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Attorneys for Plaintiff and all aggrieved employees

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

RONNIE WALDON, JR., an individual, on
behalf of himself and others similarly situated,

PLAINTIFF,

v.

NOBU SAN DIEGO, LLC; and DOES 1 thru
50, inclusive,

DEFENDANTS.

Case No. 37-2023-00001244-CU-OE-CTL

[Case Assigned for All Purposes to Hon.
Katherine Bacal in Dept. C-69]

**SUPPLEMENTAL DECLARATION OF
LIANE KATZENSTEIN LY IN
SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF
REPRESENTATIVE ACTION
SETTLEMENT**

Date: June 7, 2024

Time: 11:00 AM

Dept.: C-69

Complaint Filed: January 5, 2023

Trial Date: June 14, 2024

1 **SUPPLEMENTAL DECLARATION OF LIANE KATZENSTEIN LY**

2 I, Liane Katzenstein Ly, declare as follows:

3 1. I am an attorney licensed to practice before all of the courts of the State of
4 California. I am the attorney of record for Plaintiff Ronnie Waldon Jr. in the above-entitled action.
5 I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and
6 would testify competently thereto.

7 2. I make this Supplemental Declaration in Support of Plaintiff's Motion for Approval
8 of Representative Action in the above-captioned case in response to the Court's Tentative Ruling
9 of the May 9, 2024, Motion for Approval of Representative Action hearing. The continued Motion
10 hearing date is June 7, 2024.

11 **PAGA COUNSEL'S HOURS AND HOURLY RATES ARE REASONABLE**

12 3. As detailed fully in the Agreement, the settlement provides for Defendant to create
13 a Gross Settlement Amount of \$110,000.00. From that fund, Plaintiff requests an award of
14 attorneys' fees for PAGA Counsel in the amount of \$36,666.67, or 33.33% of the Gross Settlement
15 Amount, and \$11,174.21 in reimbursement for litigation costs.

16 4. Here, a lodestar cross-check confirms that the percentage requested is reasonable.
17 PAGA Counsel have an aggregate lodestar in the amount of \$35,380.00 which represents 36.00
18 hours of attorney work on this litigation from its inception through the date of this filing of
19 Plaintiff's instant Motion, and ten future hours.

20 5. As such, PAGA Counsel is asking for a lodestar multiplier of 1.04.

21 6. The amount of time spent on this case (46 hours), which culminated in a very
22 favorable proposed Settlement for the Aggrieved Employees, is reasonable given the complexity
23 and novelty of the issues involved, the vigorous defense, the length and intensity of the litigation,
24 and the exceptional results obtained.

25 7. PAGA Counsel litigated this action with great efficiency in light of the amount of
26 work required to achieve the Settlement.

27 8. The requested hourly rates in this case range from \$415.00 per hour to \$990.00, as
28 of 2023.

1 9. PAGA Counsel’s hourly rates are fully supported by their experience and reputation
2 in handling complex employment litigation, including wage and hour class actions.

3 10. Mr. Kingsley is a 24-year attorney with expertise in wage and hour class action
4 lawsuits.

5 11. He is also a prolific speaker at various seminars on employment law and has
6 contributed to legal publications on employment topics.

7 12. In light of the impending increase of experienced lawyers in specialized practice, I
8 believe that the hourly rates charged by my firm are fair and reasonable and are comparable to or
9 less than those charged by my colleagues in California and the national market for prosecuting or
10 defending class actions.

11 13. My office billed for the following three attorneys for work performed on this case:
12 Eric Kingsley, Jessica Bulaon, and me.

13 14. I am a partner at Kingsley Szamet & Ly and had a billing rate of \$715 per hour. I
14 am an honors graduate of Florida State University and received my JD from the University of
15 California Davis School of Law in 2008, where I was an editor of the Environmental Law Journal
16 and a board member of the King Hall Negotiations Team.

17 15. Jessica Bulaon is an Associate Attorney at Kingsley & Kingsley, APC. She is billed
18 at \$415 per hour. Ms. Bulaon obtained her Bachelor of Arts from UCLA and her juris doctor from
19 Southwestern Law School in 2021.¹

20 16. PAGA Counsel’s charged rates are commensurate with the prevailing market rates
21 in San Diego County for attorneys of comparable experience and skill handling complex litigation.

22 17. Furthermore, PAGA Counsel’s rates in calculating the lodestar are the same rates
23 charged to non-contingent hourly clients and thus necessarily reflect the current market value of
24 counsel’s legal services.²

25 _____
26 ¹ My declaration erroneously stated that Ms. Bulaon attended UCLA School of Law; Ms. Bulaon
attended Southwestern Law School.

27 ² The Court should also note that other California courts approved many of these same rates over 15 years ago.
28 (See, e.g., *Bihun v. AT&T Info. Sys., Inc.* (1993) 13 Cal.App.4th 976, 997, disapproved on other grounds, 6
Cal.4th 644, 664 [\$450 hourly rate was a reasonable fee based on counsel’s knowledge, skill, experience and
reputation].)

18. PAGA Counsel has made all reasonable attempts to avoid duplication of assignments and to assign tasks to timekeepers at the appropriate billing rates.

19. Kingsley Szamet & Ly attorneys' fees in the present case are broken down as follows:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTALS</u>
Eric B. Kingsley	14.4	\$990.00	\$14,256.00
Liane Katzenstein Ly	26.7 ³	\$715.00	\$19,090.50
Jessica Bulaon	4.9	\$415.00	\$2,033.50
KINGSLEY TOTAL ATTORNEYS' FEES	46.00		\$35,380.00

20. Our firm's hourly rates have been approved by various courts throughout the State of California in 2022, 2023, and 2024.

21. In 2022, our firm's rates ranged from \$325 to \$900.

22. Our rates and request for fees were approved in 2022 in *Dawn Anderson v. Spa Havens, LP*, San Diego Superior Court, Case No. 37-2017-00022193-CU-OE-NC.

23. In 2023, our firm's rates ranged from \$415 to \$990.

24. Our firm's 2023 rates and full requests for fees were approved in the following cases:

a. *Mayra Morales v. Eurostampa California, LLC*, Napa County Superior Court, Case No. 22CV000095;

b. *Reginald Antonio Chavis, Jr. v. Grocery Outlet Inc.*, Sacramento County Superior Court Case No. 34-2021-00309003-CU-OE-GDS;

c. *Alejandro Rivera Ramirez v. S&E Gourmet Cuts, Inc.*, San Bernardino County Superior Court, Case No. CIVSB2201247;

d. *Luis Santos v. Replanet Packaging, LLC*, Tulare County Superior Court, Case No. VCU285878;

³ PAGA Counsel's current hours are 36.00. However, PAGA Counsel also anticipates an additional ten hours of future time through the hearing and the administration process. As such, PAGA Counsel is reporting a total of 46.00 hours.

e. *Gildardo Mota Stevens v. Purple Eagle LLC*, Contra Costa County Superior Court, Case No. MSC21-02204.

25. In 2024, our firm's rates range from \$450 to \$1100.

26. Thus far, our firm's 2024 rates and full request for fees have been approved in the following cases:

a. *Beau Laninovich v. Bear Valley Springs Association*, Kern County Superior Court, Case No. BCV-21-102750-BCB;

b. *Manny Hanech Ziperman v. Parkway Motorcars Valencia Inc. DBA Parkway Buick GMC Cadillac*, Los Angeles County Superior Court, Case No. 21STCV31959;

c. *Shelton Harper v. San Mar Properties*, Fresno County Superior Court, Case No. 21CECG03563.

ENHANCEMENT TO PLAINTIFF

27. Plaintiff is providing a supplemental declaration in support of his enhancement.

28. I ask that this Court reconsider its position on awarding an enhancement to Plaintiff.

29. Plaintiff could have entered into an individual settlement for a full release early on in this litigation, putting his interests ahead of those of the aggrieved employees.

30. Instead, he chose to favor the interests of the other employees and continue litigation on their behalf.

31. Public policy supports an enhancement in a PAGA action.

32. If the Court is inclined to deny an enhancement, I ask that the Court cut the attorney fees instead.

33. Plaintiff is a low wage worker, and he has been waiting for over a year for this enhancement.

34. While waiting for this litigation, Plaintiff has suffered substantial hardships.

EXHIBITS

35. Attached hereto as Exhibit A is the Order Granting Final Approval of Class Action Settlement in *Dawn Anderson v. Spa Havens, LP*, San Diego Superior Court, Case No. 37-2017-

00022193-CU-OE-NC, filed on June 6, 2022.

36. Attached hereto as Exhibit B is the Order Granting Final Approval of Class Action Settlement and Entering Judgment in *Mayra Morales v. Eurostampa California, LLC*, Napa County Superior Court, Case No. 22CV000095, filed on June 18, 2023.

37. Attached hereto as Exhibit C is the Tentative Ruling Granting Final Approval of Class Action Settlement in *Reginald Antonio Chavis, Jr. v. Grocery Outlet Inc.*, Sacramento County Superior Court Case No. 34-2021-00309003-CU-OE-GDS, filed on September 29, 2023.

38. Attached hereto as Exhibit D is the Order Granting Approval of Representative Action Settlement in *Alejandro Rivera Ramirez v. S&E Gourmet Cuts, Inc.*, San Bernardino County Superior Court, Case No. CIVSB2201247, filed on October 11, 2023.

