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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA

04/11/2024

Darrel E. Parker, Executive Officer

BY Chavez, Terri

Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

JOSEFINA ARZATE, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

COASTAL BLOOMS NURSERY, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 22CV00778

[*Hon. Thomas P. Anderle, Dept. 3*]

**~~PROPOSED~~ ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT AND
RELEASE OF PAGA CLAIMS PURSUANT
TO LABOR CODE SECTION 2698 ET SEQ.**

[*Filed with Plaintiff's Notice and Second Renewed
PAGA Approval Motion, Declaration of Kane
Moon in Support of Motion, and [Proposed]
Judgment*]

PAGA APPROVAL HEARING:

Date: April 10, 2024

Time: 10:00 a.m.

Dept.: 3

Complaint filed: February 25, 2022

Trial date: Not set

PROPOSED ORDER

The Court having considered Plaintiff's Notice of Motion and Renewed Motion to Approve Settlement Agreement and Release of PAGA Claims Pursuant to Labor Code Section 2698 *Et Seq.* ("Motion"), the supporting declaration and exhibits thereto, all papers filed and proceedings had herein, and having reviewed the record in the action, and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. The Court, for purposes of this Order, refers to all defined terms as set forth in the Second Amended PAGA Settlement Agreement (the "Settlement") that was reached between Plaintiff Josefina Arzate ("Plaintiff") and Defendant Coastal Blooms Nursery LLC ("Defendant") (Defendant together with Plaintiff, the "Parties") in full resolution of the above-captioned matter (the "Action"). The Settlement was attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Second Renewed Motion to Approve Settlement Agreement and Release of PAGA Claims Pursuant to Labor Code Sections 2698, *Et Seq.* ("Declaration of Kane Moon") and filed therewith.

2. The Court hereby GRANTS the Motion and the Settlement is hereby accepted and approved.

3. Plaintiff exhausted all administrative remedies required to bring the Private Attorneys General Act ("PAGA") claims asserted in this Action and is authorized to act as private attorney general with respect to the PAGA claims being released under the terms of the Settlement. The California Labor and Workforce Development Agency (the "LWDA") was provided with notice of the Settlement and the settlement approval papers via its online process, and no objection thereto has been received from the LWDA.

4. By operation of this Order, and effective on the date when Defendant fully funds the entire Gross Settlement Amount and other payments owed under this Settlement, Plaintiff on behalf of herself and all Aggrieved Employees and PAGA Counsel will release claims against all Released Parties as follows:

Plaintiff's Release:

Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns

generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) 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, 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.

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.”

Release by Aggrieved Employees and the LWDA:

The LWDA and 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 during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice that was sent to Defendant and the LWDA by Plaintiff, which include PAGA claims based on Defendant’s alleged failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods and rest periods and/or premium pay, failure to reimburse business expenses, failure to timely pay wages at termination, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to pay all earned wages two times per month, and all other claims and allegations made or which could have reasonably been made in the Lawsuit based on the facts and allegations pled in the Operative Complaint and PAGA Notice. The Parties intend this release to be limited to claims for PAGA civil penalties only.

Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for attorneys’ fees and costs, including PAGA fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

1 **Released Parties:**

2 “Released Parties” means Defendant, including Defendant’s joint employers,
3 staffing companies, officers, owners, directors, members, shareholders, agents,
4 assigns, attorneys, insurers, independent contractors, employees, predecessors,
5 successors, parents, subsidiaries, affiliates, related entities, or other representatives
6 of any kind, and related parties.

7 **PAGA Period or PAGA Release Period:**

8 “PAGA Period” or “PAGA Release Period” means the period from February 19, 2021
9 through May 22, 2023.

10 **Aggrieved Employees:**

11 “Aggrieved Employees” means persons employed by Defendant in California and
12 classified as a non-exempt, hourly-paid employee during the PAGA Period.

13 **Operative Complaint:**

14 “Operative Complaint” means Plaintiff’s First Amended Complaint filed on April 29,
15 2022, as modified by the Court’s order on November 7, 2022 dismissing Plaintiff’s
16 individual and class claims.

17 **PAGA Notice:**

18 “PAGA Notice” means Plaintiff’s February 19, 2022 letter to Defendant and the LWDA
19 providing notice pursuant to Labor Code section 2699.3, subd. (a), and which was
20 attached to Plaintiff’s Operative Complaint as Exhibit A.

21 5. The Settlement is not an admission by Defendant, nor is this Order and concurrently
22 filed Judgment a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither
23 this Order and/or concurrently filed Judgment, the Settlement, nor any document referred to herein,
24 nor any action taken to carry out the Settlement, may be used as an admission of any fault, wrongdoing,
25 omission, concession, or liability whatsoever by or against Defendant.

