

08/06/2024

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Attorneys for Plaintiffs TIM MITCHELL
and MIGUEL ANGEL GOMEZ

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

TIM MITCHELL, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

RAY A. MORGAN COMPANY, LLC, a limited
liability company; RMC A RAY MORGAN
COMPANY, LLC, a limited liability company;
and DOES 1 through 10, inclusive,

Defendants

Case No.: VCU292052

[Hon. Gary Johnson, Dept. 7]

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFFS' MOTION TO APPROVE
PAGA SETTLEMENT**

*[Filed with Notice of Motion and Motion to
Approve PAGA Settlement, the Declarations of
Kane Moon and Eric Springer, and [Proposed]
Judgment]*

PAGA APPROVAL HEARING:

Date: August 5, 2024

Time: 8:30 a.m.

Dept.: 7

Action Filed: November 17, 2021

Trial Date: Not Set

1 **PROPOSED ORDER**

2 Plaintiffs Tim Mitchell and Miguel Angel Gomez (“Plaintiffs”) seek approval of a
3 PAGA Settlement Agreement (the “PAGA Settlement”) entered into with Defendant UBEO
4 West, LLC f/k/a Ray A. Morgan Company, LLC and RMC A Ray Morgan Company, LLC
5 (“Defendant”) (together with Plaintiff, the “Parties”) in full resolution of the above-captioned
6 litigation (the “Action”).

7 The Court having duly considered Plaintiffs’ Notice of Motion and Motion to Approve
8 PAGA Settlement (“PAGA Approval Motion”), the supporting declarations and exhibits
9 thereto, all papers filed and proceedings had herein, and having reviewed the record in this
10 Action, and good cause appearing,

11 **IT IS HEREBY ORDERED AND DECREED AS FOLLOWS:**

12 1. The Court, for purposes of this Order, refers to all defined terms and provisions
13 as set forth in the PAGA Settlement, which was attached as “**Exhibit 1**” to the Declaration of
14 Kane Moon in Support of Plaintiffs’ PAGA Approval Motion filed herewith.

15 2. The Court hereby GRANTS the PAGA Approval Motion, and the PAGA
16 Settlement is hereby accepted and approved.

17 3. Plaintiffs exhausted all administrative remedies required to bring the PAGA
18 claims asserted in this action and are authorized to act as private attorney generals with respect to
19 the PAGA claims being released under the terms of the PAGA Settlement. The California Labor
20 and Workforce Development Agency (the “LWDA”) was provided with notice of the PAGA
21 Settlement via its online submission process, and no objection has been received to the PAGA
22 Settlement from the LWDA.

23 4. The obligations set forth in the PAGA Settlement are deemed part of this Order,
24 and the Parties and the Settlement Administrator are ordered to carry out the PAGA Settlement
25 according to its terms and provisions.

1 5. Release of Claims. Effective on the date when Defendant fully funds the entire
2 Gross Settlement Amount, Plaintiffs and the Aggrieved Employees will release claims against all
3 Released Parties as follows:

4 a. “Released Parties” means Defendant and all of its former and present
5 employees, directors, shareholders, officers, members, owners, attorneys,
6 agents, insurers, successors, assigns, parents, subsidiaries, affiliates, and legal
7 representatives. (PAGA Settlement, ¶ 1.20.)

8 b. Plaintiffs’ Release. Plaintiffs and their respective former and present spouses,
9 representatives, agents, attorneys, heirs, administrators, successors, and
10 assigns generally, release and discharge Released Parties from all claims,
11 obligations, transactions, occurrences, and liabilities, including claims for
12 civil penalties under the California Private Attorneys’ General Act (Labor
13 Code section 2698, et seq.), that were alleged or reasonably could have been
14 alleged based on the facts contained in the Operative Complaint and
15 Plaintiffs’ PAGA Notice, that accrued at any time during the PAGA Period.
16 (“Plaintiffs’ Release). Plaintiffs’ Release under this Agreement does not
17 extend to any claims or actions to enforce this Agreement, or to any claims
18 for vested benefits, unemployment benefits, disability benefits, social
19 security benefits, workers’ compensation benefits that arose at any time, or
20 based on occurrences outside the PAGA Period. Plaintiffs acknowledge that
21 Plaintiffs may discover facts or law different from, or in addition to, the
22 facts or law that Plaintiffs now know or believe to be true but agree,
23 nonetheless, that Plaintiffs’ Release shall be and remain effective in all
24 respects, notwithstanding such different or additional facts or Plaintiffs’
25 discovery of them. (PAGA Settlement, ¶ 5.1.)

26 i. Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542.

27 For Purposes of Plaintiffs’ Release, Plaintiffs expressly waive and
28

1 relinquish the provisions, rights, and benefits, if any, of section 1542 of
2 the California Civil Code, which reads: “A general release does not
3 extend to claims that the creditor or releasing party does not know or
4 suspect to exist in his or her favor at the time of executing the release
5 and that, if known by him or her, would have materially affected his or
6 her settlement with the debtor or released party.” (PAGA Settlement, ¶
7 5.1.1.)