39. Attached hereto as Exhibit E is the Order Granting Approval of Representative PAGA Settlement in *Luis Santos v. Replanet Packaging, LLC*, Tulare County Superior Court, Case No. VCU285878, filed on November 30, 2023.

40. Attached hereto as Exhibit F is the Order Granting Final Approval of Class Action Settlement in *Gildardo Mota Stevens v. Purple Eagle LLC*, Contra Costa County Superior Court, Case No. MSC21-02204, filed on November 30, 2023.

41. Attached hereto as Exhibit G is the Order Granting Approval of Representative Action Settlement in *Beau Laninovich v. Bear Valley Springs Association*, Kern County Superior Court, Case No. BCV-21-102750-BCB, filed on January 10, 2024.

42. Attached hereto as Exhibit H is the Order Granting Approval of Representative Action Settlement in *Manny Hanech Ziperman v. Parkway Motorcars Valencia Inc. DBA Parkway Buick GMC Cadillac*, Los Angeles County Superior Court, Case No. 21STCV31959, filed on March 28, 2024.

43. Attached hereto as Exhibit J is the Order Granting Final Approval of Class Action Settlement and Entering Judgment in *Shelton Harper v. San Mar Properties*, Fresno County Superior Court, Case No. 21CECG03563, filed on April 9, 2024.

44. Plaintiff's Counsel will also concurrently file the Supplemental Client Declaration in Support of Plaintiff's Motion for Approval of Representative Action Settlement.

45. Attached as Exhibit K is a true and correct copy of the proof of submission of this declaration and the Supplemental Client Declaration to the Labor and Workplace Development Agency.

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

This declaration was executed this 28th day of May, 2024, in Encino, California.

Liane Katzenstein Ly

EXHIBIT A

1 **KINGSLEY & KINGSLEY, APC**
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4 LIANE KATZENSTEIN LY, ESQ. (SBN 259230)
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13 Los Alamitos, CA 90720
14 Telephone: (562) 256-1047
15 Fax: (562) 256-1006

16 Attorneys for Plaintiff and the Certified Class

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF DIEGO – NORTH COUNTY**

14 DAWN ANDERSON, an individual, on
15 behalf of herself and others similarly situated

16 Plaintiff,

18 vs.

19 SPA HAVENS, LP; and DOES 1 thru 50,
20 inclusive,

21 Defendants.

CASE NO. 37-2017-00022193-CU-OE-NC

[Case Assigned for All Purposes to Hon.
Cynthia A. Freeland in Dept. N-27]

22 **[PROPOSED] ORDER GRANTING**
23 **FINAL APPROVAL OF CLASS ACTION**
24 **SETTLEMENT**

Date: June 3, 2022

Time: 1:30 p.m.

Dept.: N-27

Complaint Filed: June 19, 2017

Trial Date: November 5, 2021

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiff DAWN
3 ANDERSON ("Class Representative" or "Plaintiff") against Defendant SPA HAVENS, LP
4 ("Defendant"). The Motion for Final Approval of Class Action Settlement came before this Court,
5 on June 3, 2022.

6 **WHEREAS**, Judge Cynthia A. Freeland granted preliminary approval of the Joint
7 Stipulation of Class Action Settlement and Release of Claims ("Agreement" or "Settlement
8 Agreement"), attached to the concurrently filed Declaration of Liane Katzenstein Ly as Exhibit
9 "A", on January 14, 2022.

10 **WHEREAS**, Plaintiff DAWN ANDERSON has applied to the Court for an order granting
11 final approval of the Agreement.

12 **WHEREAS**, the Agreement sets forth the terms and conditions for the proposed
13 Agreement and for entry of an Order of Final Approval and entry of final judgment thereon. The
14 Court having read and considered Plaintiff's Motion for Final Approval of Class Action
15 Settlement; Motion for Approval of Attorneys' Fees and Costs; the Declarations of Liane
16 Katzenstein Ly, Dawn Anderson; and Makenna Snow of ILYM Group, Inc.; and the supporting
17 documents annexed thereto, now finds:

18 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

19 1. The Court has personal jurisdiction over all Settlement Class Members and that the
20 Court has subject matter jurisdiction to approve the Agreement;

21 2. The terms of the Agreement are fair, just, reasonable, and adequate, consistent and
22 in compliance with California Code of Civil Procedure, the California and United States
23 Constitutions (including the due process clauses), the California Rules of Court and any other
24 applicable law, and in the best interest of each of the Parties and the Settlement Class Members
25 and is hereby finally approved in all respects.

26 3. The Parties are hereby directed to perform the terms of the Settlement as described
27 in the Agreement according to its terms and provisions.

28 4. The Agreement is binding on Plaintiff and all other Settlement Class Members, as

1 well as their heirs, executors and administrators, successors and assigns.

2 5. There are no objectors to the Agreement.

3 6. It is ordered that the Settlement Class is certified for settlement purposes only. The
4 Court finds that an ascertainable class exists and a well-defined community of interest exists in the
5 questions of law and fact involved because in the context of the Agreement: (i) there are questions
6 of law and fact common to the Settlement Class Members which, as to the Agreement and all
7 related matters, predominate over any individual questions; (ii) the Claims of Plaintiff are typical
8 of the Claims of the Settlement Class Members; and (iii) in negotiating, entering into and
9 implementing the Agreement, Plaintiff and Plaintiff's Attorneys have fairly and adequately
10 represented and protected the interest of the Settlement Class Members.

11 7. The Court finds that the Notice and notice methodology implemented pursuant to
12 this Agreement (i) constituted the best practicable notice; (ii) constituted notice that was
13 reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
14 pendency of the Action, their right to object to the proposed Agreement and their right to appear
15 at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and sufficient
16 notice to all persons entitled to receive notice; and (iv) met all applicable requirements of the
17 California Code of Civil Procedure, the California and United States Constitution (including the
18 Due Process Clause), the California Rules of Court and any other applicable law.

19 8. The Settlement Class is hereby made final. The Settlement Class is defined as:

20 "all persons who are employed or have been employed by SPA
21 HAVENS LP, in the State of California who worked one or more
22 pay periods from June 19, 2016 to July 14, 2017." ("Settlement
Class Members")

23 9. The "Class Period" is from July 19, 2016 to July 14, 2017, inclusive.

24 10. The Agreement is not an admission by Defendant, nor is this Final Order a finding
25 of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final Order,
26 the Agreement, nor any document referred to herein, nor any action taken to carry out the
27 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or
28 wrongdoing on the part of Defendant.

1 11. Pursuant to the Agreement, upon entry of this Final Order, Plaintiff and each
2 Settlement Class Member shall fully release and discharge the Released Parties pursuant to the
3 following release and expressly waive and relinquish any and all claims, rights or benefits that
4 they may have under California Civil Code § 1542, which provides:

5 “all claims during the Class Period that Defendant violated Labor
6 Code §§ 226(a) by providing inaccurate wage statements that failed
7 to include the start date of the pay period plus related claims for
8 penalties, interest, fees, and costs. For avoidance of doubt, the
9 Released Claims do not include a release of any claims by
10 Settlement Class Members that may exist in connection with any
settlement reached in San Diego County Superior Court Case No.
Case No.: 37-2019-00057065-CU-OE-NC brought by plaintiff
Christina Gutierrez. All Settlement Class Members may participate
in any Gutierrez settlement.

11 12. Plaintiff and all Settlement Class Members, and any person acting on their behalf,
12 are permanently barred and enjoined from: (i) filing, commencing, prosecuting, intervening in,
13 participating in (as class members or otherwise), or receiving any benefits or other relief from, any
14 other lawsuit, in any state or federal court, arbitration, or administrative, regulatory or other
15 proceeding or order in any jurisdiction based on the Released Claims; and (ii) organizing such
16 non-excluded Settlement Class Members into a separate class for purposes of pursuing as a
17 purported class action (including by seeking to amend a pending complaint to include class
18 allegations, or by seeking class certification in a pending action) any lawsuit based on or relating
19 to the Released Claims;

20 13. The Agreement provides that the Maximum Settlement Amount is one hundred
21 sixty-five thousand dollars and zero cents (\$165,000.00). The Net Settlement Amount shall be
22 determined according to the terms of the Agreement.

23 14. The Court orders the calculations and the payments to be made and administered in
24 accordance with the terms of the Agreement.

25 15. The Court hereby finds that Plaintiff and Class Counsel adequately represented the
26 Settlement Class for purposes of entering into and implementing the settlement. The Court hereby
27 confirms Kingsley & Kingsley, APC and United Employees Law Group, PC as Class Counsel in
28 the Action.

1 16. The Court hereby finds the unopposed application of Class Counsel for a costs and
2 attorneys' fees award provided for under the proposed Agreement to be fair and reasonable in light
3 of all the circumstances and is hereby granted. Of the Maximum Settlement Amount, \$55,000.00
4 shall be paid for attorney fees and \$18,500.00 shall be paid for litigation costs.

5 17. The unopposed application of Class Counsel for an enhancement payment to
6 Plaintiff is hereby granted. Of the Maximum Settlement Amount, a \$10,000.00 Class
7 Representative Enhancement shall be allocated to Class Representative DAWN ANDERSON.

8 18. The unopposed application of Class Counsel for claims administration fees to
9 ILYM Group, Inc. is hereby granted. Of the Maximum Settlement Amount, \$10,000.00 shall be
10 paid for settlement administration fees.

