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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JESSICA SCIMECA, an individual,
Plaintiff,

v.

MOHAJER LAW FIRM, APC., and
DOES 1 through 10, inclusive,
Defendants.

Case No.: 22STCV15393
Assigned to: Hon. Lia Martin, Dept. 16

**JOINT STIPULATION REQUESTING
APPROVAL OF PRIVATE ATTORNEY
GENERAL ACT SETTLEMENT (LABOR
CODE 2698 ET SEQ.)**

Complaint Filed: May 9, 2022
Trial Date: None Set

Pursuant to California Labor Code § 2699(1), Plaintiff Jessica Scimeca (“**Plaintiff**”) and Defendant Mohajer Law Firm, APC (“**Defendant**”) jointly request that this Court: (1) approve the settlement of Plaintiff’s claim under the Private Attorneys General Act, Cal. Lab. Code § 2698 *et seq.* (“**PAGA**”) and (2) dismiss Plaintiff’s First Cause of Action for civil penalties under the PAGA with prejudice. In support of their request, Plaintiff and Defendant (collectively, the “**Parties**”) stipulate and agree, as follows:

FACTUAL BACKGROUND

1. Defendant is a California professional corporation owned and controlled by attorney Sina Mohajer-Jasbi, through which Mr. Mohajer-Jasbi operates a small, single attorney family law practice in Arcadia, California. Mr. Mohajer-Jasbi is an attorney in good standing with the State Bar of California and has practiced law since 2012.

2. Plaintiff is an individual residing in Los Angeles County and provided paralegal and related services to Defendant from October 5, 2021 through January 3, 2022. Throughout her time of service, Defendant classified Plaintiff as an independent contractor.

3. Plaintiff contends that Defendant misclassified Plaintiff and several other individuals who provided services to Defendant in connection with Mr. Mohajer-Jasbi’s law practice. Plaintiff also contends that Defendant terminated her employment as the result of complaints Plaintiff made concerning her belief that she was misclassified and should be treated as an employee.

4. Defendant contends that Plaintiff and the other alleged “aggrieved employees” were properly classified and that even if misclassification occurred, it was not “willful” within the meaning of Labor Code 226.8(a). Defendant further contends that Plaintiff’s termination was entirely lawful.

PROCEDURAL BACKGROUND

5. On January 6, 2022, Plaintiff, through her counsel, provided notice of the alleged violations underlying her PAGA claim to the California Labor and Workforce Development

Agency (“LWDA”) alleging willful misclassification of employees as independent contractors (“*PAGA Notice*”),

6. Upon receiving a copy of Plaintiff’s PAGA Notice, Defendant retained counsel, who immediately contacted Plaintiff’s counsel and initiated a dialogue in an effort to resolve the matter.

7. Over a period of several weeks, the parties exchanged information on an informal basis. For its part, Defendant disclosed that during the 1-year limitations period commencing January 6, 2021, it had used the services of 4 individuals, excluding Plaintiff, who it classified as independent contractors.

8. Following extensive negotiations, which lasted several months, the parties have agreed to settle Plaintiff’s PAGA and individual claims. The Parties recognize the public’s interest in ensuring the Court’s proper administration of PAGA settlements. That interest requires that the approval process include the disclosure of the amount of the Settlement Payment that is allocated to Plaintiff’s PAGA claim. Accordingly, the parties represent that they have agreed to allocate \$15,000 in settlement of Plaintiff’s PAGA claim. The relevant language from the Settlement Agreements provides that “\$15,000 will be allocated to the PAGA claims (“*PAGA Settlement Amount*”).” The agreement further provides that “Of the total PAGA Settlement Amount (\$15,000), Employer shall pay 75% to the LWDA and 25% to the Aggrieved Employees within 6 months following the Court’s granting the parties’ Request for Approval.”

9. All attorney’s fees and costs, including those associated with the PAGA claim, will be paid out of the remainder of the aggregate settlement amount, equal to \$35,000 allocated to Plaintiff’s individual claims.

10. There are four (4) persons, including Plaintiff, who provided services for Defendant in its offices in connection with Mr. Mohajer-Jasbi’s law practice during the relevant period from January 6, 2021 through the anticipated date of approval of the instant request to approve the settlement, who could be considered “aggrieved employees” for purposes of the PAGA claim.

1 Thus, if the PAGA settlement is approved, four (4) persons, including Plaintiff, will receive an
2 equal share of 25% of the PAGA Settlement Amount.

3 **RELEVANT FACTORS WEIGH IN FAVOR OF APPROVING THE PAGA**
4 **SETTLEMENT**

5 11. Under the PAGA, an “aggrieved employee” may bring a civil action personally and
6 on behalf of other current or former employees to recover civil penalties for Labor Code
7 violations. *See Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 380. Seventy-
8 five percent of any PAGA penalties go to the LWDA, leaving the remaining twenty five percent
9 for the employees. *Id.* PAGA is intended to augment the limited enforcement capability of the
10 LWDA by empowering employees to enforce the Labor Code as representatives of the Agency. *Id.*
11 at p. 383.

