

MEMORANDUM OF UNDERSTANDING (“MOU”)

1. This MOU is entered into by and between the Parties to the following actions, both entitled *Jesus Marmolejo v. Significant Cleaning Services, LLC*, Santa Clara County Superior Court, Case Nos. 2CV397991 (Class Action) and 21CV391431 (PAGA Action). It memorializes the settlement reached on March 20, 2023 by the Parties. It confirms the essential terms of the settlement and assists in preparation of a full, comprehensive Settlement Agreement. This MOU is enforceable by, binding on, admissible, and subject to disclosure by all Parties.
2. The Parties intend to enter into a more formal “long form” agreement whose terms are not inconsistent with the terms of this MOU, but if they fail to execute a more formal agreement, this agreement will be final, binding and enforceable pursuant to California Code of Civil Procedure section 664.6. The Parties shall have 30 days from the date of this agreement to prepare a “long form” settlement agreement. In the event that the Parties do not complete that “long form” agreement within 30 days, either party may move for preliminary approval of this class action settlement on the basis of the terms set forth in this MOU. In that event, the party moving for preliminary approval will propose customary terms and procedures for the notice process and settlement administration.
3. The Parties agree that prior to filing motion for preliminary approval, they will enter into a stipulation to allow Plaintiff to file an amended pleading in the Class Action to add Plaintiff’s PAGA claim, followed by a dismissal without prejudice of the separate PAGA Action once the amended pleading has been deemed filed.
4. The Parties stipulate to class certification for purposes of settlement only. If the Court does not grant either preliminary or final approval of this settlement, the Parties stipulate that class certification will be revoked, but without prejudice to other class certification proceedings.
5. Defendant shall pay a maximum amount (“Maximum Settlement Amount”) of \$625,000.00 in full and complete settlement of this matter, which sum includes all attorneys’ fees and costs including accounting costs, administration costs, enhancement award to the class representative, and payment to the California Labor and Workforce Development Agency (“LWDA”). No money will revert to Defendant. The balance after deduction of attorneys’ fees and costs including accounting costs, administration costs, enhancement award, and payment to the LWDA will be the Net Settlement Amount. Defendant’s employer taxes shall be paid separately and in addition to the Maximum Settlement Amount.
6. Defendant shall pay the Maximum Settlement Amount according to the following payment schedule:
 - a. The First Settlement Payment shall be for \$225,000.00 payable within 10 days of the Effective Date;
 - b. The Second Settlement Payment of \$200,000.00 shall be payable no later than 6 months after the First Settlement Payment; and
 - c. The Third and Final Settlement Payment of \$200,000.00 shall be payable no later than 6 months after the Second Settlement Payment.

7. "Effective Date" shall mean: (i) in the event that the Settlement has received final approval by the Court and there were no timely objections filed, or that any timely objections have been withdrawn, then the date the Court's order of final approval of the Settlement; (ii) in the event that one or more timely objections has/have been filed and not withdrawn, then upon the passage of the applicable date for an objector to seek appellate review of the trial court's order of final approval of the Settlement, without a timely appeal having been filed; or, (iii) in the event that a timely appeal of the Court's order of final approval has been filed, then the Settlement shall be final when the applicable appellate court has rendered a final decision or opinion affirming the trial court's final approval without material modification, and the applicable date for seeking further appellate review has passed, or the date that any such appeal has been either dismissed or withdrawn by the appellant.
8. All class members who do not opt-out will release Defendant from any and all claims asserted in the operative complaint, and any future amendments to the operative complaint, including, but not limited to, state wage and hour claims for any and all violations of California's Labor Code and Unfair Competition Law based on Defendant's failure to pay for all hours worked (including minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, failure to furnish accurate itemized wage statements, civil penalties under PAGA based on the alleged Labor Code violations, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including, but not limited to, the California Labor Code and the applicable Wage Orders.
9. The Settlement Class Members are all persons who worked for Defendant in California as an hourly paid or non-exempt employee during the Class Period, as defined below.
10. The Class Period starts on November 1, 2017 and shall end on May 19, 2023, 60 days from the date of the settlement reached on March 20, 2023, or on the date the motion for preliminary approval is granted if it is heard before this date, whichever date is later.
11. Defendant will not oppose a request by Plaintiff Jesus Marmolejo to be appointed the Class Representative and for an enhancement payment of up to \$10,000.00, in exchange for his service as the Class Representative and for her execution of a full release of all claims including a waiver of known and unknown claims. This amount is paid from the Maximum Settlement Amount and is in addition to the payment to which Plaintiff is entitled as a Class Member. Even in the event that the Court reduces or does not approve the requested Class Representative's enhancement payment, Plaintiff shall not have the right to revoke this MOU or this settlement, and it will remain binding.
12. \$30,000.00 of the Maximum Settlement Amount is allocated for violations of PAGA, 75% (\$22,500.00) of which will be paid to the LWDA and 25% (\$7,500.00) of which will be paid to the Class.

