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County of San Diego

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An Aggrieved Employee of Defendants,
on Behalf of the State of California's
Labor and Workforce Development Agency
for All Aggrieved Employees of Defendants*

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

MARGARITA GOMEZ JIMENEZ, An
Aggrieved Employee of Defendants, on Behalf
of the State of California's Labor and
Workforce Development Agency for All
Aggrieved Employees of Defendants,

Plaintiff,

v.

OLIVE HOLDINGS, LLC, a California
Limited Liability Corporation; and DOES 1-
100, Inclusive,

Defendants.

Case No. 37-2021-00048293-^C~~X~~U-OE-CTL

**STIPULATION FOR APPROVAL OF
SETTLEMENT OF PAGA ACTION;
~~[PROPOSED]~~ ORDER AND JUDGMENT**

The Hon. Richard S. Whitney, Dept. C-68

Action Filed: November 12, 2021
Trial Date: Not Set

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1 This Joint Stipulation for Approval of PAGA Action and Entry of Judgment is submitted by
2 Plaintiff Margarita Gomez Jimenez (“Plaintiff”) and Defendant Olive Holdings, LLC (“Defendant”)
3 (Plaintiff and Defendant shall be referred to collectively as the “Parties”), by and through their
4 respective undersigned counsel of record. The Parties hereby stipulate and agree as follows:

5 **STIPULATION**

6 **I. THE ACTION**

7 WHEREAS, on September 3, 2021, Plaintiff complied with the requirements set forth in
8 Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act of 2004 (hereinafter,
9 “PAGA”) by sending a letter notification, by online submission to the Labor and Workforce
10 Development Agency (“LWDA”) and by certified mail to Defendant, setting forth the facts and
11 theories of the violations alleged against Defendant, which included Defendant’s failure to: (1)
12 failure to compensate for all hours worked (Lab. Code §§ 1194, 1197, 1198); (2) failure to
13 compensate for all overtime hours worked (Lab. Code § 510); (3) failure to provide proper meal
14 periods and/or premium pay at the regular rate of pay for non-compliant meal periods (Lab. Code
15 §§ 226.7, 512, 558, 1198, 1199); (4) failure to provide proper rest periods and/or premium pay for
16 non-compliant rest periods (Lab. Code §§ 226.7, 558, 1197, 1198, 1199); (5) failure to furnish
17 complete and accurate itemized wage statements (Lab. Code § 226(a)); and (6) failure to timely pay
18 all wages due within the time permitted upon separation of employment (Lab. Code §§ 201-203).
19 Plaintiff did not receive a response from the LWDA advising of its intent to investigate the matter
20 within the requisite time. (Declaration of Raymond P. Boucher [“Boucher Decl.”] at ¶ 2; Ex. 1.)

21 WHEREAS, on November 12, 2021, Plaintiff filed her Complaint on behalf of the LWDA
22 in the Superior Court of California for the County of San Diego, thereby commencing this Action
23 for civil penalties pursuant to Labor Code § 2699(f) for alleged violations of Labor Code as
24 described in her PAGA notice, for aggrieved employees who worked at Defendant’s facilities in
25 California. (Boucher Decl. at ¶ 3; Ex. 2.)

26 WHEREAS, on February 16, 2022, Defendant filed its answer to Plaintiff’s Complaint.
27 (Boucher Decl. at ¶ 4.)
28

1 **II. MEDIATION AND REASONABLENESS OF PROPOSED SETTLEMENT**

2 WHEREAS, on March 16, 2023, in an attempt to resolve the claims asserted in this Action,
3 the Parties participated in a private mediation with experienced mediator, Mark J. Feder, Esq. (*Id.* ¶
4 5.)