12 12. A PAGA action need not meet the requirements of a class action. *Arias v. Superior*
13 *Court* (2009) 46 Cal.4th 969, 975. Nevertheless, a settlement reached between the parties on a
14 PAGA claim is subject to court review and approval. Cal. Lab. Code § 2699(l). The court’s
15 review “ensur[es] that any negotiated resolution is fair to those affected.” *Williams v. Superior*
16 *Court*, 3 Cal.5th 531, 549 (2017). Although the Labor Code provides that “the superior court shall
17 review and approve any settlement of any civil action filed pursuant to” PAGA (*Id.*), PAGA does
18 not set forth the factors that should be considered when determining whether to approve such a
19 settlement.

20 13. Courts evaluating PAGA settlements have recognized that “neither the California
21 legislature, nor the California Supreme Court, nor the California Courts of Appeal, nor the
22 California Labor & Workforce Development Agency (‘LWDA’) has provided any definitive
23 answer” as to what the appropriate standard is for approval of a PAGA settlement or even the
24 method to obtain approval of the settlement. *Flores v. Starwood Hotels & Resorts Worldwide,*
25 *Inc.* 253 F.Supp.3d 1074, 1075 (2017). Generally, courts look to see if the PAGA settlement is
26 “fundamentally fair, adequate and reasonable” when determining whether to approve the PAGA
27
28

1 settlement. *See also Kirkorian v. Borelli*, 695 F. Supp. 446, 451 (N.D. Cal. 1988) (opinion of
2 experienced counsel is entitled to considerable weight).

3 14. The Settlement Agreement here is fundamentally fair, adequate and reasonable
4 under the facts and circumstances of this case.

5 15. In support of this conclusion, counsel considered the following:

6 16. Factor 1: The Instant Settlement is the Result of Extensive Negotiations.

7 a. A settlement agreement that is the “product of extensive and hard-fought
8 adversarial negotiations between the parties” is entitled to a presumption of fairness. *Wershba v.*
9 *Apple Computer, Inc.*, 91 Cal. App. 4th 224, 245 (2001).

10 b. In this case, each of the Parties involved were zealously represented by
11 competent legal counsel and have represented clients in numerous wage-and-hour disputes.

12 c. Plaintiff’s counsel diligently and independently investigated the merits of
13 Plaintiff’s claims. Through informal discovery, counsel obtained information necessary to assess
14 the potential value of Plaintiff’s PAGA and individual claims. This included information regarding
15 the number of persons who provided services in Defendant’s law practice, including their
16 respective roles and responsibilities.

17 d. The parties’ settlement is the result of arms-length negotiations over a
18 period of several months.

19 17. Factor 2: Risk of Litigation.

20 a. Plaintiff’s counsel has concluded, after considering the sharply disputed
21 factual and legal issues involved in this case, the risks attending further prosecution, the informal
22 discovery conducted to date, and the substantial benefits received and to be received from the
23 settlement of the claims, that settlement of the PAGA claim on the terms set forth in the
24 Settlement Agreement is in the best interest of all interested parties and beneficiaries.

25 b. In the estimation of counsel, the delay, inconvenience, distraction, and
26 uncertainty imposed by litigation demands would far outweigh the potential benefits. Based on
27

1 this evaluation, counsel believes that the settlement satisfies the public policies of PAGA and is
2 fair to all parties and beneficiaries.

3 c. Similarly, counsel concluded there were benefits associated with settling.
4 Although Defendant disputes the factual and legal allegations in the Complaint, counsel took into
5 account the risk attending further defense, the significant expense, time and burden of protracted
6 litigation, and the desire to put the controversy to rest. Based on these factors, the Parties agreed to
7 this settlement without any admission of fault or liability.

8 18. Factor 3: Amount of PAGA Settlement.

9 a. The PAGA Settlement Amount is sufficient to serve the policy rationale
10 underlying PAGA and clearly in line with (and indeed exceeds) other PAGA awards. Here the
11 Settlement Agreement provides for a total PAGA settlement of \$15,000 relative to just four (4)
12 individuals. That amounts to a penalty of \$3,750 per person.

13 b. Plaintiff filed her PAGA Notice with the LWDA on January 6, 2022.
14 Providing notice to the LWDA is a prerequisite asserting a PAGA claim and PAGA has a one-
15 year statute of limitations looking back from the date of the PAGA Notice. *Esparza v. Safeway,*
16 *Inc.*, 36 Cal.App.5th 42, 59-64 (2019) (one year period runs from date of notice to LWDA). Thus,
17 the relevant time period for assessing any PAGA penalties may be the one year prior to January 6,
18 2022 (when the PAGA Notice was sent).

