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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO
CIVIL UNLIMITED

DECEDENT SAMUEL EGGERS, BY AND THROUGH HIS SUCCESSOR-IN-INTEREST, LISA STRAUCH EGGERS, Individually and on Behalf of All Other Similarly Situated Employees, Plaintiffs, v. DEXTERITY, INC.; and DOES 1 through 100, Inclusive, Defendants.	Case No. CGC-22-600040 **PLAINTIFF LISA STRAUCH EGGERS' NOTICE OF MOTION AND MOTION FOR APPROVAL OF PAGA SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES THEREOF** Date: May 17, 2027 Time: 1:30 p.m. Dept.: 19 Assigned for all purposes to: Hon. Amarra A. Lee Complaint Filed: June 6, 2022 First Amended Complaint Filed: August 30, 2022 Trial Date: None set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on May 17, 2027 at 1:30 p.m. located at 400 County Center, Redwood City, California 94063, in Department 19, Plaintiff Lisa Strauch Eggers as successor in interest to Decedent Samuel Eggers will move the Court for an Order granting Approval of PAGA Settlement. The Motion will be based on this Notice of Motion, Memorandum of Points and Authorities in Support, the Declaration of Katherine A. Rabago and the Exhibits attached thereto, the record in this matter, and upon such matters as may be presented to the court at the time of the hearing.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

I. INTRODUCTION

Plaintiff Lisa Strauch Eggers, as successor-in-interest to Decedent Samuel Eggers, moves this Court for approval of a proposed settlement of claims brought under the Private Attorneys General Act ("PAGA"), Labor Code § 2698 et seq., against Defendant Dexterity, Inc. ("Dexterity"). This action arises from alleged wage and hour violations—including failure to pay all wages and overtime, failure to provide meal and rest periods, and failure to maintain accurate payroll records—affecting 113 aggrieved employees who worked for Dexterity during the PAGA Period from May 19, 2021 through October 15, 2024.

After nearly four years of litigation—including extensive motion practice, multiple rounds of discovery, and arbitration proceedings—the Parties participated in a full-day mediation before the Honorable Lynne Duryee (Ret.) and reached a PAGA settlement of $34,500. The proposed settlement provides monetary recovery to Aggrieved Employees and the State of California, with unclaimed funds directed to Legal Aid at Work as a *cy pres* recipient. No funds revert to Defendant.

As set forth below, the proposed settlement is fair, reasonable, and adequate in view of PAGA's purposes: it remediates past labor law violations, provides a meaningful recovery to the State and Aggrieved Employees, and deters future misconduct by imposing a financial consequence on Dexterity. Plaintiff respectfully requests that this Court approve the proposed PAGA settlement.

II. FACTUAL AND PROCEDURAL BACKGROUND

On June 7, 2022, Plaintiff, by and through her counsel, noticed the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific Labor Code violations Plaintiff alleged Dexterity to have committed against Decedent and Aggrieved Employees. (Declaration of Katherine A. Rabago, ¶ 4, att. Ex. 1, LWDA Letter.)

On June 6, 2022, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Dexterity for: (1) failure to pay all wages; (2) failure to pay overtime wages; (3) failure to provide meal and rest periods; (4) failure to maintain accurate records; (5) failure to reimburse expenses; (6) waiting time penalties for failure to timely pay wages at separation; (7) unfair and fraudulent business practices; and (8) fraud. (Rabago Decl., ¶ 5.)

On August 30, 2022, Plaintiff filed a First Amended Complaint ("FAC"), which included the additional ninth cause of action for Private Attorney General Act ("PAGA") violations. (*Id*., at ¶ 6.) On September 8, 2022, Dexterity moved to transfer venue from San Francisco County Superior Court to San Mateo County Superior Court on the grounds that Dexterity's business is located in San Mateo County where Eggers worked. (*Id*., at ¶ 7.) The Court granted Dexterity's motion, and San Mateo County received the action on November 28, 2022. (*Id*.)

The Parties continue to engage in extensive motion practice. Dexterity filed a motion for reconsideration requesting the Court to reconsider the complex designation of the instant action. (Rabago Decl., ¶ 8.) Before this Court could rule on Defendant's motion for reconsideration, Defendant withdrew its motion. (*Id*.)