5 WHEREAS, in advance of the mediation, Plaintiff conducted informal discovery to ascertain
6 the size of the aggrieved employee group, the number of affected pay periods at issue among them,
7 and the strength of Plaintiff's claims. (*Id.*)

8 WHEREAS, through mediation, the Parties engaged in an arm's-length negotiation and
9 reached a proposed resolution of the PAGA claim asserted in the Complaint. Based on the
10 information and documents obtained through informal discovery and during mediation, Plaintiff
11 assessed the realistic maximum value of the PAGA claims to be approximately \$522,500 (at the rate
12 of a \$50 penalty for 10,450 pay periods at issue for approximately 389 aggrieved employees during
13 the applicable time frame, without stacking multiple violations). (Boucher Decl. at ¶¶ 16-23.)

14 WHEREAS, the amount of the settlement is \$315,000, which represents over 60% of the
15 realistic, maximum recoverable discretionary civil penalties and includes an apportionment for
16 payment of attorneys' fees and costs recoverable under Labor Code section 2699(g)(1), and
17 reasonable general release payment to Plaintiff. (Boucher Decl. at ¶¶ 17-18.)

18 WHEREAS, the settlement amount represents a fair compromise of the claims, is fair and
19 reasonable, effectuates the purpose of the PAGA of enforcing California's laws, and warrants
20 approval by the Court. (Boucher Decl. at ¶¶ 8-23; Declaration of Sahag Majarian II["Majarian
21 Decl."] at ¶ 15.) ; see *Kuang Xuan Liu v. Win Woo Trading, LLC* (N.D. Cal., Sept. 27, 2017) 2017
22 WL 4283947, at *2 [courts frequently exercise discretion in reducing PAGA verdicts below the
23 statutory penalty]; *Amaral*, 163 Cal.App.4th at 1213; see e.g., *Carrington v. Starbucks Corp.* (2018)
24 30 Cal.App.5th 504, 529 (the trial court significantly reduced the \$50 maximum penalty (per initial
25 violation) to only \$5 per initial violation); *Thurman v. Bayshore Transit Management, Inc.* (2012)
26 203 Cal.App.4th 1112, 1136 [affirming trial court's 30 percent reduction of maximum penalty].)

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1 **III. PROPOSED PAGA SETTLEMENT TERMS**

2 WHEREAS, the Parties may obtain court approval of the proposed PAGA settlement by
3 stipulation and proposed order, as Labor Code section 2699(l)(2) does not require the filing of a
4 motion or a court hearing to obtain court approval of a PAGA Settlement, and seeking approval by
5 stipulation and proposed order instead of a motion set for hearing may avoid some delay with
6 obtaining approval of the settlement, particularly given the ongoing impact of the COVID-19
7 pandemic on the Court. (Boucher Decl. at ¶ 6.)

8 WHEREAS, the Settlement provides that Defendant will pay a Gross Settlement amount of
9 Three Hundred Fifteen Thousand Dollars (\$315,000.00) by depositing the Gross Settlement with a
10 Settlement Administrator no later than February 28, 2023. This amount represents the maximum
11 amount payable in this settlement by Defendant and includes payments of the PAGA Fund,
12 Plaintiff's Service Award, Settlement Administration Fees and Costs, and all of Plaintiff's Counsel's
13 Attorneys' Fees and Costs, as those terms are defined in the Parties' Joint Stipulation of Settlement
14 and release of PAGA Action (Settlement or Settlement Agreement"). The Settlement Agreement is
15 attached to the Declaration of Raymond P Boucher as "Exhibit 3".

16 WHEREAS, ILYM Group, Inc. has been selected by the Parties as the Settlement
17 Administrator and the anticipated cost of settlement administration is not to exceed \$5,500.00.
18 (Boucher Decl., Ex. 3, IV.F.; Ex. 9.)

19 WHEREAS, in recognition of her effort and work in prosecuting this Action for the benefit
20 of the LWDA and Aggrieved Employees, and also for a general release of her claims, including
21 without limitation a release of his potential individual claims, Defendant does not oppose payment
22 from the Gross Settlement to Plaintiff a one-time Service Award payment in the maximum amount
23 of \$6,500 pursuant to the terms set forth in the Settlement. (Boucher Decl., Ex. 3, IV.E, Ex. 6;
24 Majarian Decl. at ¶ 16.)

