

Howard L. Magee (State Bar No. 185199)
Larry W. Lee (State Bar No. 228175)
Max W. Gavron (State Bar No. 291697)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
hmagee@diversitylaw.com
lwlee@diversitylaw.com
mgavron@diversitylaw.com

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile
bill@polarislawgroup.com

Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

PORSCHA LE AI, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

PROGRESSIVE CASUALTY
INSURANCE COMPANY, an Ohio
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 34-2021-00308276-CU-OE-GDS

(Assigned to the Honorable Lauri A. Damrell, Dept.
28)

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO APPROVE
SETTLEMENT AGREEMENT PURSUANT
TO THE PRIVATE ATTORNEYS GENERAL
ACT; AND JUDGMENT THEREON**

Date: February 17, 2023

Time: 9:00 a.m.

Dept.: 28

Reservation No.: 2697723

Complaint Filed: September 20, 2021

FAC Filed: January 7, 2022

SAC Filed: December 15, 2022

Trial Date: None Set

1 **[PROPOSED] ORDER**

2 Plaintiff Porscha Le Ai's ("Plaintiff") Motion to Approve Settlement Agreement Pursuant
3 to the Private Attorneys General Act (the "Motion") was filed with the Court on January 20,
4 2023.

5 On June 15, 2022, Plaintiff and Defendant Progressive Casualty Insurance Company
6 ("PCIC") participated in an all-day mediation presided over by mediator Michael J. Loeb, Esq.,
7 which led to a proposed settlement of the Action. The parties have since executed a Private
8 Attorneys General Act Settlement Agreement and Release (the "Agreement"), and Plaintiff now
9 seeks approval of the settlement.

10 The Court has considered the Motion, the declarations submitted in support thereof, the
11 Agreement, and all other papers filed in this action.

12 Having duly considered the papers and any oral argument, and good cause appearing,

13 **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

14 1. Plaintiff's Motion to Approve Settlement Agreement Pursuant to the Private
15 Attorneys General Act is **GRANTED**.

16 2. All terms used herein, unless otherwise defined or modified herein, shall have the
17 same meaning as defined in the Agreement.

18 3. The Court finds that it has jurisdiction over the subject matter of the action and
19 over all Parties to the action, including all Aggrieved Employees (as defined in the Agreement).

20 4. The Court has considered the relevant factors under the California Private
21 Attorneys General Act ("PAGA") for determining the fairness of the Agreement, and the
22 monetary allocations provided thereby, and has concluded that all such factors weigh in favor of
23 approving the Agreement. In particular, the Court finds that the settlement was reached
24 following meaningful discovery and investigation conducted by Plaintiffs; that the Agreement is
25 the result of serious, informed, adversarial, and arm's-length negotiations between the Parties;
26 and that the terms of the settlement are in all respects fair, adequate, and reasonable.

27 5. Accordingly, the Court hereby approves the settlement as set forth in the
28 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate

1 and hereby directs implementation of all remaining terms, conditions, and provisions of the
2 Agreement.

3 6. Pursuant to Labor Code § 2699(i), the Gross Settlement Amount of \$950,000.00
4 shall be distributed as follows:

- 5 • Seventy-five percent (75%) of the Net Settlement Amount (totaling
6 approximately \$437,125.00) shall be paid to the Labor and Workforce
7 Development Agency (“LWDA”) for PAGA penalties.
- 8 • Twenty-five percent (25%) of the Net Settlement Amount (totaling
9 approximately \$145,708.33) shall be paid to Aggrieved Employees.
- 10 • \$316,666.67 shall be paid to PAGA Counsel as attorneys’ fees incurred to
11 prosecute the Action;
- 12 • \$9,961.42 shall be paid to PAGA Counsel as reimbursement for reasonable
13 litigation expenses;
- 14 • \$10,000.00 shall be paid to Plaintiff Porscha Le Ai as an Enhancement Award
15 for serving as the PAGA representative, and in exchange for executing a
16 general release of claims; and
- 17 • \$20,500.00 shall be paid to the Administrator, Phoenix Settlement
18 Administrators, to administer the Settlement.

19 7. Plaintiff, PCIC, and the Administrator are ordered to carry out the terms of the
20 Settlement in accordance with this Order and the Agreement.

21 8. The Court further finds that notice of the Settlement is not required to be provided
22 to the Aggrieved Employees; however, the Court approves the cover letter, attached hereto as
23 “**Exhibit A**,” and the Administrator shall distribute the cover letter to the Aggrieved Employees
24 at the same time that it distributes their share of the PAGA Employee Amount (“Individual
25 PAGA Payment”).

26 9. Upon entry of this Order and Judgment, Plaintiff, all Aggrieved Employees, and
27 the State of California, shall have fully, finally, and forever released, relinquished, and
28 discharged each and all of the Released Parties from Released Claims (as those terms are defined

1 in the Agreement). This Judgment shall be binding on Plaintiff, all Aggrieved Employees, and
2 the State of California. Nothing in this Order or the Agreement shall be construed as an
3 admission by PCIC of liability or an admission by either party regarding the value of Plaintiff's
4 claims.

5 10. Without affecting the finality of the Judgment, the Court shall retain exclusive
6 and continuing jurisdiction over the above-captioned action and the parties for purposes of
7 enforcing the terms of the Judgment and the Agreement.

