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FILED
SEP 15 2023

Clerk of the Court
Superior Court of CA County of Santa Clara
BY D. CRISWELL DEPUTY

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**
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11 VIDALIA GOMEZ, on behalf of others
12 similarly aggrieved,

13 Plaintiff,

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15 v.

16 GIULIETTA ITALIAN FOODS, INC., a
17 California corporation; and DOES 1-10,
inclusive,

18 Defendants.
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Case No.: 22CV392988

~~PROPOSED~~ ORDER GRANTING MOTION
FOR APPROVAL OF SETTLEMENT UNDER
THE PRIVATE ATTORNEY'S GENERAL
ACT

Date: TBD
Time: 10:00 a.m.
Dept: 6

~~PROPOSED~~ ORDER GRANTING MOTION FOR APPROVAL OF PAGA SETTLEMENT

1 Under Labor Code section 2699(1)(2) of the Private Attorneys General Act of 2004
2 (“PAGA”), Plaintiff Vidalia Gomez’s Motion for Approval of Settlement under PAGA came
3 before the Court on a regularly noticed motion.

4 Plaintiff’s Complaint seeks civil penalties on behalf of the State of California and
5 similarly situated aggrieved employees (the “Aggrieved Employees”), as authorized by PAGA
6 under Labor Code § 2699, in relation to alleged violations of the predicate statutes set forth in
7 Plaintiff’s complaint and her letter to the Labor Workforce & Development Agency (“LWDA”)
8 dated October 15, 2021 (the “LWDA Notice”), on behalf of all individuals who were employed
9 by Defendant Giulietta Italian Foods, Inc. in California as a non-exempt employee in California
10 from January 4, 2021 to March 31, 2023.

11 Under PAGA, in any action brought by an aggrieved employee, the Court “shall review
12 and approve any settlement of any civil action filed pursuant to this part.” Labor Code section
13 2699(1)(2). Accordingly, the Court, having considered the proposed settlement set forth in the
14 Settlement Agreement, including the proposed PAGA penalties under Labor Code section
15 2699(1)(2) and having considered the papers filed in support of the proposed settlement and the
16 arguments of counsel, and good cause appearing, HEREBY ORDERS AS FOLLOWS:

- 17 1. The Court finds the instant Action presents a good faith dispute of the claims alleged;
- 18 2. The Court finds in favor of settlement approval, and therefore approves the Settlement of
19 the above-captioned action, as set forth in the Settlement Agreement and each of the releases and other
20 terms, as fair, reasonable, and adequate;
- 21 3. The Court finds further that Plaintiff, acting on behalf of herself and the State of California,
22 by operation of this Order and Judgment hereby releases and forever discharges Defendant and the
23 Released Entities (as defined in the Settlement Agreement) from all PAGA claims pled in the Action
24 and the PAGA letter Plaintiff sent to the LWDA during or prior to the Action, and any PAGA
25 claims which could have been alleged under the facts, allegations, and/or claims pled in the
26 Action or any PAGA letter sent to the LWDA by Plaintiff in or prior to the Action, against the
27 Released Entities (as defined below), for work performed during the PAGA Period, including
28 the following: (a) Claims under the California Labor Code and California Industrial Welfare

1 Commission Wage Orders that were alleged, specifically California Labor Code sections 201-
2 203, 204, 210, 216, 221-224, 225.5, 226, 226.3, 226.7, 256, 450, 510, 512, 558, 558.1, 1174,
3 1174.5, 1194, 1194.2, 1197, 1197.1 1198, 1199, 2441, 2699, *et seq.*, 2810.3, 2810.5, as well as
4 all applicable IWC Wage Orders, including, but not limited to, Wage Order 5, or which could
5 have been alleged under the facts in the Action or any PAGA letter sent to the LWDA by
6 Plaintiff in or prior to the Action (the "Released PAGA Claims").

7 4. The Court finds further that the foregoing release shall be binding on Plaintiff and the State
8 of California as to those claims brought in the Action, and shall bar any claim under PAGA brought by any
9 person, including the Aggrieved Employees, on behalf of the State of California, as to the Released PAGA
10 Claims and Released Entities.

11 5. The Court finds further that Plaintiff shall release, relinquish, and discharge, and by
12 operation of this Order and Judgment shall have, fully, finally, and forever released, relinquished, and
13 discharged all of her individual (non-PAGA) claims as against all Released Entities, as set forth in the
14 Settlement Agreement;

15 6. The Parties are directed to comply with all terms of the Settlement Agreement, and
16 Defendant is directed to make all payments required by the Settlement Agreement;

17 7. Under the Settlement Agreement, Defendant agrees to pay Eighty Thousand Dollars and
18 No Cents (\$80,000.00) (the "Gross Settlement Amount"). The Gross Settlement Amount is inclusive of
19 payments to the LWDA and Aggrieved Employees, an enhancement award to Plaintiff, Attorney's Fees
20 and Costs, and Administration costs. No portion of the Gross Settlement Amount will revert to Defendant.
21 Plaintiff requests a representative enhancement award of \$5,000.00, and Plaintiff's Counsel requests an
22 award of attorney's fees of \$26,666.67 and reimbursement of actual litigation expenses of \$7,207.50.
23 Defendant does not oppose these requests. The Court finds the Gross Settlement Amount is fair, reasonable
24 and adequate, and approves each of these payments, and directs the Settlement Administrator to make the
25 following payments from the Gross Settlement Amount:

- 26 a. \$26,666.67 in attorney's fees to the Law Offices of J. Kirk Donnelly, APC;
- 27 b. \$7,207.50 in litigation costs to the Law Offices of J. Kirk Donnelly, APC;
- 28 c. \$5,000.00 to Plaintiff Vidalia Gomez as a representative enhancement for her services as

~~XXXXXX~~ ORDER GRANTING MOTION FOR APPROVAL OF PAGA SETTLEMENT

1 the named plaintiff in this matter, and in consideration of her full general release of claims and waiver of
2 Civil Code section 1542; and

3 d. \$4,000.00 in administration costs to Simpluris, Inc.;

4 8. After deducting the foregoing payments, the estimated remainder of approximately
5 \$37,125.83 shall form the Net Settlement Amount ("NSA"). Pursuant to Labor Code section 2699(i), the
6 NSA will then be distributed 75 percent (approximately \$27,844.37) to the LWDA, and the remaining 25
7 percent (approximately \$9,281.46) to the Aggrieved Employees on a pro rata basis, as set forth in the
8 Settlement Agreement. The Court approves these payments, and directs the Settlement Administrator to
9 issue checks to the LWDA and Aggrieved Employees, along with the Notice of PAGA Settlement, as set
10 forth in the Settlement Agreement, and to otherwise carry out its duties as set forth in the Settlement
11 Agreement; and

12 9. This document shall constitute a Judgment for purposes of California Rule of Court
13 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action and the Parties for the
14 purpose of supervising implementation, enforcement, construction, administration, and interpretation of the
15 Settlement Agreement and this Judgment.

16 **IT IS SO ORDERED.**

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19 Dated: September 15, 2023

Evette D. Pennypacker

Judge of the Superior Court

JUDGE EVETTE D. PENNYPACKER