11 19. Defendant shall have no further liability for costs, expenses, interest, attorneys'
12 fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

13 20. If a Settlement Class Member does not cash his or her settlement check within 180
14 days, the uncashed funds shall be transmitted by the Settlement Administrator to the State of
15 California Office of the Controller in the name of the class member who did not cash his or her
16 Individual Settlement Payment check.

17 21. Defendant shall have no further liability for costs, expenses, interest, attorneys'
18 fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

19 22. The Court hereby grants and authorizes the Parties, without further approval from
20 the Court, to agree to and to adopt such amendments, modifications and expansions of this
21 Stipulation and all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii)
22 do not limit the rights of Settlement Class Members under the Stipulation.

23 23. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
24 shall retain jurisdiction over the Action, the Parties, and the Settlement Class, as well as the
25 administration and enforcement of the terms of the Settlement of this action to enforce the terms
26 of the judgment. Without affecting the finality of the Final Judgment, the Court shall retain
27 continuing jurisdiction over the Action, the Parties, and the Settlement Class, as well as the
28 administration and enforcement of the Settlement. Any disputes or controversies arising with

1 respect to the interpretation, consummation, enforcement, or implementation of the Settlement
2 shall be presented by motion to the Court; provided however, that nothing in this Part shall restrict
3 the ability of the Parties to exercise their rights to terminate the Settlement pursuant to the terms
4 of the Agreement.

5 24. This Final Order shall constitute a final judgment.

6
7 DATED: June 16, 2022

Cynthia A. Freeland
JUDGE OF THE SUPERIOR COURT

CYNTHIA A. FREELAND

EXHIBIT B

REC'D 5/8/23

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Attorneys for Plaintiff and the proposed class

FILED

JUN 13 2023

CLERK OF THE NAPA SUPERIOR COURT
BY DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF NAPA**

MAYRA MORALES, an individual, on
behalf of herself and others similarly situated,

PLAINTIFF,

v.

EUROSTAMPA CALIFORNIA LLC; and (1)
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 22CV000095

[Case Assigned for All Purposes to Hon.
Cynthia P. Smith in Dept. A]

^{CPS}
**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT**

Date: June 6, 2023
Time: 8:30 AM
Dept.: A

Complaint Filed: January 27, 2022
FAC Filed: April 4, 2022
Trial Date: None Set

and (2) Final Approval of
attorneys' fees and costs

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class and representative action lawsuit brought by Plaintiff
3 Mayra Morales ("Class Representative" or "Plaintiff") against Defendant EUROSTAMPA
4 CALIFORNIA LLC ("Defendant"). The Motion for Final Approval of Class Action Settlement
5 came before this Court, on June 6, 2023.

6 **WHEREAS**, Judge granted preliminary approval of the Stipulation for Settlement of Class
7 and Representative Action ("Settlement Agreement" or "Settlement"), attached to the
8 concurrently-filed Declaration of Liane Katzenstein Ly as Exhibit "1", on January 11, 2023.

9 **WHEREAS**, Plaintiff Mayra Morales has applied to the Court for an order granting final
10 approval of the Settlement Agreement. *and for an order granting final approval*
11 *of attorneys' fees and costs.*

12 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions for the
13 proposed Settlement Agreement and for entry of an Order of Final Approval and entry of final
14 judgment thereon. The Court having read and considered Plaintiff's Motion for Final Approval of
15 Class Action Settlement; Motion for Approval of Attorneys' Fees and Costs; the Declarations of
16 Liane Katzenstein Ly, Mayra Morales, and Makenna Snow of ILYM Group, Inc.; and the
supporting documents annexed thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all Settlement Class Members and that the
19 Court has subject matter jurisdiction to approve the Settlement Agreement;

20 2. The terms of the Settlement Agreement are fair, just, reasonable, and adequate,
21 consistent and in compliance with California Code of Civil Procedure, the California and United
22 States Constitutions (including the due process clauses), the California Rules of Court and any
23 other applicable law, and in the best interest of each of the Parties and the Settlement Class
24 Members and is hereby finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as described
26 in the Settlement Agreement according to its terms and provisions.

27 4. The Settlement Agreement is binding on Plaintiff and all other Settlement Class
28 Members, except those who timely and properly filed Request for Exclusion, as well as their heirs,

1 executors and administrators, successors and assigns.

2 5. There are two (2) valid requests for exclusion.

3 6. There are no objectors to the Settlement Agreement.

4 7. It is ordered that the Settlement Class is certified for settlement purposes only. The
5 Court finds that an ascertainable class exists and a well-defined community of interest exists in the
6 questions of law and fact involved because in the context of the Settlement Agreement: (i) there
7 are questions of law and fact common to the Settlement Class Members which, as to the Settlement
8 Agreement and all related matters, predominate over any individual questions; (ii) the Claims of
9 Plaintiff are typical of the Claims of the Settlement Class Members; and (iii) in negotiating,
10 entering into and implementing the Settlement Agreement, Plaintiff and Plaintiff's Attorneys have
11 fairly and adequately represented and protected the interest of the Settlement Class Members.

12 8. The Court finds that the Notice and notice methodology implemented pursuant to
13 this Settlement Agreement (i) constituted the best practicable notice; (ii) constituted notice that
14 was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
15 pendency of the Action, their right to object to or exclude themselves from the proposed Settlement
16 Agreement and their right to appear at the Final Settlement Hearing; (iii) were reasonable and
17 constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (iv)
18 met all applicable requirements of the California Code of Civil Procedure, the California and
19 United States Constitution (including the Due Process Clause), the California Rules of Court and
20 any other applicable law.

21 9. The Settlement Class is hereby made final. The Settlement Class is defined as:
22 "all non-exempt employees who are employed or have been employed by Defendant in the State
23 of California who worked one or more pay periods from August 2, 2017 to December 15, 2022,
24 or the date the Court grants preliminary approval of the settlement, whichever comes first." The
25 "Class Period" is August 2, 2017 to December 15, 2022.

26 10. The PAGA Group Members are hereby made final. The PAGA Group Members
27 are defined as "all non-exempt employees who are employed or have been employed by
28 Defendant in the State of California who worked one or more pay periods from February 1, 2021

1 to December 15, 2022, or the date the Court grants preliminary approval of the settlement,
2 whichever comes first." The "PAGA Period" is February 1, 2021 to December 15, 2022.

3 11. The Settlement Agreement is not an admission by Defendant, nor is this Final Order
4 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final
5 Order, the Settlement Agreement, nor any document referred to herein, nor any action taken to
6 carry out the Settlement, shall be construed or deemed an admission of liability, culpability,
7 negligence, or wrongdoing on the part of Defendant.

8 12. Pursuant to the Settlement Agreement, upon entry of this Final Order, Plaintiff and
9 each Settlement Class Member shall fully release and discharge the Released Parties
10 pursuant to the following release and expressly waive and relinquish any and all claims,
11 rights or benefits that they may have under California Civil Code § 1542, which provides:

12 any and all claims, debts, liabilities, demands, obligations, penalties,
13 premium pay, guarantees, costs, expenses, attorney's fees, damages,
14 actions or causes of action of whatever kind or nature, whether
15 known or unknown, contingent or accrued, under any legal theory
16 under federal and state law that are alleged in the Action, or could
17 have been alleged in the Action based on the facts alleged therein,
18 for any alleged failure to pay all wages due (including minimum
19 wage and overtime wages), regular rate calculations, failure to pay
20 for all hours worked failure to provide meal and rest periods,
21 short/late meal and rest periods, failure to relieve of all duties during
22 meal and rest periods, failure to timely pay wages and final wages,
23 failure to properly calculate the regular rate of pay, expense
24 reimbursement claims, failure to furnish accurate wage statements
25 including claims derivative and/or related to these claims, liquidated
26 damages, record-keeping violations, failure to pay waiting time
27 penalties that occurred during the Class Period. This Release shall
28 include all claims and theories that are alleged in the Action, or
could have been alleged in the Action based on the facts alleged
therein arising under the California Labor Code, wage orders, and
applicable regulations, including Labor Code Sections 201, 202,
203, 226(a), 226, 7, 510, 512, 1194, 1194.2, 1199, and 2802 as well
as claims under Business and Professions Code section 17200 et
seq., and/or Labor Code Sections 2698 et seq. based on alleged
violations of the above Labor Code provisions. The release of claims
shall include a Civil Code Section 1542 release as to the released
claims only. The release shall expressly exclude all other claims,
including claims for vested benefits under ERISA or Taft- Hartley
plans, wrongful termination, unemployment insurance, disability
insurance. Social Security, workers' compensation, and class claims
outside of the class period.

13. Plaintiff and all Settlement Class Members who have not been timely and properly

1 excluded from the Settlement Class, and any person acting on their behalf, are permanently barred
2 and enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class
3 members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any
4 state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any
5 jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Settlement Class
6 Members into a separate class for purposes of pursuing as a purported class action (including by
7 seeking to amend a pending complaint to include class allegations, or by seeking class certification
8 in a pending action) any lawsuit based on or relating to the Released Claims;

9 14. The Settlement Agreement provides that the Gross Fund Value is one hundred and
10 fifty five thousand dollars and zero cents (\$155,000.00). The Net Settlement Amount shall be
11 determined according to the terms of the Settlement Agreement.

12 15. The Court orders the calculations and the payments to be made and administered in
13 accordance with the terms of the Settlement Agreement.

14 16. The Court hereby finds that Plaintiff and Class Counsel adequately represented the
15 Settlement Class for purposes of entering into and implementing the settlement. The Court hereby
16 confirms Kingsley & Kingsley, APC as Class Counsel in the Action.

17 17. The Court hereby finds the unopposed application of Class Counsel for a costs and
18 attorneys' fees award provided for under the proposed Settlement Agreement to be fair and
19 reasonable in light of all the circumstances and is hereby granted. Of the Gross Fund Value,
20 \$51,666.67 shall be paid for attorney fees and \$4,000.00 shall be paid for litigation costs.

21 18. The unopposed application of Class Counsel for an enhancement payment to
22 Plaintiff is hereby granted. Of the Gross Fund Value, a \$5,000.00 Class Representative
23 Enhancement Payment shall be allocated to Class Representative Mayra Morales.

24 19. The unopposed application of Class Counsel for claims administration fees to
25 ILYM Group, Inc. is hereby granted. Of the Gross Fund Value, \$12,000.00 shall be paid for
26 settlement administration fees.

27 20. Defendant shall have no further liability for costs, expenses, interest, attorneys'
28 fees, or for any other charge, expense, or liability, except as provided for in the Settlement

1 Agreement.

2 21. The Court approves the PAGA Penalties in the amount of \$10,000.00. The Court
3 approves 75% of the PAGA Penalties being allocated to the Labor and Workforce Development
4 Agency ("LWDA") in the amount of \$7,500.00. The Court further directs that the remaining 25%
5 of the PAGA Penalties, in the amount of \$2,500.00 shall be allocated to the Net Settlement Amount
6 for distribution to the Settlement Class Members.

7 22. If a Settlement Class Member does not cash his or her settlement check within 180
8 days, the uncashed funds shall be transmitted by the Settlement Administrator to the State of
9 California Office of the Controller in the name of the class member who did not cash his or her
10 Individual Settlement Payment check.

11 23. Defendant shall have no further liability for costs, expenses, interest, attorneys'
12 fees, or for any other charge, expense, or liability, except as provided for in the Settlement
13 Agreement.

14 24. The Court hereby grants and authorizes the Parties, without further approval from
15 the Court, to agree to and to adopt such amendments, modifications and expansions of this
16 Stipulation and all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii)
17 do not limit the rights of Settlement Class Members under the Stipulation.

18 25. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
19 shall retain jurisdiction over the Action, the Parties, and the Settlement Class, as well as the
20 administration and enforcement of the terms of the Settlement of this action to enforce the terms
21 of the judgment. Without affecting the finality of the Final Judgment, the Court shall retain
22 continuing jurisdiction over the Action, the Parties, and the Settlement Class, as well as the
23 administration and enforcement of the Settlement. Any disputes or controversies arising with
24 respect to the interpretation, consummation, enforcement, or implementation of the Settlement
25 shall be presented by motion to the Court; provided however, that nothing in this Part shall restrict
26 the ability of the Parties to exercise their rights to terminate the Settlement pursuant to the terms
27 of the Settlement Agreement.

28 26. This Final Order shall constitute a final judgment.

1 27. The Court hereby dismisses the action (including all individual claims and Released
2 Claims presented thereby) with prejudice, without fees or costs to any party except as provided in
3 the Settlement Agreement.

4
5 DATED: 6/9/23


JUDGE OF THE SUPERIOR COURT

EXHIBIT C

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Gordon D. Schaber Superior Court, Department 28

JUDICIAL OFFICER: HONORABLE LAURI A. DAMRELL

Courtroom Clerk: V. Aleman
Court Attendant: J. Flores

CSR: None

34-2021-00309003-CU-OE-GDS

September 29, 2023
9:00 AM

Reginald Antonio Chavis vs. Grocery Outlet Inc.

MINUTES

APPEARANCES:

Plaintiff Reginald Antonio Chavis, Jr represented by Kelsey M. Szamet via virtual conference.
Defendant Grocery Outlet Inc. represented by Cary G. Palmer Special Appearing Erika Barbara via virtual conference.

**NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement;
Case Management Conference**

After hearing from the parties, the Court affirmed the tentative ruling.

TENTATIVE RULING:

Plaintiff Reginald Antonio Chavis Jr.'s ("Plaintiff") Motion for Final Approval of Class Action Settlement and Motion for Final Approval of Attorneys' Fees and Costs are UNOPPOSED and tentatively GRANTED, pending the final fairness hearing. (Code of Civ. Proc. § 382; Cal. Rules of Court, Rule 3.769.) In the interests of judicial economy and efficiency, the Court combines its rulings on these motions into this single Tentative Ruling.

The hearing on this motion was continued on the Court's motion, by tentative ruling issued September 14, 2023, directing Plaintiff to file with the Court a copy of the Declaration of Emil Davtyan that was cited in support of Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for Final Approval of Attorneys' Fees and Costs, but not filed concurrently with the other moving papers. In accordance with the Court's instructions, Plaintiff filed the missing Declaration of Emil Davtyan on September 15, 2023.

NOTICE:

The Court's ruling tentatively indicates that it will grant final approval of the class action settlement conditioned on further arguments to be made during the final fairness hearing. Although the Court anticipates that neither Plaintiffs nor Defendants will request oral argument, and while no class member indicated any intent to appear at the hearing, this does not relieve the parties from appearing at the hearing or otherwise render the instant ruling final in the event

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oral argument is not requested. The Court will not render a final ruling until it holds the final fairness hearing.

The Parties are encouraged to appear via Zoom with the links below:

To join by Zoom link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept28>

To join by phone dial (833) 568-8864 ID 16039062174

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government Code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>

*If you are not using a reporter from the Court's Approved Official Reporter Pro Tempore list, a Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) must be signed by each party, the private court reporter, and the Judge. **The signed form must be filed with the clerk prior to the hearing.***

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211). The form must be filed with the clerk at least 10 days prior to the hearing or at the time the hearing is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.

Background

Plaintiff Reginald Antonio Chavis Jr. ("Plaintiff") initiated this case by filing a Class Action Complaint against Defendant Grocery Outlet Inc. ("Defendant") on September 29, 2021, alleging wage and hour violations. Plaintiff added a cause of action for violations under the Private Attorneys General Act ("PAGA") by way of his First Amended Class and Representative Action Complaint filed on December 7, 2021. The parties stipulated to the filing of a Second Amended Complaint ("SAC") omitting the causes of action for failure to provide rest breaks, adding a cause of action for failure to pay wages at termination, and narrowing the class definition to persons currently and formerly employed by Defendant as non-exempt employees of Defendant's Regional Fulfillment Centers in California from September 29, 2017 to December 31, 2022. The SAC was filed on December 20, 2022. The SAC alleges that Defendant failed to pay wages or overtime when class members worked more than 8 hours per day or 40 hours per week; paid overtime at a rate less than the required rate; issued inaccurate wage statements; and failed to pay wages due at termination.

This Court preliminarily approved the Amended Joint Stipulation of Class Action and PAGA Settlement and Release ("Amended Settlement Agreement") entered into by Plaintiff and

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Defendant on May 8, 2023. (Szamet Decl., Exh. A (“Amended SA”).) Plaintiff now moves for final approval of the Amended Settlement Agreement. Concurrent with the filing of this motion, Plaintiff provided notice to the Labor and Workforce Development Agency (“LWDA”). (Szamet Decl., Exh. F (“8-23-23 Proof of Service”).)

Legal Standard

Courts review class action settlements in a three-stage process: (1) an earlier conditional review by the court; (2) a period during which notice is distributed to class members for their comments or objections; and (3) a later detailed review after the notice period when the court decides whether to give “final approval.” (Rubenstein, *Newberg on Class Actions* (6th Ed. 2022) § 13:1 (Newberg); see also Cal. R. Ct. Rule 3.769.) This procedure, which is commonly utilized by both federal and state courts, assures class members of the protection of procedural due process safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement class.

As required by the applicable Rule of Court, the Court must conduct a final approval hearing to inquire into the fairness of the proposed settlement. (Cal. R. Ct., Rule 3.769(g).) The Court has broad discretion to determine whether a proposed settlement in a class action is fair. (*Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438.) The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. (See Newberg, *supra*, § 13:44 (and cases cited therein); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.) In approving a class action settlement, the Court must “satisfy itself that the class settlement is within the ‘ballpark’ of reasonableness.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making its fairness determination, the Court should consider the relevant factors, such as the strength of the plaintiffs’ case, the risk, expenses, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members to the proposed settlement. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) “The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement.” (*Kullar, supra*, 168 Cal.App.4th at p. 130 [internal quotes omitted].) A presumption of fairness exists where (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk, supra*, 48 Cal.App.4th at p. 1802.) Ultimately, the court’s determination is simply “an amalgam of delicate balancing, gross approximations and rough justice.” (*Id.*, at p. 1801.)

