an account balance of \$00.00; however, the sum of Sohal’s debits shows that he should have had 20 cents remaining.

As such, Defendant violated California Labor Code §§ 212, and 213(d). Chep Services is liable for penalties of \$100 per pay period for the first violation within the statutory period, and \$200 per pay period for each additional violation.

Failure to Issue Accurate Itemized Wage Statements

Sohal and similarly aggrieved employees of Chep Services did not receive wage statements when Chep Services issued their final wages via Debit Card. As alleged above, Sohal received the Debit Card with a letter stating to follow the instructions on how to activate the card. There was no other documentation, including a wage statement. Therefore, Sohal and similarly aggrieved employees are entitled to penalty payments pursuant to Labor Code Section 226.

Unpaid Final Wages

Sohal alleges that Chep Services violated Labor Code Sections 201-203 in two ways. Sohal and other aggrieved employees who were paid their final wages using a Debit Card did not receive all wages owed because, as alleged above, the Money Network Paycard Chep Services uses to issue final wages, does not give access to all wages.

Additionally, Sohal tendered his resignation without notice on August 11, 2021. Chep Services failed to pay all wages owed to Sohal within 72 hours as required by Labor Code Section 202. Chep Services deposited Sohal’s final wages on August 16, 2020, more than 72 hours after his August 11 resignation. Accordingly, Chep Services did not pay Sohal his final wages in a timely manner as set forth under the Labor Code.

Therefore, Chep Services has violated and continues to violate Labor Code Sections 201 and 202 and has violated Section 203 because it has not paid the waiting time penalties for its failure to timely pay the final wages at the cessation of employment.

Civil Penalties

As a result of the foregoing, Chep Services is liable for civil penalties as provided for by California law. Consequently, Sohal and all other similarly aggrieved employees of Chep Services are entitled to recover all penalties permitted by the Labor Code and penalties provided for under California law, including but not limited to Labor Code § 2698 *et seq.*

Conclusion

Chep Services violated and continues to violate the California law as described above. Sohal requests the agency to investigate the above allegations and provide notice of the investigation and findings pursuant to PAGA's provisions. Alternatively, Sohal requests that the agency inform him if it does not intend to investigate these violations so that he may file a lawsuit with respect to the allegations discussed in this letter. Thank you for your immediate attention to this matter. If you have any questions, please do not hesitate to contact me at (310) 982-2984.

Sincerely,

MOSS BOLLINGER, LLP



Jeremy F. Bollinger



Jeremy Bollinger <jeremy@mossbollinger.com>

Thank you for submission of your PAGA Case.

1 message

LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>

Mon, Nov 22, 2021 at 9:31 AM

To: "jeremy@mossbollinger.com" <jeremy@mossbollinger.com>

11/22/2021

LWDA Case No. LWDA-CM-853805-21

Law Firm : Moss Bollinger LLP

Plaintiff Name : Martin Sohal

Employer:

Filing Fee : \$75.00

IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT B

to

**Declaration of
Jeremy F. Bollinger**



Jeremy Bollinger <jeremy@mossbollinger.com>

Thank you for your Proposed Settlement Submission

1 message

DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
To: jeremy@mossbollinger.com

Thu, Jun 6, 2024 at 12:23 PM

06/06/2024 12:23:19 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm