

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**DECLARATION OF ARLO GARCIA
URIARTE IN SUPPORT OF
PLAINTIFF'S MOTION FOR
APPROVAL OF SETTLEMENT OF
PLAINTIFF'S CLAIM FOR PENALTIES
UNDER CALIFORNIA LABOR CODE
SECTION 2698, ET SEQ. ("PAGA")**

Date: May 17, 2024

Time: 9:30 a.m.

Dept.: 302

Complaint Filed: June 3, 2022

Trial Date: None

1 I, Arlo Garcia Uriarte, declare as follows:

2 1. I am the founding and managing attorney at Liberation Law Group, P.C. ("Firm" or
3 "LLG"), and I am licensed to practice in all courts for the State of California. I am the supervising
4 attorney and one of the attorneys personally involved in the enforcement of this action representing
5 Plaintiff Gerardo Garcia Aguilar (hereinafter "Plaintiff") against Defendants YK Mason
6 Construction, Inc. and YK Mason & Son, Inc. (the latter hereinafter "Defendant"). I have personal
7 knowledge of the facts set forth below and if called to testify I could and would do so competently.

8 2. My Firm's initial research into Defendant's business revealed that it is a contractor in
9 the construction industry, specifically focused on assembling and removing scaffolding for
10 construction projects in the San Francisco-Bay Area.

11 3. My review of Plaintiff's personnel file and my Firm's discovery efforts revealed the
12 following: (a) Plaintiff was hired by Defendant's predecessor, YK Mason Construction, Inc., in
13 June of 2011 as a laborer, and he was eventually promoted to foreman; (b) in or around December
14 2019, YK Mason Construction, Inc. was converted to YK Mason & Son, Inc.; (c) Plaintiff's
15 employment with Defendant ended in September 2021; (d) Defendant's business slows down in the
16 winter, and Defendant has not employed more than twenty employees at any one time.

17 4. In July 2023, I conveyed Plaintiff's acquiescence to mediate this matter to counsel for
18 Defendant. We selected Michael Ornstil as the mediator. Subsequently, LLG continued its
19 discovery efforts on behalf of Plaintiff. It was key, in my view, to seek enough information through
20 discovery to be adequately prepared for mediation. On behalf of Plaintiff, LLG propounded written
21 discovery (two sets of form interrogatories, special interrogatories, and requests for production of
22 documents) and deposed Defendant's owner and general manager, Alan Chow. Also, on behalf of
23 Plaintiff, LLG responded to Defendant's discovery requests, which included two sets of form
24 interrogatories, and defended Defendant's deposition of Plaintiff.

25 5. Mediation took place on January 25, 2024. I personally led negotiations on behalf of
26 Plaintiff. Mr. Ornstil was instrumental in attaining the proposed \$440,000 settlement. Plaintiff also
27 settled his individual claims for \$70,000 at mediation. I worked with members of my Firm to draft
28 settlement agreements, both the PAGA settlement agreement and Plaintiff's individual agreement.

1 Multiple rounds of back and forth revisions occurred, and the parties eventually came to terms on
2 both.

3 6. LLG has incurred \$8,588.31 in total costs for this action, as shown by the attached
4 Exhibit "3". Costs have been allocated proportionally to the PAGA settlement and Plaintiff's
5 individual settlement. Specifically, Plaintiff's \$70,000 settlement is approximately sixteen percent
6 of the \$440,000 PAGA settlement; therefore, sixteen percent of costs or \$1,386.45 have been
7 allocated to Plaintiff's individual settlement. The remaining amount, \$7,201.86 is allocated to the
8 PAGA settlement.

9 7. The parties sought administration bids from three different companies: Phoenix, CPT
10 Group, Inc. and Simpluris, Inc. Phoenix's bid was most competitive.

11 8. I have worked to settle various PAGA-only actions. I have also settled many class action
12 cases with a PAGA allocation. I have never seen an average per aggrieved employee recovery as
13 high as \$2,722.50 per person.

14 9. In my experience and understanding, I believe La Raza Centro Legal (hereinafter
15 "LRCL") is a worthy *cy pres* for the instant application, consistent with the rigors of California
16 Code, Code of Civil Procedure § 384. LRCL's work would allow any *cy pres* award they receive
17 to be used to advance the public interest of providing important legal services to those who cannot
18 afford it, especially low-income, immigrant families. I have advocated for LRCL's role as the court-
19 appointed *cy pres* in other matters before. However, I, nor my Firm, have any financial investment
20 in LRCL; similarly, we do not have any role in the management of the non-profit. LRCL is a
21 completely separate entity whose work I find important and necessary.

22 10. My review of Plaintiff's wage statements shows that he was generally only
23 compensated for eight hours of work per day with few exceptions. The extra work Plaintiff claims
24 he worked beyond eight hours was routinely not captured by Defendant.

25 11. Interviews with Plaintiff, conversations with witness contacts he provided, and the
26 deposition of Defendant's PMK allowed me to ascertain the following information. Plaintiff and
27 Aggrieved Employees began their workday either at Defendant's main offices, located in San
28 Francisco's Bayview District, or about a mile and a half away at Defendant's storage yard. At those

1 locations, they received daily instructions and/or picked up work materials to execute their
2 upcoming tasks. Employees reported just before their scheduled shifts, so they were not paid for
3 this preliminary work. Similarly, on days where work demands led employees to work beyond their
4 scheduled shifts, the continuation of common work tasks was not compensated by Defendant.
5 Employees were generally assigned eight-hour shifts, so any unpaid work should have been
6 compensated at an overtime rate.

7 12. Throughout this litigation, Defendant has made the following arguments which I
8 found potentially convincing pursuant to proof. Firstly, Defendant contends that it solved or
9 ameliorated underpayment and break issues by: (1) paying for full scheduled shifts when Aggrieved
10 Employees finished their work early and were relieved of duty; or (2) making cash payments to
11 Aggrieved Employees to cover some overtime work, Secondly, Defendant facilitated meal periods
12 by routinely providing food to its employees, casting doubt on Plaintiff's allegations of non-
13 adequate meal periods. Thirdly, Defendant's business is seasonal, and they reduce their operations
14 in the winter; this serves to reduce the universe of pay period penalties. Lastly, Defendant claims it
15 is unable to pay over a million dollars in PAGA penalties; if forced, it would be forced to cease
16 operating and file for bankruptcy. Some or all of the foregoing could create serious issues with
17 further litigation or a recovery of maximum PAGA penalties.

18 13. My Firm agreed to represent Plaintiff using a contingency fee agreement. LLG will
19 not receive any recompense for its services rendered in this action nor for any costs expended unless
20 a recovery is achieved. This is our typical arrangement for representative action and class action
21 cases; putative representatives for either have never paid LLG any hourly fees.

22 14. My Firm has worked a combined 190.8 hours on this matter, and we have accrued a
23 lodestar of \$98,399, as shown by the attached Exhibit "6".

24 15. Concurrent with this filing, my Firm uploaded the instant motion and all
25 accompanying documents, including the Agreement, to the LWDA's website. A proof of service
26 will be filed shortly after the motion is filed.

27 16. I submit that I am qualified to act as class counsel in this matter based on my
28 experience. I have led my Firm in the handling of many similar wage and hour class/representative

actions:

- *Herrada v McWane, Inc.*, Alameda Superior Court, RG21103064, failure to pay all hours worked, overtime, failure to provide meal and rest periods case against a cast ductile iron manufacturer;
- *Lopez v. Peak California Restaurant Group, LLC*, Contra Costa Superior Court, C20-00497, failure to pay all hours worked, overtime, failure to provide meal and rest periods; case against a popular restaurant chain,
- *Melendez v Genesis Building Services, Inc.*, San Mateo Superior Court, 20CIV00453, failure to pay all hours worked, overtime, failure to provide meal and rest periods; and unpaid expenses case against a janitorial services company,
- *Sanchez v. Atherstone Foods, Inc.*, Contra Costa Superior Court, C20-01999, failure to pay all hours worked, unpaid minimum wage, overtime, failure to provide meal and rest periods; and unpaid expenses case against fresh food production company;
- *Romero v Taquerias el Farolito, Inc.*, San Francisco Superior Court, CGC-19-577957, failure to pay all hours worked, unpaid minimum wage, overtime, failure to provide meal and rest periods; and unpaid expenses case against a Mexican food chain restaurant;
- *Aldana v. Wayfare Manager, LP*, San Francisco Superior Court, CGC-19-576943, meal and rest period violations case against a popular restaurant;
- *Barragan v. Land & Sea Restaurants, LLC*, San Francisco Superior Court, CGC-18-571989, failure to pay all hours worked, overtime, failure to provide meal and rest periods; case against a restaurant;
- *Glover v Hallmark Aviation Services*, San Francisco Superior Court, CGC-18-571984, failure to pay all hours worked, overtime, failure to provide meal and rest periods case against a company that offers different services to airports and airlines;
- *Bailon v Forge Pizza*, Alameda Superior Court, RG16811165, meal and rest period violations case against a pizza restaurant;
- *Osorio v Mezzetta*, Napa County Superior Court, 17CV001321, unpaid wages, breaks, off-the-clock work by fruit and vegetable bottling company;

- 1 • *Conchas v French Redwood, Inc.*, San Mateo Superior Court, 17CIV04276, meal and rest
2 break compensation case against a hotel operator;
- 3 • *Rowland v Cucagna dba Zuni Café*, San Francisco Superior Court, CGC-16-555127,
4 unpaid wages and breaks compensation case against popular café;
- 5 • *Concepcion v. DFS Group, L.P.*, case no. CGC-15-548698 (San Francisco Superior Court)
6 \$1,575,000 total settlement fund; 760 settlement class members; wage and hour class
7 action mostly about unpaid meal and rest period premiums with an unpaid wages element
8 as well;
- 9 • *Jakosalem v. Air Serv Corporation* (U.S. District Court, Northern District of California
10 Case No. 3:13-cv-05944-SI (unpaid minimum wage, overtime, and failure to provide meal
11 and rest periods; class action settlement achieved and approved by the court);
- 12 • *Mul-May v. The Slanted Door, Inc.*, San Francisco County Case No. CGC-13-535967
13 (allegations of meal and rest period violations and unpaid gratuities);
- 14 • *Mungia v. Liz Palacios Designs, Inc.*, San Francisco County Case No. CGC-06-455942,
15 (unpaid minimum and overtime wages, meal and rest period violations, and unpaid
16 expenses, settlement achieved and approved);
- 17 • *Keo v. North Coast Couriers Inc.*, Alameda County Case No. RG06251806 (independent
18 contractor misclassification of courier drivers, settlement achieved and approved);
- 19 • *Navarro v. Servisair*, United States District Court Case No. CV-08-2716-MHP (non-
20 payment of wages and rest break violations, settlement achieved and approved);
- 21 • *Chavez v. J.R. Produce; Chavez v. UPG*, San Mateo County Case No. 474121 & 515853
22 (off-the-clock work, meal and rest breaks and failure to reimburse uniform expenses;
23 fraudulent transfer);
- 24 • *Bonilla v. Café de la Presse*, San Francisco Superior Court Case No. CGC-11-511482
25 (meal periods, rest breaks and gratuities, settlement achieved and approved);
- 26 • *Chavez v United Prosperity Group*, San Mateo Superior Court Case No. 515853 (trial on
27 successor liability; fraudulent transfer action for the class claims and judgment);
- 28 • *Gutierrez v. HWA May Market, Inc.*, San Francisco Superior Court Case No. CGC-13-