Settlement Agreement and Class Response

Under the terms of the Amended Settlement Agreement, Defendant agrees to pay a non-reversionary Maximum Settlement Amount (“MSA”) of \$450,000. (Amended SA, § 15.c; 4-28-23 Minute Order.) Defendant will separately pay the employer payroll taxes for the wage portion of the settlement awards. (*Ibid.*) The following amounts will be paid out from the MSA: (1)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

attorneys' fees not to exceed \$150,000 (one-third of the MSA) to Class Counsel; (2) reimbursement of litigation expenses not to exceed \$15,000; (3) administration costs not to exceed \$11,500 to be paid to the Settlement Administrator; (4) an enhancement award not to exceed \$7,500 to be paid to the Class Representative; and (5) a PAGA Payment of \$20,000, with 75% or \$15,000 to the Labor and Workforce Development Agency ("LWDA") and 25% or \$5,000 paid to Aggrieved Employees. (*Id.*, §§ 15.c, 17.) The Amended Settlement Agreement clarifies that the PAGA allocation to Aggrieved Employees will not be included in the Net Settlement Amount, and will instead be paid to Aggrieved Employees on a pro rata basis. (*Id.*, § 15.c.ii.)

Here, Class Counsel's actual litigation expenses total \$8,742 (Paul Decl., ¶ 14, Szamet Decl., ¶ 123), the administration expenses incurred by the Settlement Administrator to be deducted are the maximum of \$11,500 allowed for by the Amended Settlement Agreement (Paul Decl., ¶ 14), and Plaintiff has submitted a declaration attesting to the nature of his participation in this case, further discussed below, to justify a Class Representative enhancement award of \$7,500. (Chavis Decl., ¶¶ 7-8.) Accordingly, the remaining Net Settlement Amount ("NSA") totals \$257,258. (Paul Decl., ¶ 14.)

The NSA will be paid to Participating Class Members in proportion to the number of weeks they worked during the Class Period. (Amended SA, § 15.c.i.) Individual payments will be allocated as follows for tax purposes: one-third as wages, one-third as interest, and one-third as penalties. (*Id.*, § 15.c.iii.) The Amended Settlement Agreement does not address the tax treatment of PAGA payments to Aggrieved Employees, which should be treated as penalties.

Funds from settlement checks that remain uncashed after 180 days will be sent to Koinonia Family Services, a nonprofit organization with child advocacy programs in California. (*Id.*, § 21.) Class Counsel previously attested that Koinonia Family Services is qualified to receive uncashed settlement check funds pursuant to CCP section 384 because the organization provides child advocacy programs. (4-11-23 Szamet Supp. Decl., ¶¶ 13-15.) Class Counsel further attested that her firm, Kingsley & Kingsley, APC, does not have any relationship with the proposed cy pres recipient. (*Id.*, ¶ 16.) Class Counsel Emil Davtyan also attests that Davtyan Law Firm has never had any relationship with the cy pres recipient. (Davtyan Decl., ¶ 11.)

Jonathan Paul, CEO at Xpand Legal ("Xpand"), declares that the Court-approved Class Notice in English and Spanish was mailed on June 22, 2023, to all 614 known Class Members in the list received from defense counsel ("Class List"), after checking the Class List against the National Change of Address database. (Paul Decl., ¶ 3, Exh. B ("Class Notice").) Class Counsel notes that this number is larger than the estimate of 489 employees at the time of preliminary approval, but the escalator clause, which is tied to workweeks and triggered for workweeks above 48,358, not based on headcount, was not triggered. (Mot. at p. 3, fn.1.) On June 20, 2023, Xpand also activated a settlement administration website and toll-free number for Class Members to call that allows Class Members to receive information and answers about the settlement. (Paul Decl., ¶¶ 10, 12.) 38 Notices were initially returned as undeliverable without a forwarding address, then sent out for skip-tracing, and updated addresses were received for 38 records. (*Id.*, ¶ 3.)

As of August 21, 2023, no Notices were returned with a forwarding address, Xpand had received

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one phone call to the toll-free number for Class Members, and the settlement administration website had received 219 hits. (*Id.*, ¶¶ 3, 11-12.) Xpand received zero pieces of correspondence in the Post Office box established to receive written communication from Class Members, including zero timely requests for exclusion and zero objections to the settlement, prior to the August 21, 2023 deadline for requesting exclusion. (*Id.*, ¶¶ 5-9.) Accordingly, the final Settlement Class consists of 614 individuals. (*Id.*, ¶ 13.) The final workweeks are 45,494 during the Class Period. (Szamet Decl., ¶ 18.) The amount per workweek is estimated at \$5.65 and the average amount paid to Class Members is approximately \$419. (Paul Decl., ¶ 14.)

Class Members are “[A]ll persons currently and formerly employed by Defendant as non-exempt employees at Defendant’s Regional Fulfillment Centers in California from September 29, 2017 to December 31, 2022.” (Amended SA, ¶ 6; Szamet Decl., ¶ 16.) The Agreement excludes “any person who previously settled or released any of the claims covered by this Settlement, any person who previously was paid or received awards through civil or administrative actions for the claims covered by this Settlement, or any person who submits a timely and valid Request for Exclusion as provided in this Settlement” from the Class. (*Id.*)

The Amended Settlement Agreement provides that “Effective upon the date of final approval by the Court of this Stipulation of Settlement, and except as to such rights or claims as may be created by this Stipulation of Settlement, the Settlement Class and each member of the Class who has not submitted a valid Request for Exclusion fully release and discharge the Released Parties from all claims under state, federal and local law alleged in the Action and that reasonably could have been alleged in the Action based on the factual allegations contained in the operative Complaint in the Action and any amendments thereto, as to the Class Members, including but not limited to California Labor Code sections 200, 201, 202, 203, 226, 226.2, 226.3, 226.6, 510, 558, 558.1, 1194, 1199, 2698, et seq., California Business and Professions Code section 17200, et seq., class and representative claims, the applicable Wage Order(s), and all claims for or related to alleged unpaid wages, overtime or double time wages, regular rate of pay, timely payment of wages at separation, itemized wage statements, unfair competition, unfair business practices, unlawful business practices, fraudulent business practices, injunctive relief, declaratory relief, accounting, liquidated damages, penalties of any nature (including but not limited to civil penalties, waiting-time penalties, and PAGA penalties), interest, fees, costs, as well as all other claims, allegations, and damages alleged in the Action, from September 29, 2017 through December 31, 2022 (collectively “Released Claims”). Expressly excluded from the release are claims for retaliation, discrimination, unemployment insurance, disability, workers’ compensation, and claims outside the Released Claims.” (Amended SA, § 24.)

The Amended Settlement Agreement also includes the following separate release for the PAGA claims and makes clear that Aggrieved Employees release all PAGA claims, even if they exclude themselves from the Class: “Effective upon the date of final approval by the Court of this Stipulation of Settlement, and except as to such rights or claims as may be created by this Stipulation of Settlement, PAGA Members shall release all PAGA Claims; ‘Released PAGA Claims’ means any and all claims for civil penalties pursuant to PAGA that are reasonably related to or arising out of the factual allegations in the operative pleading in the Lawsuit and/or Plaintiff’s September 29, 2021 PAGA notice to the LWDA which occurred during the PAGA Period (collectively, the ‘Released PAGA Claims’). Plaintiff and PAGA Members will release

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Defendants and the Released Parties from all remedies that could be claimed in connection with the Released PAGA Claims including but not limited to, statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief. Effective upon the date of final approval by the Court of this Stipulation of Settlement, all Non-Participating Class Members who are Aggrieved Employees release the Released Parties from the Released PAGA Claims for the PAGA Period." (Amended SA, § 24.)

Since no objections have been filed, and assuming no objections will be raised at the final approval hearing, the Effective Date is the date upon which the Court enters an order granting final approval of the Settlement (Amended SA, § 15.b; 4-28-23 Minute Order.)

The moving papers demonstrate that the settlement was reached after sufficient investigation and arms-length negotiations by the Parties, facilitated by experienced counsel. (Szamet Decl., ¶¶ 8-12, 24-76; Davtyan Decl., ¶¶ 3-10.) Having provided sufficient information regarding damage analysis at preliminary approval (see 4-28-23 Minute Order), and with Class Counsel Emil Davtyan of Davtyan Law Firm Inc. now having attested to his experience as instructed by the Court (see Davtyan Decl., ¶¶ 2-6) the Court finds, subject to the final fairness hearing, that the Settlement is within the ballpark of reasonableness and is entitled to a presumption of fairness, and all relevant factors presently support final approval.

PAGA Payment

The Settlement Agreement provides for a \$20,000 PAGA payment to resolve claims under PAGA, 75% of which will be paid to the LWDA and 25% of which will be paid to the Aggrieved Employees on a pro rata basis based on the number of workweeks worked by the Aggrieved Employee during the PAGA Period. (Amended SA, § 15.c.ii.) The Amended Agreement defines Aggrieved Employees as "all persons currently and formerly employed by Defendant as non-exempt employees at Defendant's Regional Fulfillment Centers in California from September 29, 2020 to December 31, 2022," excluding anyone who previously settled or released any claims covered by the Agreement or who was previously paid or received awards for the claims covered by the Agreement. (*Id.*, ¶ 7.) As discussed above, Aggrieved Employees separately release all PAGA claims that are "reasonably related to or arising out of the factual allegations in the operative pleading in the Lawsuit and/or Plaintiff's September 29, 2021 PAGA notice to the LWDA which occurred during the PAGA Period." (*Id.*, ¶ 24.) The PAGA Period is September 29, 2020 to December 31, 2022. (Szamet Decl., ¶ 20.)