On January 10, 2023, Dexterity filed a motion to compel Eggers' individual claims to arbitration and to dismiss or, in the alternative, stay Plaintiff's class and PAGA claims. (*Id.* at ¶ 9.) Dexterity relied on an arbitration agreement that Eggers signed, which also contained a class action waiver. (*Id*.) The motion to compel arbitration was granted. (*Id*.) The Court ordered Eggers' individual claims to arbitration, dismissed the class claims, and stayed the representative PAGA claims. (*Id*.)

Plaintiff initiated arbitration on September 1, 2023 by filing a demand with JAMS alleging the same facts and causes of action as alleged in the FAC. (*Id*., at ¶ 10.) The parties meet and conferred regarding the Arbitration Demand, after which Plaintiff filed an Amended Arbitration Demand on June 28, 2024 that maintained generally the same causes of action. (*Id*.)

On October 15, 2024, the Parties participated in an all-day mediation through JAMS and presided over by the Honorable Lynne Duryee (ret.), who has extensive experience in wage and hour representative PAGA actions. (*Id*., at ¶ 11.) Prior to mediation, Plaintiff obtained, through informal discovery, Sam Eggers' personnel file, wage statements, relevant employment policies, Defendant's employee handbook, and necessary PAGA period data for 100% of the Aggrieved Employees. (*Id*.) During the mediation, the Parties engaged in arm's length negotiations and reached a tentative an agreement in principle by the end of the mediation. (*Id.*) Following the mediation, the Parties continued to negotiate the terms of the Settlement, including the PAGA notice and settlement structure. (*Id.*) On February 26, 2026, the Parties executed a final Settlement Agreement, which fully documents the Settlement. (*Id.*, at ¶ 12, att. Ex. 2, Settlement Agreement.)

Defendant denies the allegations in the operative complaint and Amended Arbitration Demand, denies any failure to comply with the laws identified in the complaint and demand, denies that Plaintiff has the right to bring a PAGA claim, and denies any and all liability for the causes of action alleged. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

III. TERMS OF THE PROPOSED SETTLEMENT

The Parties have agreed on a fair and just settlement resolving the case on behalf of the Aggrieved Employees of Dexterity who worked during the PAGA Period, which is the period from May 19, 2021 until October 15, 2024. An Aggrieved Employee is any current or former non-exempt employee of Dexterity in California at any time during the PAGA Period. (Ex. 2, ¶ 1.4.)

The Settlement Agreement provides that Defendant will pay $34,500 to fully resolve the claims in the Action. (*Id.*, at ¶ 1.11.) This 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 as outlined below. (*Id.* ¶ 3.2.)

A. Payments

(1) Settlement Administration. Subject to court approval, a payment to the Settlement Administrator, Simpluris, Inc., in an estimated amount not to exceed $4,045 as administration costs to notify all Aggrieved Employees and distribute PAGA Payment checks. (Rabago Decl., ¶ 12; Ex. 2, ¶ 3.2.2.)

(2) Attorneys' Fees and Costs. Subject to Court approval, payment of up to 33.33% of the Gross Settlement Amount to PAGA Counsel, who have prosecuted the Action on behalf of Plaintiff and Aggrieved Employees on a contingency basis, attorneys' fees not to exceed $11,500 and actual costs, which shall not be recovered in excess of $7,500. (Ex. 2, ¶ 3.2.1.)

(3) LWDA Payment. Pursuant to Labor Code § 2699(i),[1] the LWDA will receive 75% of the Net Settlement Amount the enforcement of labor laws and education of employers. (Ex. 2, ¶ 3.2.3.)

(4) Individual PAGA Payments to Aggrieved Employees. Pursuant to Labor Code § 2699(i),[2] Aggrieved Employees will receive 25% of the Net Settlement Amount. (Ex. 2, ¶ 3.2.3.)

The Net Settlement Amount is anticipated to be $19,955—the funds remaining after the Administration costs and PAGA Counsel's costs and fees are deducted. The Settlement Administrator will calculate each Individual PAGA Payment by dividing the amount of Aggrieved Employees' 25% share of PAGA penalties by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. (*Id.*, ¶ 3.2.3.1.) There are an estimated 113 Aggrieved Employees who worked a total of 2,335 work weeks in the PAGA Period.