- 1 535590 (wage and hour class action, settlement achieved and approved by the court);
- 2 • *Espinoza v. Pleasanton Car Wash Inc.*, Alameda Superior Court Case No. RG14750671
- 3 (wage and hour class action, settlement achieved and approved by the court);
- 4 • *Cruz v. Prospect Air*, San Francisco County Case No. CGC-15-547490 (wage and hour
- 5 class action case including unpaid wages, overtime, and unpaid meal and rest period
- 6 premiums, a settlement has been preliminarily approved);
- 7 • *Carillo v. T-Lish II LLC*, San Francisco Superior Court Case No. CGC 15-546096 (meal
- 8 and rest period class action, settlement achieved and approved);
- 9 • *Perez v Foam Distributors Inc.*, Alameda Superior Court Case No. RG15772012 (rounding
- 10 unpaid wages, meal and rest break claims settled and approved).

11 17. My hourly rate is \$800. I directly supervised other members of LLG who also worked

12 on this case:

13 a. Nick Aguilar is an out-of-state attorney licensed by the state of Florida (SBN

14 0099275) who graduated from the Florida International University College of Law. He has been a

15 member of LLG since March 2013 focusing on wage and hour matters, particularly

16 class/representative actions. He worked this case under my direct supervision. Any work that he

17 performed was carefully reviewed and approved by me before it was utilized. Chiefly, he has been

18 assigned to draft the pleadings in this case for my review. He also participated in strategy sessions

19 with me and Plaintiff. He attended mediation and was helpful to that process. His hourly rate is

20 \$350.

21 b. Luiseth Contreras is one of Our Firm's legal assistants. She has helped perform

22 initial and more detailed follow up intakes of clients and potential clients under my supervision.

23 She has experience supporting Our Firm in class action lawsuits since October 2017. She graduated

24 with a law degree from Universidad Central de Venezuela (UCV) in Venezuela. Previous to joining

25 Our Firm, Ms. Contreras worked as Aux. Public Registrar and lawyer I for the autonomous system

26 of Registers and Notaries (SAREN), as a Legal advisor in the labor area for different companies,

27 as a Legal assistant and workers representative in occupational safety institutions for Distribuidora

28 Kandra 2010, and a legal intern in Blanco-Uribe & Asociados. Her hourly rate is \$280.

1 c. Kristoffer Solomon is our Firm's Data Analyst. He earned his bachelor's degree in
2 Accountancy from the National College for Business and Arts in the Philippines. He previously
3 worked for a BPO company as a Financial Analyst. Mr. Solomon analyzed all timekeeping and
4 payroll records available in this action. He also created the PAGA penalties spreadsheet under my
5 direct supervision. His hourly rate is \$300.

6
7 **AUTHENTICATION OF EXHIBITS**

8 1. Attached hereto and marked as Exhibit "1" is a true and correct copy of the fully
9 executed PAGA Settlement Agreement.

10 2. Attached hereto and marked as Exhibit "2" is a true and correct copy of the
11 Declaration of Alan Chow, President of YK Mason & Son, Inc.

12 3. Attached hereto and marked as Exhibit "3" is an itemized listing of the expenses
13 and costs incurred as part of this litigation.

14 4. Attached hereto and marked as Exhibit "4" is Plaintiff's Maximum PAGA Penalties
15 Chart.

16 5. Attached hereto and marked as Exhibit "5" are excerpts from Alan Chow's
17 Deposition Transcripts dated September 21, 2023.

18 6. Attached hereto and marked as Exhibit "6" is a Table of Hours Worked by LLG for
19 this litigation.

20
21 I declare under penalty of perjury under the laws of California that the foregoing is true
22 and correct. Executed on this 25th day of April 2024, in in San Francisco, California.

23
24 

25 Arlo Garcia Uriarte
26
27
28

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "1" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff GERARDO GARCIA AGUILAR (“Plaintiff”) and Defendant YK MASON & SON, INC (Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Aguilar v. YK Mason & Son, Inc.*, case no. CGC-22-600003 initiated on June 3, 2022, and pending in Superior Court of the State of California, County of San Francisco.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions, a neutral entity selected by the Parties after receiving bids from three, experienced and reputable companies.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employee” means any person employed by Defendant in California and classified as a laborer or foreman who worked for Defendant during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including all of the following: the Aggrieved Employee’s name, last-known mailing address, Social Security number (if one is known and available), and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of San Francisco.
- 1.8. “Defense Counsel” means BWA Law Group APC, 1901 E. Fourth Ave., Suite 150 Santa Ana CA 92705.
- 1.9. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final.