25 WHEREAS, Plaintiff requests and Defendant does not oppose, payment from the Gross
26 Settlement of \$105,000.00 as compensation for the reasonable Attorneys' Fees (one third of the
27 Gross Settlement) and reimbursement of \$10,913.92 in reasonable Litigation Expenses incurred in
28 litigating this Action, pursuant to Labor Code Section 2699(g)(1) and pursuant to the terms set forth

1 in the Settlement. (Boucher Decl., Ex. 3, IV.D.)

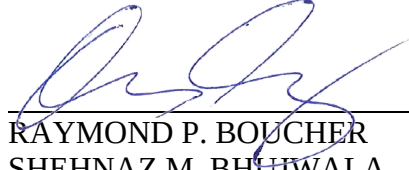
2 WHEREAS, after payment of the requested Attorneys' Fees (\$105,000.00), reasonable
3 Litigation Expenses (\$10,913.92), Settlement Administration Costs not to exceed \$5,500.00, and
4 Plaintiff's Service Award (\$6,500), the remaining sum estimated to be \$187,086.08 shall constitute
5 the PAGA Fund, from which the requisite seventy-five percent (75%) will be sent to the LWDA
6 (\$140,314.56) and twenty-five percent (25%) will be allocated among the Aggrieved employees
7 (\$46,771.52) based on their proportionate share of the pay periods worked during the PAGA Period),
8 as per the distribution specified in Labor Code section 2699(i) and the terms of the Settlement.
9 (Boucher Decl., Ex. 3, IV.E.2.)

10 WHEREAS, the Parties request that the Court enter the accompanying order, approving the
11 PAGA Settlement (attached to the Boucher Declaration as Exhibit 3), as permitted by Labor Code
12 § 2699(l), and for an entry of judgment.

13 **IT IS SO STIPULATED.**

14
15 DATED: September 13, 2023

BOUCHER LLP

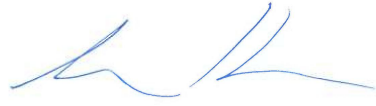
16
17 By: 

18 RAYMOND P. BOUCHER
19 SHEHNAZ M. BHUJWALA
20 ALEXANDER GAMEZ

21 *Attorneys for Plaintiff Margarita Gomez Jimenez*
22 *An Aggrieved Employee of Defendants,*
for the State of California's Labor and
Workforce Development Agency on
Behalf of All Aggrieved Employees of Defendants

23 DATED: September 12, 2023

FISHER & PHILLIPS LLP

24
25 By: 

26 GRACE Y. HOROUPIAN
27 SEAN T. KINGSTON

28 *Attorneys for Defendant Olive Holdings, LLC*

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1. Except as otherwise defined in this Order and Judgment (“Order”), all capitalized terms have the same meaning as defined in the Settlement Stipulation attached as Exhibit 1 to this Order.

3. The Court confirms approval of the Settlement as to the Aggrieved Employees.
4. The Court has jurisdiction over the subject matter of this litigation, over all members of the PAGA Group, and over those persons undertaking affirmative obligations under the Settlement.

6. The PAGA Settlement Notice to members of the PAGA Group, attached as Exhibit 2 to this Order, fairly and adequately describes the Action, the approved Settlement Stipulation, and is the best notice practicable under the circumstances.

8. The Gross Settlement amount and the methodology used to calculate individual payments to members of the PAGA Group in accordance with the Settlement is approved.

1 9. The Court approves ILYM Group, Inc. to act as the Settlement Administrator. The
2 Court awards the Settlement Administrator in this Action its actual fees and costs in accordance
3 with the terms of the Settlement Agreement, not to exceed \$5,500.00.

4 10. The Court approves Boucher LLP and the Law Offices of Sahag Majarian II as
5 PAGA Representative Counsel.