B. Notice and Payment Distribution

Unlike a class action, PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action. (See *Sakkab v. Luxottica Retail North America, Inc.* (2015) 803 F.3d 425, 436.) However, notice of this settlement has been provided to the LWDA pursuant to Labor Code § 2699(s)(2) concurrently with the filing of this motion. (Rabago Decl., ¶ 13.)

Individual PAGA Payments will be distributed as checks via First Class U.S. Mail, postage prepaid to Aggrieved Employees. (Ex. 2, ¶ 4.4.) The Settlement Administrator will update the recipients' mailing address by using the National Change of Address Database before mailing any checks, and if any checks are returned as undeliverable without USPS forwarding address, the Settlement Administrator must conduct an Address Search before remailing. (*Id.*, ¶ 4.4.1- 4.4.2.)

The Settlement Administrator will issue the first payment to Aggrieved Employees no later than 20 days after Defendant funds the Gross Settlement Amount. (*Id.*)

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[1] Plaintiff filed her PAGA claim on August 30, 2022, prior to the June 19, 2024 PAGA reform amendments. Accordingly, the Net Settlement Amount split between the LWDA and Aggrieved Employees is governed by the pre-amendment version of Labor Code § 2699(i).

[2] See FN 1.

The Settlement Administrator will issue an IRS Form 1099 (and any equivalent California form) to Aggrieved Employees reflecting the payments they receive under the Settlement. (Ex. 2, ¶ 3.2.3.2.)

C. Remaining Funds to *Cy Pres* Recipient

For any uncashed Individual PAGA Payment check that is cancelled after the void date, the Administrator shall transmit the funds represented in such checks to *cy pres* recipient Legal Aid at Work. (Ex. 2, ¶ 4.4.3.) No funds will revert to Defendant. (*Id.*, ¶ 3.1.) A *cy pres* recipient is appropriate here to ensure that Defendant fully realizes the consequences of its alleged misconduct and is deterred against any future violations. (*State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 472 [without cy pres doctrine "defendants may be permitted to retain ill-gotten gains simply because their conduct harmed large numbers of people in small amounts instead of small numbers of people in large amounts."].)

IV. ARGUMENT

A. The Standard of a PAGA Settlement

In ruling on PAGA settlements, this court has a duty to independently determine whether a settlement is fair, reasonable and adequate. (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77, disapproved of on other grounds by *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 66 ["trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws."]; *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129 ["'The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement.'"]; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723.)

"[M]any of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement." (*Moniz,* 72 Cal.App.5th at 77.) But, unlike class actions, where unnamed class members are afforded certain due process protections, no similar due process concerns arise under PAGA because aggrieved employees do not own personal claims for PAGA civil penalties. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 547, fn. 4.)

B. The Proposed PAGA Settlement is Fair, Reasonable and Adequate

1. The Settlement Amount is Reasonable

The settlement agreement provides for a gross payment of $34,500. This amount is reasonable because it provides recovery for all 113 Aggrieved Employees who worked during the PAGA Period. The minimum Individual PAGA payment calculated based on the least amount of pay periods worked during the PAGA Pay Period (one) amounts to $2.13. The maximum Individual PAGA payment calculated based on the most pay periods worked by an employee amounts to $181.60. Consider the statutory penalties for PAGA violations alleged here: an initial $100 penalty is imposed for violations of meal and/or rest breaks, failure to pay all wages owed, and failure to reimburse business expenses. Failure to pay overtime violations provide for an initial PAGA penalty of $50 and a subsequent penalty of $100. Because courts have and often exercise their discretionary authority to reduce PAGA civil penalties, it is reasonable and fair that Aggrieved Employees will receive an amount between $2.13 and $181.60. (See Cal. Lab. Code § 2699(e)(2); *Thurman v. Bayshore Transit Mgmt., Inc.* (2012) 203 Cal.App.4th 1112, 1136 [PAGA civil penalties reduced by 30 percent, finding that awarding the full penalties would have been "unjust" because defendants attempted to comply with the law and their financial condition "rendered them unable to pay penalties from ongoing revenues."]; *Fleming v. Covidien* (C.D. Cal. Aug. 12, 2011) No. ED CV 10-01487 RGK (OPx), 2011 WL 7563047 at *4 [PAGA civil penalties for wage statement violations reduced from $2,800,000 to $500,000 because aggrieved employees suffered no injury from violations, the defendants were unaware of their violations and took prompt action to correct them once notified.].) The fact that Defendant also disputes and denies all liability and maintains that no violations were willful also supports the likelihood of a reduction of the PAGA penalties.

