

30

FILED
Clerk of the Superior Court

JUN. 2 2023

By: J. Virissimo, Deputy

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

CASSONDRA JACKSON, an individual, for
the real party in interest, the State of California,

Plaintiff,

v.

FIVE BELOW INC.; and DOES 1 through 50,

Defendants.

Case No. 37-2021-00044698-CU-OE-CTL

Judge: Hon. Loren G. Freestone
Department: C-64

**[PROPOSED] JUDGMENT AND ORDER
GRANTING PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Judge: Hon. Loren G. Freestone
Department: C-64
Date: June 2, 2023
Time: 10:30 a.m.

1 Plaintiff Cassondra Jackson's Unopposed Motion for Approval of PAGA Settlement
2 pursuant to the Private Attorneys General Act of 2004, encoded in Cal. Labor Code section 2698
3 et. seq. (hereinafter "PAGA") was heard in Department C-64 of the above entitled Court on June
4 2, 2023 at 10:30 a.m. The Court has considered the parties' Settlement Agreement and supporting
5 Exhibits, the Motion for Approval of PAGA Settlement, as well as the Memorandum of Points and
6 Authorities, Declarations of Alex Mashiri and Tamim Jami filed in support thereof. On good cause
7 shown, this Court rules as follows:

8 WHEREAS on August 16, 2021, counsel for Plaintiff sent a PAGA Notice to the California
9 Labor and Workforce Development Agency ("LWDA") and Defendant, declaring Plaintiff's intent
10 to proceed with a representative action under the PAGA against Defendant Five Below Inc.
11 ("Defendant") for violations of the Labor Code;

12 WHEREAS an amended PAGA Notice was sent to the LWDA and Defendant on October
13 29, 2021;

14 WHEREAS Plaintiff filed the instant Lawsuit against Defendant on behalf of the State of
15 California, pursuant to the PAGA, subsequent to giving written notice to the LWDA and Defendant
16 as required by California Labor Code section 2699.3;

17 WHEREAS the Parties desire to settle the Lawsuit solely for the purpose of avoiding the
18 burden, time, expense and uncertainty of continuing litigation, and for the purpose of putting to rest
19 the controversies that are the subject of the Lawsuit;

20 WHEREAS California Labor Code section 2699(1)(2) states that "[t]he superior court shall
21 review and approve any settlement of any civil action filed pursuant to [PAGA];

22 WHEREAS, pursuant to California Labor Code section 2699(1)(2), Plaintiff provided notice
23 of the proposed settlement to the LWDA,; and

24 WHEREAS the Court has reviewed and considered (1) the proposed Settlement Agreement,
25 (2) the notice and motion, (3) the declarations submitted in support thereof, and (4) the exhibit(s)
26 attached to the declarations submitted therewith.

27 ///

28 ///

1 **GOOD CAUSE APPEARING, it is HEREBY ORDERED THAT:**

2 1. The Court grants Plaintiff's Motion for Approval of PAGA Settlement.

3 2. Pursuant to Labor Code section 2699, subdivision (1)(2), the Court approves this
4 Settlement Agreement under the PAGA.

5 3. The Court finds that the Gross Settlement Amount of \$1,640,000.00 is fair, reasonable
6 and adequate. The Court further finds that the Settlement has been reached through informed and
7 arm's length, non-collusive bargaining. The settlement recovery provides monetary value
8 consistent with the underlying purpose of PAGA. The Court also finds that the Settlement now
9 will avoid delay and risks if the Parties were to continue to litigate the case. The Court approves,
10 adopts, and incorporates by reference the terms and conditions of the Settlement Agreement,
11 together with the definitions used and contained therein. Of the **1,640,000.00 Gross Settlement**
12 **Amount**, the judgment is awarded and allocated as follows:

13 (a) The Court finds that the requested fees of Plaintiff's Counsel, Mashiri Law Firm APC
14 and The Jami Law Firm, P.C., of **\$546,666.67** are reasonable and this amount is therefore awarded;

15 (b) The Court finds that Plaintiff Counsel's costs in the amount of **\$18,374.98** are
16 reasonable and this amount is therefore awarded;

17 (c) Administrative expenses of no more than **\$18,950.00** are to be paid to the settlement
18 administrator, Phoenix Class Action Administration Solutions;

19 (e) Of the remaining **\$1,056,008.35** awarded for civil penalties, 75%, or **\$792,006.26**, shall
20 be paid to the Labor and Workforce Development Agency ("LWDA") as required by Labor Code
21 Section 2699(i) "for enforcement of labor laws, including the administration of this part, and for
22 education of employers and employees about their rights and responsibilities under this code"; and
23 the remaining 25%, or **\$264,002.09**, will be distributed among the PAGA Settlement Members
24 according to the Parties' Settlement Agreement.

25 6. The Court hereby enters Final Judgment in accordance with the terms of the Settlement
26 Agreement and this Order and Judgment. Accordingly, upon entry of this Order and Judgment, the
27 Parties shall effectuate and carry out the terms of the Settlement Agreement.

1 7. Without affecting the finality of the Judgment or the Settlement, the Court shall retain
2 jurisdiction over the above-captioned action and the Parties solely for purposes of implementing
3 and enforcing the terms of the Settlement and Judgment entered herein.

4 8. The Settlement Agreement is not an admission of fault or any liability whatsoever by
5 Defendant, nor is this Order and Judgment a finding on the merits related to any allegations of
6 wrongdoing by Defendant. Neither this Order and Judgment, the Settlement Agreement, or any
7 other documents referred to herein, nor any action taken to carry out the Settlement Agreement,
8 may be construed as, or may be used as, an admission of any fault, wrongdoing, omission, or
9 liability whatsoever by or against Defendant or other Releasees.

10 9. Plaintiff's representative claims are hereby DISMISSED WITH PREJUDICE.

11 10. Within ten (10) days of entry of this Order, Plaintiff shall provide to the LWDA a copy
12 of this Order pursuant to Labor Code section 2699, subdivision (1)(3).

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

14 DATED: 6/2/23



Honorable Loren G. Freestone
Judge of the Superior Court