8 c. Release by Aggrieved Employees. All Aggrieved Employees are deemed to
9 release, on behalf of themselves and their respective former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and
11 assigns, the Released Parties from all claims for statutory penalties under the
12 California Private Attorneys’ General Act (Labor Code section 2698, et seq.)
13 that were alleged, or reasonably could have been alleged, based on the facts
14 stated in the Operative Complaint and/or Plaintiffs’ PAGA Notice that accrued
15 at any time during the PAGA Period (“Released Claims”). Aggrieved
16 Employees, with the exception of Plaintiffs, retain their rights to pursue claims
17 for wages, statutory penalties, and any other damages, other than the PAGA
18 claims being released by this Settlement. (PAGA Settlement, ¶ 5.2.)

19 6. The PAGA Settlement is not an admission by Defendant, nor is this Order a
20 finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order,
21 the PAGA Settlement, nor any document referred to herein, nor any action taken to carry out the
22 PAGA Settlement, may be used as an admission of any fault, wrongdoing, omission, concession,
23 or liability whatsoever by or against Defendant.

24 7. Defendant shall pay a Gross Settlement Amount of \$480,000.00 pursuant to the
25 terms of the PAGA Settlement:

26 a. A payment in the amount of \$215,293.12, payable to the LWDA for civil
27 penalties, pursuant to PAGA;

- b. A payment in the amount of \$71,764.37, payable to the Aggrieved Employees on a pro rata basis for civil penalties, pursuant to PAGA;
- c. An award of \$160,000.00, payable to PAGA Counsel, for reasonable attorneys' fees, pursuant to PAGA;
- d. An award of \$30,042.51, payable to PAGA Counsel, for reasonably attorneys' costs, pursuant to PAGA; and
- e. A payment in the amount of \$2,900.00, payable to the Settlement Administrator, for settlement of administration costs.

8. The Court approves of the Notice of PAGA Settlement attached to the PAGA Settlement as "**Exhibit A**" to be sent by the Settlement Administrator to the Aggrieved Employees along with their respective Individual PAGA Payments.

9. The Court appoints Simpluris, Inc. as the Settlement Administrator.

10. The Court appoints Plaintiffs' counsel of record Moon Law Group, PC as PAGA Counsel.

11. The Parties shall bear their own respective attorneys' fees and costs, except as otherwise provided for in the PAGA Settlement and approved by the Court. Defendant and the Released Parties shall have no further liability for costs, expenses, interests, attorneys' fees, or for any other charge, expense, or liability relating to the Released Claims and shall be released from all claims as set forth in the PAGA Settlement and in this Order.

12. Plaintiffs shall submit a copy of this Order to the LWDA within 30 calendar days after entry hereof.

13. Pursuant to California Code of Civil Procedure section 664, this Court shall retain jurisdiction over the Parties, Action, and the PAGA Settlement solely for purposes of (i) enforcing the PAGA Settlement and/or this Order, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

14. The Court sets a Compliance Hearing re: Distribution on February 24 , 2025 at 8:30 am a.m./p.m. in Department 7. PAGA Counsel are ordered to file a final report and

1 declaration by the Settlement Administrator regarding settlement distribution no later than five
2 (5) court days prior to the Compliance Hearing. No appearance will be required at the
3 Compliance Hearing if the Settlement Administrator's declaration reports that all the
4 distributions under the PAGA Settlement are complete.

5 **IT IS SO ORDERED.**

6
7 DATED: 08/06/2024



Hon. Gary. Johnson
Judge of the Tulare County Superior Court

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 725 S. Figueroa St., 31st Floor, Los
7 Angeles, California 90017. On July 10, 2024, I served the foregoing document described as:

8 **PLAINTIFFS' NOTICE OF MOTION AND MOTION TO APPROVE PAGA
9 SETTLEMENT**

10 **DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION
11 TO APPROVE PAGA SETTLEMENT**

12 **DECLARATION OF ERIC SPRINGER ON BEHALF OF SIMPLURIS, INC. IN
13 SUPPORT OF PLAINTIFFS' MOTION TO APPROVE PAGA SETTLEMENT**

14 **[PROPOSED] JUDGMENT**

15 **[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO APPROVE
16 PAGA SETTLEMENT**

17 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
18 addressed as follows:

19 Tara Zabehi (SBN 314706)
20 Travis J. Maher (SBN 327206)
21 Margaux Gundzik (SBN 340116)
22 LAWYERS for JUSTICE, PC
23 410 West Arden Avenue, Suite 203
24 Glendale, California 91203
25 Telephone: (818) 265-1020

26 Bill Littlewood (blittlewood@wtjlaw.com)
27 Nicole Lee (nlee@wtjlaw.com)
28 Kisten Jensen (kjensen@wtjlaw.com)
Mandy Jeffcoach
(mjeffcoach@wtjlaw.com)
WHITNEY THOMPSON &
JEFFCOACH
970 W. Alluvial Avenue
Fresno, CA 93711
Telephone: 559-753-2556

29 ***Attorney for Defendant***

30 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
31 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the

1 firm's practice of collection and processing correspondence for mailing. Under that
2 practice it would be deposited with U.S. postal service on that same day with postage
3 thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am
4 aware that on motion of the party served, service is presumed invalid if postal
5 cancellation date or postage meter date is more than one day after date of deposit for
6 mailing in affidavit.

7
8 X (State) I declare under penalty of perjury under the laws of the State of California
9 that the above is true and correct.

10 Executed on July 10, 2024, at Los Angeles, California.

11 Steven Delgado
12 Name

/s/ Steven Delgado
Signature