- 1.10. "Gross Settlement Amount" means \$440,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.
- 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. "PAGA Counsel" means Liberation Law Group, P.C., 2760 Mission St., San Francisco CA 94110, the attorneys representing the Plaintiff in the Action.
- 1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for DEFENDANT for at least one day during the PAGA Period.
- 1.19. "PAGA Period" means the period from March 3, 2021, through date of entry of Approval Order.
- 1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. "PAGA Notice" means Plaintiff's December 8, 2021, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22. "Plaintiff" means Gerardo Garcia Aguilar, the named plaintiff in the Action.
- 1.23. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

- 1.24. “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.25. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, and assigns.
- 1.26. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.27. “Defendant” means named defendant YK Mason & Son, Inc.

2. RECITALS.

- 2.1. On June 3, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against for failure to pay all hours worked, failure to pay overtime, failure to provide meal periods, failure to provide rest breaks, failure to provide accurate itemized wage statements, waiting time penalties, civil penalties under PAGA, and unfair competition under Cal. Bus. Prof. Code §§ 17200 et. seq.. The Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to DEFENDANT and the LWDA by sending the PAGA Notice.
- 2.3. On January 25, 2024, the parties participated in an all-day mediation presided over by Michael Ornsitl.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Defendant promises to pay \$440,000 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, pursuant to Court approval:
- 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.33% of the Gross Settlement Amount or \$146,652 and PAGA Counsel Litigation Expenses

Payment of not more than \$10,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed \$2,250 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less than \$2,250, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties to the LWDA equaling 75% of the Net Settlement Amount and PAGA Penalties to Aggrieved Employees equaling 25% of the Net Settlement Amount.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant provides there are 26 Aggrieved Employees who worked a total of 1,1672 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 7 days after the Court enters an Order approving the Settlement, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence,

use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel and the Administrator if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 21 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 21 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks or wire transfer funds for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date.

4.4.2. Any checks issued to Aggrieved Employees that remain unnegotiated after 180 days shall be voided and the total outstanding amount shall be awarded to a Court-approved *cy pres* recipient. The Parties have selected La Raza Centro Legal as the *cy pres* recipient.

4.4.3. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses,

representatives, agents, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, those being California Labor Code Sections 200, 201, 202, 203, 204, 210, 221, 223, 224, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 510, 512, 558, 558.1, 1174, 1174.5, 1185, 1194, 1194.2, 1197, 1197.1, 1199, 2698, 2699, 2699.3, 2802, and IWC Wage Order No. 16 as well as all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice (“Plaintiff’s Release”). Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

- 5.1.1 Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

- 5.2 Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice. The Release is only applicable to claims for PAGA penalties during the PAGA Period.

6. SETTLEMENT ADMINISTRATION.

- 6.1 Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

6.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

6.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

6.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7. AGGRIEVED EMPLOYEE SIZE ESTIMATES

Based on its records, Defendant provides that, as of the date of this Settlement Agreement, (1) there are 26 aggrieved Employees who worked 1,1672 Pay Periods during the PAGA Period.

8. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

8.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9. ADDITIONAL PROVISIONS.

9.1 Declaration Regarding Defendant’s Future Wage and Hour Compliance. On behalf of Defendant, Alan Chow will provide a declaration, to submit with the motion for approval of this Settlement, which indicates implementation of the following wage and hour policy and practice changes to satisfy PAGA’s remedial purposes:

- (a) Better compliance with recordkeeping requirements; specifically, maintenance of electronic timekeeping records indicating exact clock in and clock out times for hourly employees, including their meal periods. Defendant will capture and pay for all times where each employee is laboring for the known benefit of Defendant. Meal periods may be recorded using handwritten records.

- (b) Defendant will maintain a Daily Exception Report for meal periods and rest breaks. The Report will indicate when meal periods or rest periods were not taken or waived and the reasons why.
- (c) Defendant shall institute a meal and rest period compensation policy, allowing employees to receive break premiums if Defendant does not provide them either a meal period or a rest period.
- (d) Defendant shall issue compliant wage statements to its employees for every pay period worked.

9.2 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

9.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

9.4 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

9.5 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 9.6 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 9.7 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 9.8 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 9.9 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 9.10 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 9.11 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 9.12 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 9.13 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, DEFENDANT makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 9.14 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

9.15 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

9.16 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Liberation Law Group, P.C
2760 Mission Street
San Francisco, CA 94110

To Defendant:

BWA Law Group APC
1901 E. Fourth St., suite 150
Santa Ana CA 92705

9.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

9.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

[signatures on following page]

Date: Apr 11, 2024

Gerardo Garcia

Gerardo Garcia Aguilar

Date: April 11, 2024

Approved as to form:



Liberation Law Group, P.C.
by: Arlo Garcia Uriarte

Date: 04/15/2024

alan chow
alan chow (Apr 15, 2024 12:58 PDT)

YK Mason & Son, Inc.
by: Alan Chow, President

Date: 04/15/2024

Approved as to form:



BWA law Group APC
by: Robert E. Williams

Document ID: LV6ZV77K

signrequest@liberationlawgroup.com

Document name:

Proposed PAGA Settlement Agreement - (041024 w Updated Release Language).pdf

SHA256 security hash:

b8401ef273755d81c810e1b238a156070409a6ad6c81fcfecf663d37b70f70b3

Sent on:

April 11, 2024, 9:54 p.m. (UTC)

From:

SignRequest <no-reply@signrequest.com> on behalf of (signrequest@liberationlawgroup.com)

To:

antoniogerardo701@gmail.com

Subject:

signrequest@liberationlawgroup.com has sent you a SignRequest

Message:

Please sign this document.