Plaintiff provided sufficient explanation and justification for the PAGA allocation in moving for preliminary approval. (See 4-28-23 Minute Order.) The PAGA allocation therefore represents approximately 0.92% of the reduced estimate of \$2,170,400. (*Ibid.*) This allocation is reasonable and approved.

Class Counsel Fees and Costs

Courts generally recognize two methods for calculating fees in civil class actions: the lodestar/multiplier method and the percentage-of-recovery method. (*Wershba v. Apple*

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Computer, Inc. (2001) 91 Cal.App.4th 224, 254.) “The percentage method calculates the fee as a percentage share of a recovered common fund or the monetary value of plaintiffs’ recovery. The lodestar method, or more accurately the lodestar-multiplier method, calculates the fee ‘by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate.’” (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 489.) In determining fees and costs to be awarded to Class Counsel, the Court must exercise its judicial function and make a decision on the propriety of the fees requested; it should not, and does not, abdicate its charge to make a decision simply because the parties may have reached their own agreement in this regard. The choice of a fee calculation method is generally one within the discretion of the trial court, the goal “being the award of a reasonable fee to compensate counsel for their efforts.” (*Id.* at p. 504.) “‘The lodestar method better accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved.’ Each has been championed and criticized for its respective advantages and disadvantages.” (*Ibid.*, quoting *Rawlings v. Prudential-Bache Properties, Inc.* (6th Cir. 1993) 9 F.3d 513, 516.)

Class Counsel requests an award of attorney fees in the amount of one-third of the MSA, or \$150,000. (Amended SA, § 17; Szamet Decl., ¶ 79.) Eric B. Kingsley, Kelsey M. Szamet, Shannen Garrett, and David Penner of Kingsley & Kingsley, APC and Emil Davtyan of Davtyan Law Firm, Inc are approved as Class Counsel (“Counsel”). (Amended SA, ¶ 26.b.) Class Counsel attests that Class Counsel entered into a fee splitting agreement and Plaintiff provided written consent to this agreement. (Szamet Decl., ¶ 102.) Pursuant to the fee splitting agreement, Kingsley & Kingsley shall recover all costs advanced in this litigation. Any remaining funds shall be divided as follows: Kingsley & Kingsley shall receive 2/3 of the fee and Davtyan Law Firm shall receive 1/3 of the fee. (4-11-23 Szamet Supp. Decl., Exh. C.) Plaintiff argues that the requested award is justified under the percentage of the common fund approach, and also reasonable and justified under a lodestar cross check. (Mot. Atty. Fees at pp.1-9.) Specifically, Plaintiff argues that an award of 1/3 of the common fund is appropriate here under the “substantial benefit” theory, that an award of 1/3 of the MSA is well within the range of fees in comparable cases, and reasonable because of Class Counsel’s diligent litigation efforts and experience leading to an outstanding settlement, with an average net recovery of \$419 per Class Member. (*Id.* at pp. 1:23-4:24.)

Counsel also argues that the fee request is reasonable and provides sufficient information for the Court to perform a lodestar cross-check. Counsel attests that Kingsley & Kingsley, APC spent a total of 80.6 hours on this litigation through the filing of Plaintiff’s Motion for Final Approval. (Szamet Decl., ¶ 110.) Based on hourly rates ranging from \$400 per hour to \$900 per hour, this results in a total lodestar value of \$58,632.00 for Kingsley & Kingsley, APC. (*Ibid.*) Emil Davtyan of Davtyan Law Firm, Inc. spent a total of 50.5 hours at a rate of \$695 per hour, resulting in a total lodestar value of \$35,097.50 for Davtyan Law Firm, Inc. (*Ibid.*; Davtyan Decl., ¶ 12.) Thus, Class Counsel’s aggregate lodestar amounts to \$93,729.50, representing 131.1 hours of attorney work. (Szamet Decl., ¶ 88.) As such, Class Counsel is asking for a multiplier of 1.60, to account for the risk of non-payment, delay in payment, the quality of work, and the novelty and difficulty of the issues involved. (*Id.*, ¶ 89.) Counsel asserts that numerous factors support the approval of a multiplier, including: (1) the fact that this case dealt with difficult legal and factual questions involving genuine issues in dispute, which provided Defendant with a strong incentive to litigate tenaciously; (2) Class Counsel’s skill and

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

experience; (3) and the substantial risk and expense to Class Counsel by handling this matter purely on a contingency fee basis. (Szamet Decl., ¶¶ 114-118.) For the reasons argued and based on the evidence submitted by Plaintiff demonstrating Class Counsel's experience and the reasonableness of the requested award based on comparable cases, the Court finds the one-third fee award reasonable and appropriate in this instance.

Kingsley & Kingsley, APC incurred actual litigation expenses totaling \$8,141.81 as of August 23, 2023, and counsel attests to anticipating an additional \$600 in future costs will be incurred for filing, service, and copying of Plaintiff's motion for final approval, to prepare for and attend the hearing, and for future copy charges. (Szamet Decl., ¶¶ 120, 122.) As such, Class Counsel requests cost reimbursement of \$8,742. (*Id.*, ¶¶ 119, 123.) The Court finds these costs reasonable and appropriate and accordingly approves the award of \$8,742 of costs to Class Counsel.

Settlement Administrator

The Parties used Xpand Legal as the Settlement Administrator, consistent with the Settlement Agreement. (Amended SA, § 15.c.vii.) Prior to the execution of the Settlement Agreement, Xpand Legal provided a settlement administration bid, which estimated administration costs at \$11,500. (4-11-23 Szamet Supp. Decl., Exh. D.) This amount is equal to the Amended Settlement Agreement's maximum allocation of \$11,500 for settlement administration costs. The Court finds these costs reasonable and appropriate.

Class Representative Enhancement Payment

The Amended Settlement Agreement provides for an enhancement payment to Plaintiff not to exceed \$7,500 in exchange for his role as Class Representative. (Amended SA, § 15.c.vi.) Plaintiff attests to the actions he took in assisting with the prosecution of this case and estimates he spent approximately 25-35 hours working on this matter, including staying in regular contact with the attorneys, making himself available to attend a full day mediation, although that did not go forward, and reviewing and analyzing the settlement agreement. (Chavis Decl., ¶¶ 7-8.) The Court finds the payment of \$7,500 for Plaintiff justified based on Plaintiff's declaration and the absence of any objections to the award.

Disposition

In sum, and subject to the final fairness hearing, the Court tentatively concludes that the settlement is entitled to final approval. Provided that no objection is asserted by any Class Members at the hearing on this matter, the Court will sign the proposed order submitted with Plaintiffs' moving papers.

Any further Case Management Conferences and compliance hearings shall be handled by this Department. This Department shall monitor compliance with the settlement approval through and including the disbursement of any uncashed amount to the cy pres beneficiary.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Status Conference (Compliance Hearing) is scheduled for 05/30/2024 at 01:30 PM in Department 28 at Gordon D. Schaber Superior Court.

At least 15 calendar days prior to the Compliance Hearing, Class Counsel shall file a declaration regarding the status of the distribution of the settlement funds. If the Court is satisfied that the settlement funds have been fully distributed, no appearance will be required.

If any issues arise before the May 30, 2024 Compliance Hearing, the Parties are encouraged to contact the Court via email at Dept28@saccourt.ca.gov to schedule a Case Management Conference.

Counsel for Plaintiff is directed to notice all parties of this order.

Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at <https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.

TENTATIVE RULING:

Mandatory appearance of all parties required.

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government code §68086 and California Rules of Court, Rule 2.956.

*Requirements for requesting a court reporter are listed in the **Policy for Official Reporter Pro Tempore** available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>*

*A **Stipulation and Appointment of Official Reporter Pro Tempore** (CV/E-206) is required to be signed by each party, the private court reporter, and the Judge prior to the hearing, if not using a reporter from the Court's Approved Official Reporter Pro Tempore list, Once the form is signed it must be filed with the clerk.*

*If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a **Request for Court Reporter by a Party with a Fee Waiver** (CV/E-211) and it must be filed with the clerk at least 10 days prior to the hearing or at the time the proceeding is scheduled if less than 10 days away. Once approved, the clerk will be forward the form to the Court Reporter's Office and an official reporter will be provided.*

The parties are encouraged to attend via Zoom with the links below:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

To join by Zoom link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept28>
To join by phone dial (833) 568-8864 ID 16039062174

Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at <https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.

Certificate of Mailing is attached.

/s/ V. Aleman

By:

V. Aleman, Deputy Clerk

Minutes of: 09/29/2023
Entered on: 09/29/2023

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO		Reserved for Clerk's File Stamp FILED Superior Court of California County of Sacramento 09/29/2023 V. Aleman, Deputy
COURTHOUSE ADDRESS: Gordon D. Schaber Superior Court 720 Ninth Street, Sacramento, CA 95814		
PLAINTIFF/PETITIONER: Reginald Antonio Chavis, Jr et al		
DEFENDANT/RESPONDENT: Grocery Outlet Inc. et al		
CERTIFICATE OF MAILING		CASE NUMBER: 34-2021-00309003-CU-OE-GDS

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Hearing on Motion for Final Approval of Settlement; Case Mana...) upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Sacramento, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

✓
 Kelsey M. Szamet
 Kingsley & Kingsley APC
 16133 Ventura BOULEVARD
 1200
 Encino, CA 91436

Dated: 10/02/2023

By: /s/ V. Aleman

V. Aleman, Deputy Clerk

CERTIFICATE OF MAILING

EXHIBIT D

COPY

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleykingsley.com
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16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

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

OCT 11 2023

BY


JESSICA MORALES, DEPUTY

LAW OFFICE OF SCOTT ERNEST WHEELER

Scott Ernest Wheeler (SBN 187998)
Justin A. Wheeler (SBN 342226)
250 West First Street, Suite 216
Claremont, California 91711
Telephone: (909) 621-4988
Facsimile: (909) 621-4622
Email: sew@scottwheelerlawoffice.com
jaw@scottwheelerlawoffice.com

Attorneys for Plaintiffs and the aggrieved employees

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

ALEJANDRO RIVERA RAMIREZ, an
individual, on behalf of himself and others
similarly situated

PLAINTIFF,

v.