8 11. Neither this Judgment, the Order, the Agreement, any document referred to
9 herein, any exhibit to any document referred to herein, any action taken to carry out the
10 settlement, nor any negotiations or proceedings related to the settlement are to be construed as,
11 or deemed to be evidence of, or an admission or concession with regard to, the denials or
12 defenses of PCIC (or any settling party), and shall not be offered in evidence in any proceeding
13 against the Parties hereto in any court, administrative agency, or other tribunal for any purpose
14 whatsoever other than to enforce the provisions of the Order and Judgment.

15 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

16
17 DATED:

18 _____
19 HON. LAURI A. DAMRELL
20 SUPERIOR COURT OF CALIFORNIA
21
22
23
24
25
26
27
28

EXHIBIT A

[SETTLEMENT ADMINISTRATOR LETTERHEAD]

NOTICE OF PAGA SETTLEMENT

[Mailing Date]

[Address]

RE: Settlement Payment

Enclosed is your settlement payment (“Individual PAGA Payment”) from the settlement of the lawsuit entitled *Porscha Le Ai v. Progressive Casualty Insurance Company*, Case No. 34- 2021-00308276 initiated on September 20, 2021, and pending in the Superior Court of the State of California, County of Sacramento. (“Action”). This Action was filed by Plaintiff Porscha Le Ai (“Plaintiff”) against Defendant Progressive Casualty Insurance Company (“Defendant” or “Company”) pursuant to the California Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code § 2698, *et seq.* (the “PAGA”).

The Action was brought on behalf of the State of California and all similarly situated “aggrieved employees” of the Defendant, seeking recovery of civil penalties for alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders. Defendant denies the allegations in the Action and denies any wrongdoing of any kind associated with the claims alleged in the Action.

The parties reached a settlement of the Action. On **[date of entry of Court’s order approving the Settlement]**, the Settlement was approved by the Court, with a portion to be paid to any and all individuals currently or formerly employed in hourly or non-exempt positions in California at any time during the PAGA Period (“Aggrieved Employees”). The period from September 21, 2020 through August 31, 2022 is the “PAGA Period”.

The Court has ***not*** made a determination about Plaintiff’s claims. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff’s or Defendant; instead, both sides agreed to resolve the Action with no decision or admission of who is right or wrong.

As part of the Settlement, Defendant agreed to pay \$950,000.00 (“Gross Settlement Amount”) as a full, complete and final settlement of the Action, which shall be distributed as follows: (1) \$316,666.67 in attorneys’ fees and \$20,000.00 in litigation expenses; (2) \$10,000.00 for Plaintiff’s service award; (3) \$20,500.00 to the settlement administrator for its fees and expenses; and (4) after deducting the foregoing items from the Gross Settlement Amount, 75% of the remaining balance (approximately \$437,125.00) allocated to the California Labor and Workforce Development Agency and 25% allocated to the Aggrieved Employees. Under PAGA, certain penalties get divided between the State and the aggrieved employees. This settlement legally bars the State’s and your ability to seek penalties recoverable under PAGA for the claims released under the settlement. This means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or the Released Parties seeking PAGA penalties for the claims described below.

You are receiving a portion of the settlement (the enclosed Individual PAGA Payment) because you have been identified as an Aggrieved Employee. Your Individual PAGA Payment is based on the **[X]** eligible pay periods that you worked for Defendant during the PAGA Period. The enclosed check represents your share of the settlement for PAGA civil penalties and will be reported on an IRS Form 1099. The check will expire 180 calendar days from the date it was issued. After the 180-day period, the administrator will send any unclaimed funds to the State of California Unclaimed Property Fund. If you were unable to cash your check for any reason during the 180-day check cashing period, you can contact the State of California Controller’s Office to see if you can obtain your funds. Even if you fail to cash the enclosed check, you will still be deemed to have waived all claims based on or arising from the Action, including all claims set forth in the release of claims described below.

Under the settlement, each of the Aggrieved Employees, including you, fully released and forever discharged Defendant and each of Defendant's current, former and future parent, subsidiary and affiliated companies, and its/their agents, officers, shareholders, directors, employees, including successors and assigns, related or affiliated companies' predecessors and successors; and, with respect to all such entities, all of its/their past and present employees, officers, directors, stockholders, owners, representatives, assigns, attorneys, agents, insurers, employee benefit programs (and the trustees, administrators, fiduciaries and insurers of such programs) and any other persons acting by, through, under or in concert with any such persons or entities (the "Released Parties") from any and all claims under the California Private Attorneys' General Act ("PAGA") for civil penalties against Defendant or the Released Parties during the PAGA Period, that have been asserted or that could have been asserted based on the facts alleged in the Action and/or in the PAGA Notice, including, but not limited to, the nonpayment or under payment of minimum and overtime wages, failure to pay or under payment of wages, overtime, sick leave, meal and rest period premiums at the regular rate of pay, meal and rest periods, nonpayment or under payment of premiums for meal or rest period violations, failure to pay reporting time pay, failure to timely pay wages, failure to pay all wages due at termination, failure to maintain accurate records, failure to provide and/or maintain accurate and itemized wage statements, failure to reimburse business expenses, failure to provide required rest days, nonpayment or under payment of paid sick leave under state or local statutes, laws, regulations or ordinances, nonpayment of paid time off or vacation pay, and claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law (the "Released Claims").

Do not call or write the Court, Office of the Clerk of the Court, Defendants, or Defendants' counsel to ask questions about the settlement or to ask tax-related questions. If you have any questions, you can contact [PAGA Settlement Administrator] at [toll-free phone number].

Sincerely,

[Administrator]