Kind regards,

signrequest@liberationlawgroup.com

IP address:

192.145.119.129

User agent:

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/123.0.0.0 Safari/537.36

signrequest@liberationlawgroup.com

Email address verification:

Verified by SignRequest

antoniogerardo701@gmail.com

Email address verification:

Verified by SignRequest

Text added, page 11:

Apr 11, 2024

Signature added, page 11:

Gerardo Garcia

IP address:

166.205.91.45

User agent:

Mozilla/5.0 (iPhone; CPU iPhone OS 17_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/17.1.1 Mobile/15E148 Safari/604.1

Document signed:

April 12, 2024, 4:20 a.m. (UTC)

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "2" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

BWA LAW GROUP APC
Jeremy J. Alberts, Esq. (SBN 273290)
Robert E. Williams (SBN 255179)
1901 East 4th Street, Suite 150
Santa Ana, California 92705
Telephone: (714) 581-8838
Facsimile: (714) 581-8836
Email: rwilliams@bwalaw.com

Attorneys for Defendants YK Mason & Son, Inc.,
and YK Mason Construction, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION**

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No. CGC-22-600003

DECLARATION OF ALAN CHOW

Alan Chow declares as follows:

1. I am the President of YK Mason & Son, Inc., defendant in this matter (hereinafter the "Defendant"). I make this Declaration of my personal knowledge and would so testify if called as a witness in this matter.

2. I make this Declaration pursuant to section 9.1 of the PAGA Settlement Agreement entered into in this matter.

3. Defendant settled this matter to avoid the expense, inconvenience, and risk of continued litigation. The Settlement Agreements in this matter expressly state that nothing therein shall be construed as an admission of liability.

4. Defendant is and has been committed to paying all employees who are, or who would be, included in the class in this matter (hereinafter the “Employees”) for all hours worked, and Defendants will continue to do so.

5. Going forward, Defendant will capture and pay for all times when each employee is laboring for the known benefit of Defendant.

6. Defendant provided and used, and continue to provide and use, an electronic time system to record the hours of work of Employees. The electronic time clock captures the exact time that Employees clock in and out and does not round the times.

7. Defendant is a construction firm. The Employees work at remote locations. Defendant now requires the foreman of work crews to record the beginning and end of meal periods for Employees on forms created for this purpose. This information is used to track missed meal periods and the reason therefor, i.e., whether the employee voluntarily waived the meal period or was requested to do so by Defendant.

8. Defendant has instituted and will maintain a meal and rest period compensation policy, allowing employees to receive one hour of premium pay for meal or rest breaks that were not provided at the request of Defendant.

9. Defendant will issue a compliant wage statement to Employees for every pay period worked.

Signed under penalty of perjury under the law of the State of California in San Francisco CA
this day of March 2024.

alan chow
alan chow (Apr 3, 2024 08:20 PDT)

Alan Chow

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "3" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

Liberation Law Group, PC

2760 Mission Street
San Francisco, CA 94110
Office: 415.695.1000
Fax: 415.695.1006
<http://www.liberationlawgroup.com>

Bill to:

Gerardo Garcia
13601 Doolittle Drive #20
San Leandro, CA 94577

antoniogerardo701@gmail.com
(510) 229-2169

Garcia v. YK Mason Construction, Inc. [NAA] 1982

INVOICE

To April 10, 2024

Invoice Date April 10, 2024
Invoice Number 1936
Due Date May 10, 2024

Account Summary	
Previous Balance	\$0.00
Payments Received	\$0.00
Outstanding Balance	\$0.00
Current Invoice	\$8,588.31
Total Due	\$8,588.31

Fee Detail

Date	Description	Hours	Rate	Total
<i>No hourly fees have been charged for this invoice.</i>				
		Hours Total	0.00	Fee Total
				\$0.00

Expense Detail

Date	Description	Quantity	Rate	Total
12/8/2021	Welcome Letter Postage	1	\$0.53	\$0.53
12/8/2021	PAGA Letter and 226 Letter Copying	8	\$0.15	\$1.20
12/8/2021	Certified Postage for PAGA Letter Postage	1	\$4.48	\$4.48
12/8/2021	Welcome Letter Copying	2	\$0.15	\$0.30
12/22/2021	Welcome Letter Postage	1	\$0.53	\$0.53
12/22/2021	Welcome Letter Copying	2	\$0.15	\$0.30
5/27/2022	Westlaw May 2022 E106 - Online research	1	\$4.54	\$4.54
6/9/2022	One Legal Fee Credit Sale#04133604 dated 6/9 Complaint (first appearance fee), Issued Summons, Civil Case Coversheet paid through Amex Filing Fee	1	\$460.70	\$460.70
7/17/2022	Western Attorney Services Invoice#83455 dated 7/17 To: YK MASON & SON/YK MASON CONSTR 207 ARLETA AVE and 30503 PALOMARES paid through Amex E124 - Other	1	\$327.55	\$327.55
7/19/2022	Western Attorney Services Invoice#83513 dated 7/31 To: YK MASON & SON/YK MASON Construction 1339 STOCKTON ST & 1208 DAKOTA AVE (2x) paid through Amex E124 - Other	1	\$397.12	\$397.12