S&E GOURMET CUTS, INC.; and DOES 1
thru 50, inclusive,

DEFENDANTS.

Case No. CIVSB2201247

[Case Assigned for All Purposes to Hon. David
Cohn in Dept. S-26]

**~~PROPOSED~~ ORDER GRANTING
APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT**

Date: October 11, 2023
Time: 8:30 a.m.
Dept.: S-26

Complaint Filed: January 20, 2022
FAC Filed: June 1, 2022
Trial Date: None Set

1 **[PROPOSED] ORDER**

2 The Motion for Approval of Representative Action Settlement ("Motion") came before this
3 Court, the Honorable David Cohn, presiding. The Court, having considered the papers submitted
4 in support of the motion of the parties, **HEREBY ORDERS THE FOLLOWING:**

5 Having considered Plaintiffs' Motion, and all legal authorities and documents submitted
6 in support thereof, including the PAGA Settlement Agreement ("Agreement"), attached to the
7 Declaration of Kelsey M. Szamet as Exhibit "1", and good cause appearing, IT IS HEREBY
8 ORDERED that Plaintiffs' Motion is GRANTED, subject to the following findings and orders:

- 9 1. The Court finds the Settlement is fair and reasonable.
- 10 2. The Court approves the Gross Settlement Amount of \$275,000.00¹.
- 11 3. The Court approves the PAGA Penalties in the amount of \$145,333.33.
- 12 4. The Court approves 75% of the PAGA Penalties being allocated to the LWDA in
13 the amount of 109,000.00.
- 14 5. The Court approves PAGA Counsel's request for attorney fees of \$91,666.67
15 (75% or \$68,750.01 to the Kingsley & Kingsley, APC and 25% or \$22,916.66 to
16 the Law Office of Scott E. Wheeler).
- 17 6. The court approves the PAGA Counsel's request for reimbursement of case costs
18 in the amount of \$18,365.65 (\$16,788.09 to Kingsley & Kingsley, APC and
19 \$1,577.56 to the Law Office of Scott E. Wheeler).
- 20 7. The Court approves the settlement administration costs of \$8,000.00.
- 21 8. The Parties are ordered to carry out the terms of the Agreement.
- 22 9. Pursuant to C.C.P §664.6, the Court shall have and retain continuing jurisdiction
23 over this action and the Parties and the Allegedly Aggrieved Employees including
24 after the entry of this Order, to the fullest extent necessary to interpret, enforce
25 and effectuate the terms and intent of the Agreement and this Order.
- 26

27 ¹ Unless otherwise defined herein, all capitalized terms shall have the meaning assigned to them
28 in the Agreement.

Jessica L. Morgan

DATED: 10.11.23

JUDGE OF THE SUPERIOR COURT

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Visalia Division
221 S Mooney Blvd, Room 201
Visalia, CA 93291
559.730.5000

11/30/2023

STEPHANIE CAMERON, CLERK

Holly Bilbrey, Deputy

Santos, Luis
Plaintiff/Petitioner,

vs.

Replanet Packaging, LLC
Defendant/Respondent.

Case No. VCU285878

CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause.

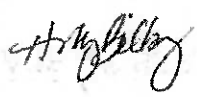
I certify that I caused the Minute Order dated November 30, 2023 to be served on the persons listed below in the following manner:

☒ BY MAIL: I placed the documents for collection and mailing on the date shown, so as to cause it to be mailed in a sealed envelope with postage fully prepaid on that date following standard court practices to the persons and addresses shown. The mailing and this certification occurred at Visalia, California on November 30, 2023.

☐ BY EMAIL: I transmitted the documents by electronic-mail to the parties designated email address on the date shown. The email and this certification occurred at Visalia, California on November 30, 2023.

☐ BY INTEROFFICE MAIL: I transmitted the documents by interoffice mail to the parties designated location on the date shown. The interoffice mailing and this certification occurred at Visalia, California on November 30, 2023.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE

By 
Holly Bilbrey, Deputy Clerk

Names and Mailing/E-Mail Address of Person(s) Served:

RACHELE BERGLUND
HERR PEDERSON & BERGLUND LLP
100 WILLIOW PLAZA, SUITE 300
VISALIA, CA 93291

ERIC KINGSLEY
KINGSLEY & KINGSLEY, APC
16133 VENTURA BLVD SUITE 1200
ENCINO, CA 91436

SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE	
Santos, Luis Plaintiff/Petitioner, vs. Replanet Packaging, LLC Defendant/Respondent.	Judicial Officer: David Mathias Clerk: Holly Bilbrey Bailiff: CSR: Estela Casillas Interpreter: Language:
Minutes: Motion Hearing Other Date: November 30, 2023	Case No. VCU285878 Department 01 Related Cases:

Appearances: ☒ No Appearances

- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Party: _____
- ☐ Remote Appearance
- ☐ Other: _____
- ☐ Remote Appearance

- ☐ Attorney: _____
- ☐ Remote Appearance
- ☐ Attorney: _____
- ☐ Remote Appearance
- ☐ Attorney: _____
- ☐ Remote Appearance

Case is called at 8:51 AM:

No request for oral argument.

The Court adopts the Tentative Ruling as follows:

Motion: Motion for Approval of Representative PAGA Settlement

Ruling: To grant the motion; final compliance hearing as to distribution set May 23, 2024; D1; 8:30 am.

The Court notes that the operative first amended complaint alleges a single cause of action under Labor Code section 2699, et seq, the Private Attorney General Act ("PAGA"). On November 3, 2022, the Court ordered Plaintiff's individual PAGA claims to arbitration and stayed this matter as to Plaintiff's representative PAGA claims.

The parties settled Plaintiff's individual PAGA claims in a separate settlement not contingent upon this action.

This settlement is to Plaintiff's representative PAGA claims and, if approved, will resolve all claims in this lawsuit.

1. Sufficiency of Amount of Settlement (Proposed Net Distribution: \$135,666.67)

The gross settlement amount is \$250,000.

Plaintiff estimates approximately 134 aggrieved employees, consisting of all persons who are employed or have been employed as an hourly employee by REPLANET PACKAGING, LLC, in the State of California who worked one or more pay periods during April 12, 2020 to June 30, 2021.

Plaintiff brings claims under the PAGA for violations of Labor Code sections §§ 201, 202, 203, 226.7, and 512; Wage Order 4-2001; and California Code of Regulations, Title 8, Section 11040.

In deciding whether to grant approval of the proposed PAGA settlement, the primary issues to be decided is whether the settlement is fair, adequate, and reasonable. (Moniz v. Adecco USA, Inc. (2021) 72 Cal.App.5th 56, 77.) "Because many 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." (Id.) "Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies." (Id. citing O'Connor v. Uber Technologies, Inc. (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133.)

Plaintiff's counsel provides estimates of the maximum PAGA penalty liability of \$661,900.00 (6,619 pay periods at issue × \$100 per violation = \$661,900.00.) Plaintiff indicates that the \$200 increased penalty will not likely be awarded on the facts of this matter as to subsequent violations. Therefore, the settlement in the matter is approximately 40% of the maximum exposure in this matter. The motion adequately sets forth the relative strength and value of the PAGA claim as well as the risks, expense, complexity and likely duration of further litigation.

As noted above, the parties reached a gross settlement figure of \$250,000 after mediation.

Plaintiffs' deductions from the gross settlement of \$250,000 are proposed as follows:

Proposed Attorney Fees (33.3%):	\$ 83,333.33
Proposed Attorney Costs (up to):	\$ 11,362.54
Proposed Administrative Costs	\$ 4,500.00
Net Settlement Fund	\$ 135,666.67
 LWDA Share (75% of Net Settlement Fund)	 \$ 101,750.00
Aggrieved Employee Share (25% of Net Settlement Fund):	\$ 49,054.12

The Court finds the gross settlement amount fair, adequate, and reasonable under Moniz as noted above.

2. Class Notice

There is no notice period. The proposed notice adequately informs the aggrieved employees of adequate details regarding the case and distribution of their portion of the net settlement fund.

3. Attorneys' Fees and Costs

Attorneys' fees of 33.3% of the gross settlement fund of \$250,000 or \$ 83,333.33 and approval of costs of to \$11,362.54 are sought by Plaintiff's counsel.

Counsel has utilized the percentage of common fund methodology as well as provided adequate lodestar information to evaluate the reasonableness of the fee request.

Here, Counsel indicates that the firm has spent 101.4 hours on this case (inclusive of the 10 proposed anticipated hours), at a rate of \$990 to \$415 per hour totaling a lodestar of \$70,391 resulting in a lodestar multiplier of 1.18. (Declaration of Ly ¶¶ 35-41.)