Nonetheless, Aggrieved Employees and the State will receive at least partial compensation for the alleged violations rather than zero recovery which was a risk posed by protracted litigation. (See, *infra*, IV.B.3.)

2. The Parties Engaged in Extensive Proceedings and Discovery

Prior to filing this action, Counsel conducted a thorough investigation of the facts giving rise to the claims set forth in the Complaint. (Rabago Decl., ¶ 3.) Counsel worked with Plaintiff to collect relevant information regarding employment practices and potential legal issues. (*Id*.) The Complaint was filed in San Francisco Superior Court on June 6, 2022. (*Id*., ¶ 5.) The Parties engaged in extensive motion practice at the pleadings stage. Defense Counsel first challenged Plaintiff's choice of venue by filing its motion to transfer. (*Id*., ¶ 7.) Defendant's motion was granted on October 11, 2022, and the action was transferred to this Court. (*Id*.) Defendant filed a motion for reconsideration requesting the Court to reconsider the complex designation of the instant action. (*Id*., ¶ 8.) Before this Court could rule on Defendant's motion for reconsideration, Defendant withdrew its motion. (*Id*.)

Then, Defendant filed its motion to compel arbitration, dismiss class and PAGA claims, or in the alternative, for a stay. (*Id*., ¶ 9.) The Parties conducted limited written discovery and Plaintiff took the deposition of persons most knowledgeable regarding the arbitration agreement. On August 9, 2023, this Court granted Defendant's motion in part and denied in part ordering Plaintiff to arbitrate individual claims, dismissing class claims, and staying PAGA claims pending the arbitration. (*Id*.)

Plaintiff filed her arbitration demand on September 1, 2023. (Rabago Decl., ¶ 10.) After the preliminary hearing with the arbitrator, the Parties exchanged initial disclosures and Dexterity demurred to Plaintiff's arbitration demand on the basis that Plaintiff lacked standing to bring PAGA claims on behalf of Decedent. (*Id*.) The Parties agreed to mediate with the Honorable Lynn Duryee before the arbitrator decided this issue. (*Id*., at ¶ 11.) On October 15, 2024, after the full-day mediation, the Parties reached a tentative settlement agreement which resolved both this case and the related personal injury case. (*Id*.) The Parties continued to discuss and negotiate terms of settlement until February 26, 2026, when a final settlement agreement was fully executed. (*Id*. ¶¶ 11-12.)

3. Strengths of Plaintiff's Case Weighed Against Risk and Complexity of Protracted Litigation

The Parties have litigated this case zealously for nearly four years with several key legal issues still pending. With protracted litigation, these legal issues would present substantial risks to both sides. Early on in the case, Defendant challenged Plaintiff's standing—the PAGA claims raised in this action are based on Decedent's (Plaintiff's son) employment by Defendant. Plaintiff herself was not an Aggrieved Employee. Defendant contended that Plaintiff did not have standing to bring PAGA claims as Samuel Eggers's successor-in-interest because she was not an Aggrieved Employee and Decedent did not and could not transfer those claims to his mother. Relying on survival statutes which provide a statutory right to a decedent's successor in interest to pursue the enforcement of claims held by the decedent in his life, Plaintiff maintained that she had standing to bring PAGA claims in court. However, Plaintiff recognized that an adverse ruling finding a lack of standing could have a dispositive effect on the PAGA claims asserted in this action which ultimately would result in no recovery for the Aggrieved Employees. Equally, Defendant faced the risk of liability on the merits, including exposure for wage and hour violations as well as significant civil penalties and fee-shifting provisions under PAGA. These mutual and unresolved legal issues informed both Parties' decision to resolve this matter without further litigation.