Date	Description	Quantity	Rate	Total
8/11/2022	One Legal Fee Credit Sale#04284879 dated 8/11 ,Proof of Service paid through Amex Filing Fee	1	\$12.87	\$12.87
10/24/2022	One Legal Fee Credit Sale#04471769 dated 10/24 Case Management Statement paid through Amex Filing Fee	1	\$14.93	\$14.93
11/18/2022	Scanning	1	\$0.15	\$0.15
3/14/2023	Copying	33	\$0.15	\$4.95
3/14/2023	Postage	1	\$2.70	\$2.70
7/18/2023	Court Call ID#11720596 dated 7/18 Ex Parte Application Filing Fee	1	\$72.00	\$72.00
9/30/2023	Lexis Charges Sept 2023 E106 - Online research	1	\$116.71	\$116.71
10/27/2023	Nogara Invoice#66316 dated 10/12 Depo transcript of PMK Alan Chow E115 - Deposition transcripts	1	\$793.60	\$793.60
11/7/2023	JAMS Invoice#16883000 dated 10/17 Mediation Fee E121 - Arbitrators/mediators	1	\$6,000.00	\$6,000.00
1/31/2024	Lexis Jan 2024 Charges E106 - Online research	1	\$195.91	\$195.91
2/2/2024	E101 - Copying	39	\$0.15	\$5.85
2/23/2024	One Legal Fee Credit Sale#05762385 dated 2/23 Notice E112 - Courtfees	1	\$15.39	\$15.39
4/4/2024	Motion and Courtesy Copies aprox E112 - Courtfees	1	\$150.00	\$150.00
4/4/2024	E101 - Copying	40	\$0.15	\$6.00
			Expenses Total	\$8,588.31

Fees	\$0.00
Expense	\$8,588.31
Current Due	\$8,588.31
Outstanding Balance	\$0.00
Total Due	\$8,588.31

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "4" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

F	G	H	I
Number of Pay Periods	Unpaid Wages - Labor Code §210(a) \$100/\$200	Unpaid Overtime - Labor Code §558(a) \$50/\$100	Meal Period Violations - Labor Code §558(a) \$50/\$100
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
40	\$ 7,900.00	\$ 3,950.00	\$ 3,950.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
40	\$ 7,900.00	\$ 3,950.00	\$ 3,950.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
49	\$ 9,700.00	\$ 4,850.00	\$ 4,850.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
2	\$ 300.00	\$ 150.00	\$ 150.00
1	\$ 100.00	\$ 50.00	\$ 50.00
15	\$ 2,900.00	\$ 1,450.00	\$ 1,450.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
10	\$ 1,900.00	\$ 950.00	\$ 950.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
13	\$ 2,500.00	\$ 1,250.00	\$ 1,250.00
76	\$ 15,100.00	\$ 7,550.00	\$ 7,550.00
65	\$ 12,900.00	\$ 6,450.00	\$ 6,450.00
62	\$ 12,300.00	\$ 6,150.00	\$ 6,150.00
1	\$ 100.00	\$ 50.00	\$ 50.00
14	\$ 2,700.00	\$ 1,350.00	\$ 1,350.00
6	\$ 1,100.00	\$ 550.00	\$ 550.00
1,913	\$ 378,800.00	\$ 189,400.00	\$ 189,400.00

J	K	L	M
Rest Break Violations - Labor Code §558(a) \$50/\$100	Waiting Time Violations - Labor Code §210(a) \$100	Wage Statement Violations - Labor Code §226(e) \$50/\$100	Grand Total
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 3,950.00	\$ 100.00	\$ 3,950.00	\$ 23,800.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 3,950.00	\$ 100.00	\$ 3,950.00	\$ 23,800.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 4,850.00	\$ 100.00	\$ 4,000.00	\$ 28,350.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 150.00	\$ 100.00	\$ 150.00	\$ 1,000.00
\$ 50.00	\$ 100.00	\$ 50.00	\$ 400.00
\$ 1,450.00	\$ 100.00	\$ 1,450.00	\$ 8,800.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 950.00	\$ 100.00	\$ 950.00	\$ 5,800.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 1,250.00	\$ 100.00	\$ 1,250.00	\$ 7,600.00
\$ 7,550.00	\$ -	\$ 4,000.00	\$ 41,750.00
\$ 6,450.00	\$ -	\$ 4,000.00	\$ 36,250.00
\$ 6,150.00	\$ -	\$ 4,000.00	\$ 34,750.00
\$ 50.00	\$ 100.00	\$ 50.00	\$ 400.00
\$ 1,350.00	\$ 100.00	\$ 1,350.00	\$ 8,200.00
\$ 550.00	\$ 100.00	\$ 550.00	\$ 3,400.00
\$ 189,400.00	\$ 1,600.00	\$ 112,950.00	\$ 1,061,550.00

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "5" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN FRANCISCO

3 UNLIMITED JURISDICTION

4
5 GERARDO GARCIA AGUILAR,

6 Plaintiff,

7 v.

No. CGC-22-600003

8 YK MASON & SON, INC.,
9 YK MASON CONSTRUCTION,
10 INC. and DOES 1 through
25,

11 Defendants.

12 _____/

13 Remote Deposition of

14 Person Most Knowledgeable

15 ALAN CHOW

16 Thursday, September 21, 2023

17 **CERTIFIED COPY**

18
19
20 REPORTED BY: CINDY TUGAW, CSR #4805

21
22
23 NOGARA REPORTING SERVICE
24 150 Sutter Street
25 P.O. Box 538
San Francisco, California 94105
(415) 398-1889

1 A. I don't think they were logged. There's no
2 meal period records.

3 Q. What about -- I saw some GPS tracking
4 information documents. Did you review those?

5 A. I didn't review those for this meeting, but I
6 provided them.

7 Q. Did you review the complaint, the lawsuit, the
8 written lawsuit? Did you review that?

9 A. No.

10 Q. The daily time -- or daily job sheets, did you
11 review those?

12 A. No.

13 Q. Aside from your attorney, did you happen to
14 talk to anybody from the company or any worker or
15 anybody? Did you talk to anybody to prepare for
16 today's deposition?