26 6. Defendant shall pay, through the Administrator, the total of **\$150,000.00** to resolve this
27 Action and satisfy its obligations under the Settlement, which are broken down as follows:

- 28 a. A Gross Settlement Amount in the amount of **\$67,996.69**, subject to a potential increase
pursuant to the escalator clause at paragraph 4.1 of the Settlement.¹ The Gross Settlement

¹ Under the escalator clause (i.e., Settlement, ¶ 4.1), Defendant estimates there are 697 Aggrieved Employees who worked a total of 13,972 PAGA Pay Periods. If as of the end of the PAGA Release Period the actual number of pay periods is more than 10% larger than the estimated number of 13,972 pay periods (i.e., 15,370 or more pay periods), the Gross Settlement Amount shall be increased by the

Amount will be paid, pursuant to Labor Code section 2699(i), in exchange for release and settlement of the PAGA claims in this Action, as follows:

- i. Seventy-five percent (75%) payable to the LWDA, in the amount of no less than **\$50,997.52**, which is subject to a potential increase pursuant to the escalator clause; and
 - ii. Twenty-five percent (25%) payable to the Aggrieved Employees via Individual PAGA Payments, in the total amount of no less than **\$16,999.17**, which is subject to a potential increase pursuant to the escalator clause. “Individual PAGA Payment” means an Aggrieved Employee’s pro rata share of the 25% share, as calculated by the Administrator according to the number of pay periods worked during the PAGA Period;
- b. An Administration Expenses Payment in the amount not to exceed **\$6,250.00**, payable to the Administrator for services rendered in administration of the Settlement and in accordance with its “not-to-exceed” bid that was attached to as **Exhibit 5** to the Declaration of Kane Moon filed with the Motion;
 - c. A PAGA Counsel Fees Payment in the amount of **\$50,000.00**, payable to PAGA Counsel for its reasonable attorneys’ fees;
 - d. A PAGA Counsel Litigation Expenses Payment in the amount of **\$18,253.31**, payable to PAGA Counsel for reimbursement of reasonable and actual costs; and
 - e. A Plaintiff’s Settlement Payment in the amount of **\$7,500.00**, payable to Plaintiff in exchange for settlement of her individual claims and for Plaintiff’s Release, as stated above and set forth in the Settlement. This payment is not a representative enhancement payment.

7. Other than the foregoing amounts, Defendant and the Released Parties shall have no further liability for costs, expenses, interests, attorneys’ fees, or for any other charge, expense, or

percentage by which the actual number of pay periods exceeds the estimated number of 13,972 pay periods. The Gross Settlement Amount will not be reduced due to Defendant’s estimate.

1 liability relating to the PAGA claims being released under the Settlement, and shall be released from
2 all claims as set forth in the Settlement, this Order, and concurrently filed Judgment.

3 8. The Parties shall bear their own respective attorneys' fees and costs, except as
4 otherwise provided for in the Settlement and approved by the Court in this Order and concurrently filed
5 Judgment.

6 9. Defendant shall fully fund the Gross Settlement Amount and other payments owed
7 under the Settlement (totaling \$150,000.00) by transmitting the funds to the Administrator no later than
8 304 days after the Effective Date, which is 365 days after the Court enters a Judgment on this Order.

9 10. For purposes of funding, "Effective Date" means the date by when both of the
10 following have occurred: (a) the Court enters a Judgment on this Order approving the Settlement;
11 and (b) the Judgment is final. The Judgment is final when it is no longer subject to appeal, or sixty-
12 one (61) days after Judgment is entered, as long as no notice of appeal is filed; or, if a notice of
13 appeal is filed, the date that appeal is fully resolved and no longer subject to appeal.

14 11. Within fourteen (14) days after Defendant funds the Gross Settlement Amount and
15 other payments owed under the Settlement, and after counsel approve the Administrator's proposed
16 list of distributions, the Administrator shall issue payment to Plaintiff and all other Aggrieved
17 Employees, the LWDA, PAGA Counsel, and the Administrator.

18 12. Payments to Aggrieved Employees shall be issued by check via First Class U.S.
19 Mail. The face of each check shall prominently state the date (not less than 180 days after the date of
20 mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void
21 date and transmit the funds represented by such checks to the California Controller's Unclaimed Property
22 Fund in the name of the Aggrieved Employee, thereby leaving no "unpaid residue."

23 13. The Court approves of the proposed letter attached to the Settlement as **Exhibit A** to
24 be sent to Aggrieved Employees along with their respective settlement check.

25 14. The Court hereby confirms Phoenix Class Action Administration Solutions as the
26 "Administrator" who is ordered to administer the Settlement according to the Settlement terms and this
27 Order and Judgment.
28

1 15. The Court hereby confirms Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens
2 of Moon Law Group, PC as “PAGA Counsel.” The Court finds that the fees requested by PAGA
3 Counsel of \$50,000.00 is reasonable, and the costs requested of \$18,253.31 were reasonably and
4 necessarily incurred for the prosecution of this Action.

5 16. This Action is dismissed in its entirety with prejudice.

6 17. Plaintiff shall submit a copy of this Order to the LWDA within thirty (30) calendar
7 days following entry of this Order.

8 18. Without affecting the finality of this Order and concurrently filed Judgment, this Court
9 shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6, over the Parties, the Action,
10 and the Settlement solely for purposes of (i) enforcing the Settlement and/or this Order and/or
11 concurrently filed Judgment, (ii) addressing settlement administration matters, and (iii) addressing such
12 post-Judgment matters as are permitted by law.

13 **IT IS SO ORDERED.**

14 DATED: 04/11/2024



THE HON. THOMAS P. ANDERLE
Santa Barbara County Superior Court Judge

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

**[PROPOSED] ORDER GRANTING APPROVAL OF PAGA SETTLEMENT AND
RELEASE OF PAGA CLAIMS PURSUANT TO LABOR CODE SECTION 2698 ET
SEQ.**

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Signature