4. Settlement Provides Benefit to State and Aggrieved Employees

The settlement provides for the State to recover 75% of the Net Settlement Amount, totaling $14,966 after administration costs and attorneys' fees and costs are deducted, subject to court approval. (Ex. 2, ¶¶ 1.11, 1.15.) The remaining $4,988.75 will be divided upon the 113 Aggrieved Employees on a pro rata basis. (*Id*., at ¶ 1.12) This settlement serves PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws. The settlement remediates past labor law violations by providing Aggrieved Employees with compensation for the wage and hour violations which they endured during their employment by Dexterity, Inc. The settlement maximizes enforcement of California labor laws by resolving these claims efficiently through the PAGA framework and ensuring meaningful recovery for Aggrieved Employees without delay and uncertainty of further litigation. Dexterity to comply and compensate Aggrieved Employees for all wages owed. Lastly, the settlement deters future violations by imposing a financial consequence on Dexterity for the conduct alleged in the action. Regardless of Dexterity's denial of all liability, the economic burden combined with the ongoing threat of liability for any future violations creates a meaningful incentive for Dexterity to comply with California wage and hour laws.

C. The Scope of Releases

Effective on the date when Defendant funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against Released Parties as follows. Released Parties means Defendant Dexterity Inc. and its past and present parents, subsidiaries, affiliates, predecessors, successors, assigns, and its present and former officers, agents, shareholders, fiduciaries, plan administrators, employees, attorneys, insurers, reinsurers and representatives, in their individual and corporate capacities. (Ex. 2, ¶ 1.26)

1. Plaintiff's Release

Plaintiff, as successor in interest to Samuel Eggers and on behalf of him, releases and discharges Released Parties from all claims that were or reasonably could have been alleged based on the facts alleged in the operative Complaint and the PAGA Notice. (Ex. 2, ¶ 5.) This release does not extend to any claims or actions to enforce the settlement, any claims released in Plaintiff's separate settlement agreement for non-PAGA claims. (*Id*.)

2. Aggrieved Employees' Release

Released Parties will be released from all claims of Aggrieved Employees for civil penalties under PAGA during the PAGA Period that were alleged or could have been alleged based on or reasonably related to the factual allegations in any of Plaintiff's filed Complaints and Plaintiff's PAGA Notice to the LWDA. (Ex. 2, ¶ 5.)

3. PAGA Counsel's Release

PAGA Counsel will release the Released Parties from all claims for PAGA Fees incurred in connection with the operative FAC, Amended Arbitration Demand, and the PAGA Period facts stated in the operative FAC, Amended Arbitration Demand, and the PAGA Notice. (Ex. 2, ¶ 5.)

D. Payment of Attorneys' Fees, Costs, and Incentive Payments

The settlement allocates the payment of attorney fees and costs, and settlement administration costs from the Gross Settlement Amount. This is appropriate even in the non-class action context where "California has long recognized…the propriety of awarding an attorney fee to a party who has recovered or preserved a monetary fund for the benefit of himself or herself and others." (*Lafitte v. Robert Half Intern, Inc.* (2016) 1 Cal.5th 480, 561 [approving percentage of recovery method in wage and hour class action.) The trial court acts within its equitable power to prevent unjust enrichment to the other party in awarding a fee from the fund. (*Id.*; *see also, Fox v. Hale & Norcross Silver Mtn. Co.* (1895) 108 Cal. 475 [approving fee payment from common fund in early derivative case].)

Here, Plaintiff will file a motion for approval of attorney fees and costs, further explaining the reasonableness of PAGA Counsel's request for fees and costs from the Gross Settlement Amount. Defendant has represented they will not oppose Plaintiff's requests for fees and costs if they do not exceed the amounts as stated in the proposed settlement. Moreover, the proposed settlement is not contingent upon any particular fee, incentive payment, or cost award, and should not serve as the basis for rejecting the proposed settlement.

V. CONCLUSION

For all the reasons stated above, Plaintiff respectfully requests that this Court approve the proposed PAGA Settlement.

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