17 A. No.

18 Q. Did you e-mail or text or communicate with
19 anybody to help you prepare for today's deposition?

20 A. No.

21 MR. URIARTE: David, could you please help us by
22 giving us Exhibit 1, please.

23 (Plaintiff's Exhibit 1 marked for
24 identification.)

25 MR. URIARTE: Thank you.

1 A. Yes. They usually fluctuate during the
2 wintertime when it's slow.

3 Q. And when you say wintertime it's slow, is that
4 primarily because of the rain?

5 A. Yeah, the wintertime, winter season is slow
6 for us.

7 Q. Okay. Can you tell me what that season is,
8 like from what month to what month?

9 A. November, December, January, February, March,
10 April. Those are the slower seasons.

11 Q. I see. And what's been the trend with regards
12 to how much less -- like let's say the foremen, how
13 many foremen do you employ during the winters?

14 A. We keep the foremans. Four to five.

15 Q. And then the laborers?

16 A. That can go down to 12 -- 12, 15 -- it could
17 go down to 14, 15.

18 Q. Let's talk a little bit about the duties and
19 responsibilities of the foremen. My understanding,
20 Mr. Chow, is that your employees begin their day at the
21 yard or at the office, is that correct?

22 A. Yes.

23 Q. So everybody has to kind of meet up over at
24 your Bayview location, is that it?

25 A. Yes.

1 Q. Okay. So let's go back to -- with regard to
2 policy and practice, is there any kind of formal policy
3 at the company with regards to meal periods?

4 A. No.

5 MR. WILLIAMS: Objection, vague.

6 You may answer.

7 MR. URIARTE: I think he said no.

8 THE WITNESS: There's no formal written policy.

9 MR. URIARTE: Q. What about any kind of verbal
10 communication or instructions given to your employees
11 and to the foremen with regards to meal periods?

12 A. Repeat that again.

13 Q. Sure. You said there's no written policy, but
14 what about a practice or a verbal policy with regards
15 to meal periods?

16 A. Yeah, there is a verbal practice. I mean --

17 Q. Tell me about that.

18 A. Their lunch orders are taken every morning on
19 what they want to eat or what they want ordered and
20 delivered to them.

21 Q. Okay. Any other verbal practice or
22 instructions given?

23 MR. WILLIAMS: Objection, vague, overbroad.

24 THE WITNESS: I would just tell them if you need
25 to take a break, just go take a break. It's not -- you

1 MR. URIARTE: Q. So when you say you want your
2 employees to take at least two breaks --

3 A. Yes.

4 Q. -- how are they able to take those two breaks?
5 When do they take them?

6 A. When they arrive at the jobsite, they unpack
7 the truck, they start their work, and if they feel like
8 it, they could go take a break. It's really up to the
9 foreman to make that call. Some of the foremans,
10 especially Antonio and Fernell, they smoke, so they'll
11 arrive at the jobsite, they'll have a cigarette or two,
12 and then they'll start to work.

13 Q. Okay. But is there, I don't know, like some
14 sort of sheet or is there a process or a policy or a
15 practice with regards to making sure that your
16 employees receive at least two breaks?

17 MR. WILLIAMS: Objection, vague.

18 You may answer.

19 THE WITNESS: There's no official policy.

20 MR. URIARTE: Q. Especially for like a nonsmoker,
21 for example, how does the company make sure that your
22 employees are actually receiving those two breaks?

23 A. How do they -- I don't know.

24 Q. Let's move on to meal periods. From 2018 to
25 the present, what's the policy or practice of the

1 Q. Okay. But do you actually record the times
2 that these lunches are being provided, like what time
3 they started, what time they ended?

4 A. Well, the lunch gets picked up at 11:00, 11:30
5 and dropped off to the crew.

6 Q. With regards to the crew, the time that the
7 crew is taking during these meals, is there any kind of
8 record or recording of how long these meal periods are?

9 A. No.

10 Q. If, for example, the day is busy and they're
11 trying to perform a lot of their work, are there
12 occasions when the lunches become shorter than
13 30 minutes?

14 Are you aware of anything like that?

15 A. I am not aware of that.

16 Q. Has anybody said to you that, hey, today we
17 had to eat our lunch very short because we were so
18 busy? Anything like that, any information like that
19 that the foremen or the crew members ever told you?

20 A. I received a text from Antonio saying that he
21 hasn't taken his lunch yet, so I would text him back to
22 go take his lunch.

23 Q. And he hadn't taken his lunch yet because the
24 work was busy, is that how you understood it?

25 A. Yes.

1 Q. What's the policy or practice of the company
2 with regards to if one of the workers was not able to
3 receive a full 30-minute meal period on time? Is there
4 any kind of policy with regards to what the company
5 does in those circumstances?

6 A. There's no written policy.

7 Q. Has the company ever paid a one-hour
8 compensation for meal periods or rest breaks?

9 A. No.

10 Q. So between 2018 through the present, if one of
11 the workers said to you, oh, I wasn't able to take my
12 lunch on time, what does the company do with that
13 information?