13. Defendant will not oppose an application for an award of attorneys' fees to counsel for Plaintiff, from the Maximum Settlement Amount, of up to 33 1/3% of the Maximum Settlement Amount (the amount is \$208,333.33), plus actual costs and expenses including accounting costs up to \$20,000.00 as supported by declaration. Even in the event that the Court reduces or does not approve the requested award to Plaintiff's counsel for attorneys' fees and costs including accounting expenses, Plaintiff's counsel shall not have the right to revoke this MOU or this settlement, and it will remain binding.
14. Defendant will not oppose an application of up to \$15,000.00 of the Maximum Settlement Amount to the Settlement Administrator for claims administration costs and fees. Fees of the Settlement Administrator shall be paid out of the Maximum Settlement Amount. The Parties agree to select a mutually agreeable Settlement Administrator. The Settlement Administrator shall be responsible for payment of all payments to the Settlement Class, and shall be responsible for all appropriate withholdings, disbursement of taxes, and compliance with all reporting obligations.
15. Settlement Class Members will not be required to submit a claim form to participate in the settlement. The Class will receive a Notice containing instructions on how to opt-out or object to the settlement.
- a. Individual settlement payments will be proportionally based on compensable workweeks, based on the class member's dates of employment.
 - b. The Class Notice will contain the estimated individual settlement payment and dates of employment.
 - c. Class Members who submit timely requests to opt out of the settlement within 60 days of the Settlement Administrator mailing the Class Notice will not participate in the settlement and will not be bound by the terms of the proposed settlement or the final judgment.
16. Settlement checks will be valid for 180 days, and all funds remaining from uncashed checks after 180 days shall be handled pursuant to California Code of Civil Procedure section 384. The Parties select Little Italy San Jose Foundation a 501(c)(3) nonprofit organization as the *cy pres* recipient. If the Court does not approve the *cy pres* designee, the Parties shall select a new *cy pres* designee, with approval by the Court. Any Class Member who does not opt-out will be nevertheless bound by the terms of the agreement regardless of whether he or she cashes the check.
17. The settlement payment for each individual claimant shall be allocated ten percent (10%) as wages and ninety percent (90 %) as penalties and interest. The Settlement Administrator will be responsible for issuing all tax documents to Class Members.
18. Defendant maintains the right, in their sole discretion, to revoke the settlement and their stipulation to class certification prior to the final fairness hearing in the event that ten percent (10%) or more of Settlement Class Members opt out of the settlement.

19. Defendant represents that there are no more than 82,455 workweeks worked by the Class Members during the Class Period. In the event the number of workweeks worked by the Class Members increases by more than 10%, or 8,246, then the Maximum Settlement Amount shall be increased proportionally by the workweeks worked in excess of 82,455 multiplied by the workweek value. The workweek value shall be calculated by dividing the Maximum Settlement Amount by 82,455 workweeks. The Parties agree that the workweek value is \$7.58 (\$625,000.00 / 82,455 workweeks). Thus, for example, should there be 92,455 workweeks in the Class Period, then the Maximum Settlement Amount shall be increased by \$75,800 ((92,455 workweeks – 82,455 workweeks) x (\$7.58/workweek)).

20. All Class Members who have not validly opted out by the stated time period will be subject to the Release and all other terms of the settlement.

21. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Counsel for Plaintiff reserves the right to encourage Class Members to participate in the settlement.

22. Defendant expressly denies any liability. Neither this MOU nor the “long form” Settlement Agreement shall constitute an admission of liability or the accuracy of any allegation made by Plaintiff or their counsel.

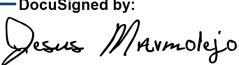
23. Any settlement shall remain confidential until a motion for preliminary approval is filed with the court.

This agreement is executed by the Parties and their duly authorized attorneys as of the day and year set forth below:

IT IS SO AGREED.

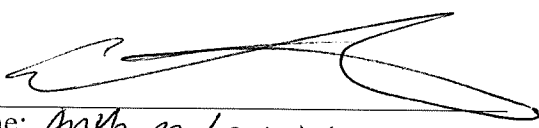
On Behalf of Plaintiff:

Dated: 8/22/2023, 2023

DocuSigned by:

 Jesus Marmolejo, Plaintiff

On Behalf of Defendant Significant Cleaning Services, LLC:

Dated: 8/21/, 2023


 Name: Anthony Lovaglin
 Title: CEO

Approved as to form:

WILSHIRE LAW FIRM, PLC

Dated: August 22, 2023


Justin F. Marquez
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Attorneys for Plaintiff and the Class

BACKSTROM LABOR LAW

Dated: August 22, 2023


Karin L. Backstrom

Attorneys for Defendant