6 11. The Court awards PAGA Representative Counsel attorneys' fees in the amount of
7 \$105,000.00 and actual litigation costs not to exceed \$10,913.92, both of which the Court finds to
8 be fair and reasonable. The Court authorizes the Settlement Administrator to make these payments,
9 in accordance with the terms of the Settlement Agreement.

10 12. The Court authorizes the Settlement Administrator to calculate and pay the
11 individual payments to members of the PAGA Group in accordance with the terms of the Settlement
12 Agreement.

13 13. The Court finds that PAGA Fund of \$187,086.08 in civil penalties is fair and
14 reasonable. The Court authorizes the Settlement Administrator to pay the PAGA Fund amount to
15 the LWDA and to Aggrieved Employees, in their respective proportions (*i.e.* 75% to the LWDA
16 and 25% to the Aggrieved Employees), in accordance with the terms of the Settlement Agreement.

17 14. The Court finds the Representative Plaintiff's Service Award in the sum of \$6,500 is
18 fair and reasonable. The Court authorizes the Settlement Administrator to pay the Representative
19 Plaintiff's Service Award, in accordance with the terms of the Settlement Stipulation.

20 15. Checks for individual payments sent to members of the PAGA Group shall be valid
21 for 180 days after issuance. Funds remaining from any checks for these payments uncashed after
22 180 days will be dispersed to the state controller unpaid payment fund in the name of the member
23 of the PAGA Group.

24 16. Upon completion of the administration of settlement described in the Settlement
25 Stipulation, the Settlement Administrator will provide written certification of the completion to the
26 Court and counsel for the Parties which shall be filed with the Court within 30 days after completion
27 of the Settlement.

28 17. Without affecting the finality of this order and entry of judgment, the Court retains

1 exclusive and continuing jurisdiction over this Action for purposes of supervising, administering,
2 implementing, and enforcement of this Order and the Settlement Stipulation.

3 18. Nothing in this Order or the Settlement Stipulation shall be construed as an admission
4 or concession by any party. The Settlement Stipulation and this resulting Order and entry of
5 judgement represent a compromise of disputed allegations.

6 19. The Court enters final judgment in accordance with the terms of the Settlement
7 Stipulation and this Order.

8 20. Plaintiff is directed to submit a copy of this Order and entry of judgment to the
9 LWDA within 10 days of the date of this Order and entry of judgment.

10 21. The Court shall set an Order to Show Cause Regarding Dismissal of Action on or
11 ~~before~~ days from the date of this order ^{a dismissal date approximately forty-five (45)} ~~20~~ ^{date} ~~of this order~~ ^{A notice of}
12 ~~dismissal will be sent to all parties.~~

13 IT IS SO ORDERED.

14
15 Dated: September 18, 2023



JUDGE OF THE SUPERIOR COURT

Judge Richard S. Whitney

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On September 14, 2023, I served true copies of the following document(s) described as **STIPULATION FOR APPROVAL OF SETTLEMENT OF PAGA ACTION; [PROPOSED] ORDER AND JUDGMENT** on the interested parties in this action as follows:

*Attorneys for Defendant for Olive Holdings,
LLC*

*Co-Counsel for Plaintiff Margarita Gomez
Jimenez*

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

Executed on September 14, 2023, at Woodland Hills, California.


Tricia Yue

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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On September 20, 2023, I served true copies of the following document(s) described as **STIPULATION FOR APPROVAL OF SETTLEMENT OF PAGA ACTION; ORDER AND JUDGMENT** on the interested parties in this action as follows:

BY E-MAIL OR ELECTRONIC TRANSMISSION: Pursuant to Code of Civil Procedure section 1010.6 and California Rule of Court 2.251, or pursuant to the Court's order authorizing electronic service, or by an agreement of the parties, I caused the document(s) to be sent from e-mail address yue@boucher.la to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

Executed on September 20, 2023, at Woodland Hills, California.


Jia Yue

SERVICE LIST
Jimenez v. Olive Holdings, LLC
Case No. 37-2021-00048293-CU-OE-CTL

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