19 c. Under Labor Code Section 226.8 subdivision (b), if the court were to find,
20 after trial, that Defendant had engaged in “willful” misclassification, it could assess a civil penalty
21 of between \$5,000 and \$15,000 per violation. Further, under subdivision (c) of the same Section,
22 upon a finding that such willful misclassification was part of a “pattern or practice,” it could
23 impose a civil penalty of between \$10,000 and \$25,000 per violation.

24 d. Defendant contends that Plaintiff and the other “aggrieved employees” were
25 properly classified and that even if misclassification occurred, it was not “willful” within the
26 meaning of Labor Code 226.8(a).

e. Notwithstanding the maximum amount of penalty PAGA imposes, the PAGA statute explicitly authorizes a court to assess a PAGA penalty that is in the interests of justice rather than the default penalty amounts set forth above. *See* Labor Code Section 2699, subdivision (e)(2) (“In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory”).

f. Given size of Defendant’s solo family law practice and its financial condition, Plaintiff’s counsel perceives substantial risk that if the Court were to find willful misclassification or a pattern or practice of willful misclassification, the amount of any civil penalty imposed will be substantially reduced as provided by Labor Code Section 2699, subdivision (e)(2).

g. The PAGA Settlement Amount here is comparable to (if not more generous than) PAGA settlements involving much larger groups of allegedly aggrieved employees. For example, in *Schiller v. David’s Bridal, Inc.*, 2012 U.S. Dist. LEXIS 80776 (E.D. Cal. June 11, 2012), the Court approved a \$10,000 PAGA settlement in a case involving 3,327 class members. In *Chu v. Wells Fargo Investments, LLC*, 2011 U.S. Dist. LEXIS 15821 (N.D. Cal. Feb. 16, 2011), the Court approved a \$10,000 PAGA settlement in a case involving 2,752 class members. Even looking at is from the pay period perspective, this is clearly a generous PAGA settlement for 16 employees. *See Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), (approving PAGA recovery which provided for \$5.00 per pay period penalty); *Enombang. v. Target, Alameda Superior Court*, Case No. RG17853948, (approving a PAGA settlement that was a net \$2.60 penalty per pay period); *Ramos v. Home Depot*, Alameda Superior Court, Case No. RG15797737, (approved a PAGA settlement of \$4.00 penalty per pay period); *Pickett v. 99 Cent Only Stores*, Los Angeles County Superior Court, Case No. BC473038, (approved a PAGA settlement of \$.81 cents per pay period).

h. The PAGA Settlement amount here allocates \$15,000 for just 4 alleged aggrieved employees. That equates to \$3,750 per such individual.

THE PARTIES THEREFORE stipulate and jointly request as follows:

1. Pursuant to California Labor Code §2699(l), the Court should approve the Settlement Agreement, which includes, but is not limited to, the following terms relating to the settlement of Plaintiff's PAGA claim:

a. A total of \$15,000.00 be allocated to the settlement of Plaintiff's PAGA claim, as follows:

i. 25% of the payment allocated to satisfy the PAGA claim totaling \$3,750 will be distributed by Defendant to the aggrieved employees according to the terms of the Settlement Agreement;

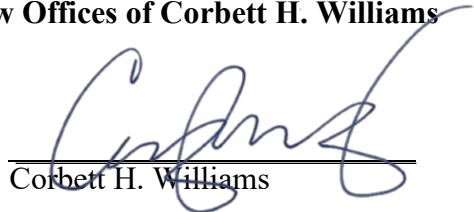
ii. 75% of the payment allocated to satisfy the PAGA claim totaling \$11,250 will be distributed by Defendant to the LWDA according to the terms of the Settlement Agreement;

b. To the extent that settlement amounts are not claimed or cashed by the aggrieved employees, Defendant will provide the unclaimed funds, in the name of each employee, to the California State Controller's Office, Unclaimed Property Division, 10600 White Rock Road, Suite 141, Rancho Cordova, CA 95670. The PAGA Settlement Amount going to each aggrieved employee, as a penalty, will be non-taxable and Defendant will send appropriate 1099 forms at the applicable time to the extent required.

2. Per the Settlement Agreement, Plaintiff's PAGA claim (the first cause of action in the Complaint) should be dismissed with prejudice (with the requirement of the PAGA Settlement Amount be paid as described in the Settlement Agreement and above).

Dated: September 15, 2022

Law Offices of Corbett H. Williams

By: 

Corbett H. Williams

Attorney for Plaintiff
JESSICA SCIMECA

Dated: September 19, 2022

Freeman Mathis & Gary, LLP

By: 

John K. Rubiner
Attorney for Defendant
MOHAJER LAW FIRM, APC.