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Attorneys for Plaintiff Jose Martinez

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR -2 2024

BY Jessica Garcez
JESSICA GARCEZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JOSE MARTINEZ, individually, and on behalf of
all others similarly situated;

Plaintiff,

vs.

HIGH DESERT AUTO SUPPLY, INC., a
California corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: CIVSB2206780

CLASS AND REPRESENTATIVE ACTION

[Assigned to all purposes to the Hon. Joseph
T. Ortiz; Dept. S-17]

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFF JOSE
MARTINEZ'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

*[Filed with Plaintiff's Notice of Motion and
Motion for Final Approval, Declaration of
Kane Moon, Declaration of Plaintiff, and
Declaration of Mayra Gonzalez]*

FINAL APPROVAL HEARING

Date: April 2, 2024
Time: 1:30 PM
Dept.: S-17

ORIGINAL COPY

1 The Court issued an Order Granting Plaintiff Jose Martinez's Motion for Preliminary
2 Approval of Class and PAGA Action Settlement on December 7, 2023. Plaintiff Jose Martinez
3 ("Plaintiff") now seeks an Order and Judgment Granting Final Approval of the same Class
4 Action and PAGA Settlement and Class Notice ("Settlement") between Plaintiff and
5 Defendant High Desert Auto Supply, Inc. ("Defendant"), attached to the Declaration of Kane
6 Moon in Support of Plaintiff Jose Martinez's Motion for Final Approval of Class and PAGA
7 Action Settlement as **Exhibit 1**.

8 The Court, having considered Plaintiff Celeste Guerra's Notice of Motion and Motion
9 for Final Approval of Class and PAGA Action Settlement ("Motion"), the supporting
10 Declarations and Exhibits therein, the records and files in this Action, and the absence of any
11 written objections received regarding the Settlement; and good cause appearing, **HEREBY**
12 **ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

13 The Court has jurisdiction over all claims asserted in this Action. Plaintiff, all
14 Participating Class Members, the PAGA Group, and Defendant.

15 The Court, for purposes of this Final Order and Judgment, refers to all defined terms as
16 set forth in the Settlement.

17 The Settlement appears to have been made and entered into in good faith and is hereby
18 approved, subject to any limitations on the requested fees and payments as set forth below.

19 For purposes of effectuating the Settlement, the following Class is hereby certified: all
20 hourly-paid, non-exempt employees who, during either the Class Period, have previously been
21 or currently are employed in California by Defendant, as an hourly -paid, non-exempt
22 employee. *Settlement*, ¶ 2. The "Class Period" shall mean the period of time from March 30,
23 2018 through March 31, 2023. *Settlement*, ¶ 7.

24 The Parties shall bear their own respective attorneys' fees and costs, except as provided
25 for in the Settlement and approved by the Court.

26 No Class Members have objected to the terms of the Settlement, and no Class Members
27 have requested exclusion from the Settlement.

1 Plaintiff and all Participating Class Members shall have, by operation of this Final
2 Order and Judgment, fully, finally and forever released, relinquished, and discharged all
3 Released Parties from all Released Class Claims and PAGA Released Claims, as stated in the
4 Settlement and reproduced here:

- 5 a. **Participating Class Members Released Claims.** As of the date of the Judgment,
6 each Participating Class Member, and without the need to manually sign a release
7 document, shall release the Released Parties from all causes of action and claims
8 that were alleged in the Action or reasonably could have been alleged based on
9 the facts and legal theories contained in the Action, including all of the following
10 claims for relief: (i) failure to pay all regular wages, minimum wages and
11 overtime wages due (Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, &
12 1198); (ii) failure to provide compliant meal periods (Lab. Code §§ 226.7 & 512);
13 (iii) failure to provide compliant rest breaks (Lab. Code § 226.7); (iv) failure to
14 timely pay wages during employment (Lab. Code §§ 204 & 210); (v) failure to
15 provide complete, accurate wage statements (Lab. Code § 226); (vi) failure to pay
16 wages timely at time of termination or resignation (Lab. Code §§ 201-203); (vii)
17 failure to indemnify all necessary business expenses (Lab. Code §§ 2800, et seq.);
18 (viii) unfair business practices that could have been premised on the claims,
19 causes of action or legal theories of relief described above or any of the claims,
20 causes of action or legal theories of relief pleaded in the operative complaint (Cal.
21 Bus. & Prof. Code § 17200, et seq.); (ix) any claim for costs and attorneys' fees
22 and expenses; and (x) any claim arising from the claims described above under
23 applicable federal, state, local or territorial law as well as applicable regulations
24 and Wage Orders (collectively, the "Released Claims"). Participating Class
25 Members who cash their checks are deemed to have waived all Released Claims
26 inclusive of claims under the Fair Labor Standards Act. Participating Class
27 Members who do not cash their checks shall be deemed to waive all Released
28 Claims except for a claim under the Fair Labor Standards Act. Released Claims

1 for Class Members who worked for Defendant in California during the Class
2 Period shall have their claims released during the Class Period. (*Settlement*, ¶ 69.)

3 b. **PAGA Group Released Claims.** As of the date of the Judgment, each PAGA
4 Group Member, and without the need to manually sign a release document, shall
5 release the Released Parties for claims for civil penalties pursuant to PAGA based
6 upon all causes of action and claims that were alleged in the Action or reasonably
7 could have been alleged based on the facts and legal theories contained in the
8 Action, and/or the LWDA Exhaustion Letter including all of the following claims
9 for relief: (i) failure to pay all regular wages, minimum wages and overtime wages
10 due (Lab. Code §§ 510, 558, 1194, 1194.2, 1197, 1197.1, & 1198); (ii) failure to
11 provide compliant meal periods (Lab. Code §§ 226.7 & 512); (iii) failure to
12 provide compliant rest breaks (Lab. Code § 226.7); (iv) failure to timely pay
13 wages during employment (Lab. Code §§ 204 & 210); (v) failure to provide
14 complete, accurate wage statements (Lab. Code § 226); (vi) failure to maintain
15 accurate employment and payroll records (Lab. Code §§ 1174 & 1174.5); (vii)
16 failure to pay wages timely at time of termination or resignation (Lab. Code §§
17 201-203); (viii) failure to indemnify all necessary business expenses (Lab. Code
18 §§ 2800, et seq.); (ix) all claims under the California Labor Code Private
19 Attorneys General Act of 2004 that could have been premised on the claims,
20 causes of action or legal theories described above or any of the claims, causes of
21 action or legal theories of relief pleaded in the Action; (x) any claim for costs and
22 attorneys' fees and expenses; and (xi) any claim arising from the claims described
23 above under applicable federal, state, local or territorial law as well as applicable
24 regulations and Wage Orders (collectively, the "PAGA Released Claims").
25 PAGA Released Claims for PAGA Group Members who worked for Defendant in
26 California during the PAGA Period shall have their claims released during the
27 PAGA Period. (*Settlement*, ¶ 70.)

28 c. **Released Parties** includes Defendant and their past, present and/or future, direct

1 and/or indirect, officers, directors, members, managers, employees, agents,
2 representatives, attorneys, including but not limited to O'Hagan Meyer, insurers,
3 partners, investors, shareholders, administrators, parent companies, subsidiaries,
4 affiliates, divisions, predecessors, successors, assigns, and joint venturers.
5 (*Settlement*, ¶ 71.)

- 6 d. In light of the binding nature of a PAGA judgment on non-party employees
7 pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas*
8 *v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise
9 meeting the definition of a Class Member who exclude themselves from the
10 Settlement shall nonetheless receive a payment for the amount of each such
11 individual's estimated share of the PAGA Payment and shall have released PAGA
12 claims, as outlined in Paragraph 70. (*Settlement*, ¶ 72.)
- 13 e. The Released Claims and PAGA Released Claims described above expressly
14 exclude all claims made by a Participating Class Member and/or PAGA Group
15 Member for vested benefits, wrongful termination, unemployment insurance,
16 disability, social security, workers' compensation, claims while classified as
17 exempt, and claims outside of the Class Period and/or PAGA Period. (*Settlement*,
18 ¶ 73.)

19 The Maximum Settlement Amount, Net Settlement Amount, and methodology used to
20 calculate and pay the Settlement Share and PAGA Payment Share are fair and reasonable. The
21 Administrator is authorized to pay the Settlement Share and PAGA Payment Share to the
22 Participating Class Members and PAGA Group in accordance with the terms of the
23 Settlement.

24 Defendant shall pay a total of \$450,000.00 to resolve this litigation. The Settlement
25 Administrator shall establish a Settlement Account within ten (10) days of the Effective Date
26 and notify the Parties when the Settlement Account has been established. (*Settlement*, ¶ 53.)
27 The Settlement Administrator shall also provide Defendant with an itemized statement for the
28 total amount to be deposited into the Settlement Amount, which shall equal the Maximum

1 Settlement Amount. (*Id.*) Within ten (10) days after receiving notification of the Settlement
2 Account and statement for the Settlement Account Deposit, Defendant shall pay into the
3 Settlement Account an amount equal to the Settlement Account Deposit. (*Id.*)

4 From the Maximum Settlement Amount, an LWDA Payment of \$22,500.00 shall be
5 paid to the California Labor and Workforce Development Agency ("LWDA"), representing
6 75% of the PAGA Payment awarded under the terms of the Settlement, pursuant to the
7 California Private Attorneys General Act of 2004, *Labor Code* sections 2698, *et. seq.*

8 From the Maximum Settlement Amount, a Class Representative Payment in the amount
9 of \$7,500.00 shall be paid to Jose Martinez for his service as Class Representative and general
10 release of claims. Jose Martinez is hereby confirmed as Class Representative.

11 From the Maximum Settlement Amount, Class Counsel Fees Payment in the amount of
12 \$150,000.00 and Class Counsel Litigation Expenses Payment in the amount of \$19,594.00
13 shall be paid to Class Counsel for their reasonable fees and actual costs incurred in
14 furtherance of this Action. The fees and costs shall be distributed to Class Counsel as set forth
15 in the Settlement. The Court finds that the fees are reasonable in light of the benefit provided
16 to the Class. Moon Law Group, PC is hereby confirmed as Class Counsel.

17 From the Maximum Settlement Amount, Settlement Administrator Payment in the
18 amount of \$7,950.00 shall be paid to the designated Administrator, Phoenix Settlement
19 Administrators.

20 The Notice provided to the Class conforms with the requirements of *California Rules*
21 *of Court* rules 3.766 and 3.769, and constitutes the best notice practicable under the
22 circumstances, providing (a) individual notice to all Class Members who could be identified
23 through reasonable effort and (b) due and adequate notice of the proceedings and matters set
24 forth therein to the Class Members. The Notice fully satisfies the requirements of Due
25 Process.

26 The Parties are ordered to have notice of this Final Order and Judgment sent to all
27 Participating Class Members and Aggrieved Employees in accordance with *California Rules*
28 *of Court* section 3.771(b), along with the Individual Settlement Share and Individual PAGA

1 Payment Shares issued via First Class U.S. Mail to their last known addresses and to the
2 LWDA, pursuant to *Labor Code* section 2699(1)(3).

3 This Judgment is intended to be a final disposition of the Action in its entirety and is
4 intended to be immediately appealable.

5 This Court shall retain jurisdiction with respect to all matters related to the
6 administration and consummation of the Settlement and any and all claims asserted in, arising
7 out of, or related to the subject matter of the lawsuit, including, but not limited to, all matters
8 related to the Settlement and the determination of all controversies relating thereto.

9 Plaintiff Jose Martinez's Motion for Final Approval of Class and PAGA Action
10 Settlement is hereby granted, and the Court directs that Judgment shall be entered in
11 accordance with the terms of this Order.

12 The Court sets a Non-Appearance Hearing (Case Review) Re: Distribution on
13 October 1, 2024 ~~on~~ at 8:30am in Department S-17. Class Counsel is ordered to
14 file a final report and declaration regarding distribution no later than 10 days Prior.

15 **IT IS SO ORDERED.**

16 DATE: April 2, 2024

17 
18 Honorable Joseph T. Ortiz
19 Judge of the Superior Court of California for the
20 County of San Bernardino
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action: my business address is 1055 West Seventh Street, Suite
5 1880, Los Angeles, California 90017. On **March 8, 2024**, I served the foregoing document
described as:

6 **[PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFF ROBERT JAMES**
7 **MILLIGAN'S MOTION FOR FINAL APPROVAL OF CLASS AND PAGA ACTION**
8 **SETTLEMENT**

9 X by E-mailing ____ the original X a true copy to the following:

10 Matthew C. Sgnilek, Esq. (State Bar No. 235299)
msgnilek@ohaganmeyer.com
11 Andrea Rosenkranz, Esq. (State Bar No. 301559)
arosenkranz@ohaganmeyer.com
12 **O'HAGAN MEYER**
3200 Park Center Drive, Suite 700
Costa Mesa, CA 92626
Telephone: (949) 942-8500
Facsimile: (949) 942-8510

13 *Attorneys for Defendant HIGH DESERT AUTO SUPPLY, INC.*

14 ☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
15 California, by e-mail delivery on the parties listed herein at their most recent known
16 email address or e-mail of record in this action.

17 I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

18 Executed this, **March 8, 2024** at Los Angeles, California.

19 Janelle Jickain
20 Type or Print Name

21 
22 Signature