14 MR. WILLIAMS: Objection, calls for speculation,
15 hypothetical.

16 THE WITNESS: That hasn't come up.

17 MR. WILLIAMS: You may answer. You may answer.
18 If you want the question read back, ask the reporter to
19 read it back.

20 MR. URIARTE: Q. Mr. Chow?

21 A. Can you ask the question again?

22 Q. Yeah. So if an employee of yours said,
23 between 2018 to the present, that they were not able to
24 take a full 30-minute meal period or it was late, what
25 would the company do about that information?

1 A. That hasn't --

2 MR. WILLIAMS: Objection. Calls for speculation.

3 Go ahead.

4 THE WITNESS: That hasn't been reported back.

5 MR. URIARTE: Q. Well, you gave us one example.

6 You said that you received a text message from Antonio
7 saying, hey, I haven't taken my lunch yet.

8 Did he get paid for a one-hour compensation
9 for that?

10 A. No, I told him go take his lunch.

11 Q. Well, what if it was late? What if it was
12 after the fifth hour?

13 A. That wasn't reported in.

14 Q. So what I'm hearing from you, Mr. Chow, is
15 that there's not really a formal policy with regards to
16 the compensation of missed meal period and missed rest
17 breaks, is that correct?

18 A. Yes.

19 MR. WILLIAMS: Objection, lack of foundation.

20 MR. URIARTE: We've been going about an hour. Why
21 don't we take a five- to ten-minute break, Mr. Chow and
22 Mr. Williams.

23 MR. WILLIAMS: Yeah, that would be terrific. You
24 want to, say, get back at 11:20?

25 MR. URIARTE: Yes, that sounds good.

1 employee handbook.

2 Q. Okay. And is that in Spanish?

3 A. It's in English and Spanish.

4 Q. And then have you yourself received any kind
5 of training with regards to California employment laws?

6 A. No.

7 Q. You've never gone to a seminar or anything
8 like that?

9 A. No.

10 Q. Is that true as well of your foremen and your
11 other employees?

12 A. Yes.

13 MR. URIARTE: Okay. I've got no further
14 questions. Thank you very much, Mr. Chow. Thank you
15 for your testimony today and thank you for being as
16 honest as you can today. We really appreciate that.

17 THE WITNESS: Okay. Thank you.

18 MR. URIARTE: Thank you Mr. Williams.

19 MR. WILLIAMS: Thank you, Mr. Uriarte.

20 MR. URIARTE: Can we go off the record for a
21 second?

22 MR. WILLIAMS: Yes, we're off the record.

23 (Whereupon, the deposition
24 concluded at 12:35 o'clock p.m.)

25 ---o0o---

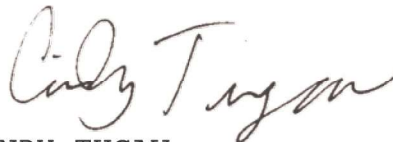
STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO)

I, CINDY TUGAW, a Certified Shorthand Reporter
of the State of California, duly authorized to
administer oaths pursuant to Section 8211 of the
California Code of Civil Procedure, do hereby certify
that

ALAN CHOW,
the witness in the foregoing deposition, was by me duly
sworn to testify the truth, the whole truth and nothing
but the truth in the within-entitled cause; that said
testimony of said witness was reported by me, a
disinterested person, and was thereafter transcribed
under my direction into typewriting and is a true and
correct transcription of said proceedings.

I further certify that I am not of counsel or
attorney for either or any of the parties in the
foregoing deposition and caption named, nor in any way
interested in the outcome of the cause named in said
caption.

Dated the 10th day of October, 2023.



CINDY TUGAW
CSR No. 4805 (California)

LIBERATION LAW GROUP, P.C.
Arlo Garcia Uriarte, State Bar No. 231764
arlo@liberationlawgroup.com
Un Kei Wu, SBN 270058
unkei@liberationlawgroup.com
Elizabeth L. Lyons, SBN 327742
elizabeth@liberationlawgroup.com
2760 Mission Street
San Francisco, CA 94110
Telephone: (415) 695-1000
Facsimile: (415) 695-1006

Attorneys for Plaintiff
GERARDO GARCIA AGUILAR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

GERARDO GARCIA AGUILAR,

Plaintiff,

vs.

YK MASON & SON, INC; YK MASON
CONSTRUCTION, INC.; and DOES 1
through 25, Inclusive,

Defendants.

Case No.: CGC-22-600003

**EXHIBIT "6" TO THE DECLARATION
OF ARLO GARCIA URIARTE IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA
SETTLEMENT**

Table of Hours Worked

	Pre-Litigation Investigation	Complaint Drafting & Answer Review	Case Management	Discovery	Mediation, Negotiations and Agreements	Approval Motion	Total Hours
Arlo Uriarte	4.9	1.1	35.7	16.9	16.1	2.2	76.9
Nick Aguilar	6.6	3.2	7.1	22.5	17.5	7.6	64.5
Luiseth Contreras	2.5	0	6.2	6.9	9.2	1	25.8
Kristoffer Solomon	0.00	0.00	4	19.6	0.00	0.00	23.6
TOTAL	14	4.3	53	65.9	42.8	10.8	190.8

	Rate	Total
Arlo Uriarte	\$ 800	\$ 61,520
Nick Aguilar	\$ 350	\$ 22,575
Luiseth Contreras	\$ 280	\$ 7,224
Kristoffer Solomon	\$ 300	\$ 7,080
TOTAL		\$ 98,399.00