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11 **THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF LOS ANGELES**

13 CHARLES SAN NICOLAS, an individual, on
14 behalf of himself and on behalf of all persons
15 similarly situated,

16 Plaintiff,

17 vs.

18 WEST COVINA CORPORATE FITNESS, INC., a
19 California Corporation; and DOES 1 through 50,
20 Inclusive,

21 Defendants.

Case No.: BC616304

**[PROPOSED] ORDER APPROVING PAGA
SETTLEMENT**

Date: April 11, 2019

Time: 9:00 a.m.

Dept.: 1

Judge: Hon. Daniel J., Buckley

Action filed: April 8, 2016

Trial date: None Set

1 Plaintiff Charles San Nicholas ("Plaintiff") moves for approval of the proposed settlement of
2 Plaintiff's claims under the California Labor Code Private Attorneys General Act ("PAGA"), pursuant
3 to California Labor Code § 2699(l), against the following Defendants: West Covina Corporate Fitness,
4 Inc., Muscle Head, Inc., Muscle Bound, Inc., LA Corporate Fitness, Inc., Thousand Oaks Corporate
5 Fitness, Inc., Simi Valley Corporate Fitness, Inc., Culver City Corporate Fitness, Inc., Fullerton
6 Corporate Fitness, Inc., Valencia Corporate Fitness, Inc., Santa Anita Corporate Fitness, Inc.,
7 Montclair Corporate Fitness, Inc., Santa Barbara Corporate Fitness, Inc., Anaheim Corporate Fitness,
8 Inc., Glendale Corporate Fitness, Inc., Santa Ana Corporate Fitness, Inc., and Gym Management
9 Services, Inc ("Defendants").

10 Plaintiff's PAGA claims include claims for civil penalties under the PAGA for alleged
11 violations of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1194, 1198, 2802 and the
12 Applicable Wage Order. Plaintiff seeks to recover civil penalties on his own behalf and on behalf of
13 all aggrieved employees in California, which includes all individuals who are or previously were
14 employed by Defendants as non-exempt employees, as defined in the operative complaint, from April
15 25, 2015 to December 31, 2018.

16 Plaintiff Charles San Nicolas has exhausted all administrative remedies required to bring the
17 PAGA claims asserted in this action and is authorized to act as a private attorney general with respect
18 to the PAGA claims being released under the terms of the Settlement Agreement.

19 The parties seek approval of the settlement of Plaintiff's PAGA claims and the PAGA Payment
20 (as defined below) to be paid as civil penalties as part of the proposed settlement as set forth in the
21 Settlement Agreement which was filed with the Court.

22 The Settlement Agreement also provides that: (1) Plaintiffs Charles San Nicolas, David Price,
23 and Peter Contreras agree to accept \$10,000 each in full settlement and compromise of their individual
24 claims against Defendants, as set forth in the Settlement Agreement (the "Individual Settlement
25 Payments"), and agree that the Individual Settlement Payments shall fully and forever discharge and
26 release all of their individual claims and causes of action pled in this action, whether now known or
27 now unknown, which Plaintiffs have as individuals against the Defendants and Released Parties, as
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1 defined in the Settlement Agreement; (2) \$193,750 will be paid to Plaintiffs' Counsel (the law firm of
2 Blumenthal Nordrehaug Bhowmik De Blouw LLP and Law Offices of Mauro Fiore, Jr., A.P.C.) for
3 payment of attorneys' fees, and \$11,342.98 will be paid to Plaintiffs' Counsel for litigation costs; and
4 (3) Administration Costs will be paid to ILYM Group, Inc. to administer the settlement in an amount
5 not to exceed \$20,000.

6 The PAGA Payment is defined as the total amount remaining in the Gross Settlement Amount
7 of \$775,000.00 after payment of the Individual Settlement Payments to the Plaintiffs, attorneys' fees,
8 attorneys' costs, and the Administration Costs. Of the PAGA Payment, 75% shall be allocated 100%
9 to the aggrieved employees as a payment under Labor Code section 558, and 25% shall be allocated
10 under Labor Code sections 2699 *et seq.* with 75% of the Section 2699 payment going to the Labor
11 Workforce Development Agency and 25% to the aggrieved employees. The PAGA Payment shall be
12 no less than \$451,667.00.

13 The California Labor Workforce Development Agency was provided with notice of the
14 settlement and Plaintiff's motion for approval of the settlement via its online process and no objection
15 has been received to the settlement or the motion from the Labor Workforce Development Agency.

16 The Court finds that good cause exists to approve the settlement based on the reasons set forth
17 in Plaintiff's motion, and the Court hereby GRANTS Plaintiff's motion and approves the PAGA
18 settlement as set forth in the Settlement Agreement and the PAGA Payment, which shall be allocated
19 and paid out as set forth in the Settlement Agreement. The Court finds that the proposed settlement
20 should be approved and adopted as a reasonable compromise of the asserted PAGA claims pursuant to
21 California Labor Code section 2699(l).

22 Plaintiff's PAGA claims asserted in this action against Defendants are hereby dismissed with
23 prejudice, as to Plaintiff, the State of California, and the Aggrieved Employees. The individual claims
24 of Plaintiffs Charles San Nicolas, David Price, and Peter Contreras asserted against Defendants are
25 also dismissed with prejudice. Except as provided in the Settlement Agreement, all sides will bear
26 their own attorneys' fees and costs.
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1 After entry of this Order, the Court shall retain jurisdiction to construe, interpret, implement,
2 and enforce the Settlement Agreement, to hear and resolve any contested challenge to a claim for
3 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with the
4 distribution of settlement benefits.

5 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
6 **ENTERED ACCORDINGLY.**

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8 DATED: _____

9 THE HONORABLE DANIEL J. BUCKLEY
10 JUDGE OF THE SUPERIOR COURT
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