Counsel has also provided the current costs expended in amounts of \$11,362.54, inclusive of the \$259 in cost to file and serve this motion. (Declaration of Ly ¶¶ 63-68.)

4. Claims Administrator

The claims administrator is designated as Xpand Legal who has submitted a bid for \$4,500 to administer the settlement. The Court approves the claims administrator.

6. Unclaimed Settlement Proceeds

The court approves the distribution of unclaimed settlement proceeds to the California Secretary of State's Unclaimed Property Division in the name of the Aggrieved Employee, in accordance with Code of Civil Procedure section 384.

7. Release

The Court finds the proposed limited release of PAGA claims reasonable and within the law under a PAGA only settlement as to the aggrieved employees. (Arias v. Sup. Ct., (2009) 46 CA4th 969, 986-987.) Further, the Court notes that the Representative Plaintiff, though under a separate heading, appears to be releasing only the PAGA related claims, as opposed to a general release of other, unrelated claims or under Civil Code section 1542. Therefore, the Court finds that the releases here, including Plaintiff's, are supported by the distribution of the PAGA net settlement fund to the Aggrieved Employees, including Plaintiff.

8. LWDA Notice

The Court finds confirmation from the LWDA of receipt of proof of submission of the proposed settlement agreement. (Lab. Code, § 2699, subd. (l)(2).) (Declaration of Ly – Ex. 6.)

The Court, therefore, grants the motion and sets a final compliance hearing as to distribution of the net settlement fund to the LWDA and Aggrieved Employees on May 23, 2024; D1; 8:30 am.

If no one requests oral argument, under Code of Civil Procedure section 1019.5(a) and California Rules of Court, rule 3.1312(a), no further written order is necessary. The minute order adopting this tentative ruling will become the order of the court and service by the clerk will constitute notice of the order.

EXHIBIT F

1 **KINGSLEY & KINGSLEY, APC**
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2 eric@kingsleykingsley.com
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Tel: (213) 493-6300, Fax: (213) 382-4083

8 Attorneys for Plaintiff and the proposed class
9

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF CONTRA COSTA**

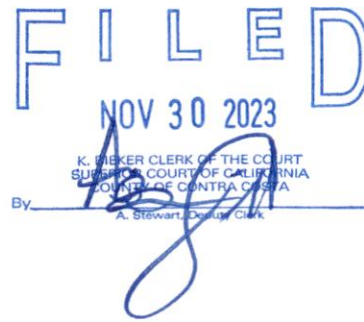
13 GILDARDO MOTA STEVENS, an
14 individual, on behalf of himself and others
similarly situated,

15 PLAINTIFF,

16 v.

17 PURPLE EAGLE LLC; and DOES 1 thru 50,
18 inclusive,

19 DEFENDANTS.
20
21
22
23
24
25
26
27
28



CASE NO. MSC21-02204

[Case Assigned for All Purposes to Hon.
Charles S. Treat in Dept. 12]

**~~PROPOSED~~ AMENDED ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: October 19, 2023
Time: 9:00 a.m.
Dept.: 12

Complaint Filed: October 26, 2021
Trial Date: None Set

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Class Action is a class action lawsuit brought by Plaintiff
3 GILDARDO MOTA STEVEN ("Class Representative" or "Plaintiff") against Defendant
4 PURPLE EAGLE LLC ("Defendant"). The Motion for Final Approval of Class Action Settlement
5 came before this Court, on October 19, 2023.

6 **WHEREAS**, the Court granted ~~preliminary~~ ^{final} approval of the Class Action and PAGA
7 Agreement ("Agreement" or "Settlement"), attached to the concurrently-filed Declaration of Liane
8 Katzenstein Ly as Exhibit "1", on July 6, 2023.

9 **WHEREAS**, Plaintiff has applied to the Court for an order granting final approval of the
10 Agreement.

11 **WHEREAS**, the Court's October 19, 2023 Tentative Ruling ("TR") reflecting its entire
12 ruling and other findings are incorporated herein. A true and correct copy of the Court's TR is
13 attached hereto as Exhibit "1".

14 **WHEREAS**, the Agreement sets forth the terms and conditions for the proposed
15 Settlement and for entry of an Order of Final Approval and entry of final judgment thereon. The
16 Court having read and considered Plaintiff's Motion for Final Approval of Class Action
17 Settlement; Motion for Approval of Attorneys' Fees and Costs; the Declarations of Liane
18 Katzenstein Ly; William Zev Abramson; and Jodey Lawrence of Phoenix Settlement
19 Administrators; and the supporting documents annexed thereto, now finds:

20 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

21 Plaintiff Gilardo Mota Stevens moves for ~~preliminary~~ ^{final} approval of his class action and
22 PAGA settlement with defendant Purple Eagle LLC. The motion is **granted**.

23 Since preliminary approval was granted, the administrator has mailed notices to 388 class
24 members. 36 packets were returned by the post office. Follow up resulted in 32 new addresses,
25 leaving 4 non-deliverable. No objections out have been received, and only one class member has
26 opted out.

27 **A. Background and Settlement Terms**

28 Defendant is the parent of Hand & Stone Massage and Facial Spa. Plaintiff was employed

1 with defendant as a neuromuscular therapist in the spring of 2021, though only briefly.

2 The original complaint was filed on October 26, 2021. A PAGA claim was added by
3 amendment in January 2022.

4 The settlement will create a gross settlement fund of \$150,000. The class representative
5 payment to the plaintiff will be \$5,000. Attorney's fees will be \$50,000 (one-third of the
6 settlement). Litigation costs are requested at \$15,000. The settlement administrator's costs are
7 \$10,000. PAGA penalties will be \$10,000, resulting in a payment of \$7,500 to the LWDA. The
8 net amount paid directly to the class members will be \$62,500, not including distribution of the
9 PAGA penalty. The fund is non-reversionary. There are 387 class members not opting out, a little
10 more than previously estimated. Based on the estimated class size, the average net payment for
11 each class member is approximately \$155, not including PAGA. The individual payments will
12 vary considerably, however, because of the allocation formula prorating payments according to
13 the number of weeks worked during the relevant time. The number of aggrieved employees for
14 PAGA purposes is smaller, because the starting date of the relevant period is later.

15 The entire settlement amount will be deposited with the settlement administrator within 14
16 days after the effective date of the settlement.

17 The proposed settlement will certify a class of all current and former non-exempt employed
18 at Defendants' California facilities between October 26, 2017 and March 25, 2023. For PAGA
19 purposes, the period covered by the settlement is October 26, 2020 through March 25, 2023.

20 The class members will not be required to file a claim. Funds will be apportioned to class
21 members based on the number of workweeks worked during the class period.

22 Settlement checks not cashed within 180 days will be cancelled, and the funds will be
23 directed to the Controller's unclaimed property fund.

24 The settlement contains release language covering all claims and causes of action, alleged
25 or which could have reasonably been alleged based on the allegations in the operative pleading,
26 including a number of specified claims. Under recent appellate authority, the limitation to those
27 claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v.*
28 *Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that

1 are outside the scope of the allegations of the complaint.”) “Put another way, a release of claims
2 that goes beyond the scope of the allegations in the operative complaint’ is impermissible.” (*Id.*,
3 quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

4 Formal discovery was undertaken, resulting in the production of substantial documents.
5 The matter settled after arms-length negotiations, which included a session with an experienced
6 mediator.

7 Counsel also has provided an analysis of the case, and how the settlement compares to the
8 potential value of the case, after allowing for various risks and contingencies. Plaintiff’s principal
9 claim centers on allegations that because therapy appointments are scheduled for the start of each
10 shift, it was necessary for employees to arrive early to prepare the spa rooms, resulting in unpaid
11 work time.

12 Defendant responded that employees could clock in, and begin getting paid, when they
13 arrived and started working. Plaintiff also asserted violations concerning rest breaks and meal
14 breaks, but can point to no stated policy in violation of the law; hence, defendant contended that
15 there is no documentation of any such violations, which are in any event difficult to prove and to
16 certify for class treatment. Plaintiff also contended that employees were required to use their
17 personal cell phones for clocking in and related purposes, but defendant contended that there is no
18 such requirement.

19 The potential liability needs to be adjusted for various evidence and risk-based
20 contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number
21 of reasons: they derive from other violations, they include “stacking” of violations, the law may
22 only allow application of the “initial violation” penalty amount, and the total amount may be
23 reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be
24 reduced where “based on the facts and circumstances of the particular case, to do otherwise would
25 result in an award that is unjust arbitrary and oppressive, or confiscatory.”)) Moreover, recent
26 decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to
27 actual missed wages. (See, e.g., *Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th
28 937; but see *Gola v. University of San Francisco* (2023) 90 Cal.App.5th 548, 566-67.)

1 Counsel attest that notice of the proposed settlement was transmitted to the LWDA
2 concurrently with the filing of the motion.

3 **B. Legal Standards**

4 The primary determination to be made is whether the proposed settlement is “fair,
5 reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801,
6 including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of
7 further litigation, the risk of maintaining class action status through trial, the amount offered in
8 settlement, the extent of discovery completed and the state of the proceedings, the experience and
9 views of counsel, the presence of a governmental participant, and the reaction ... to the proposed
10 settlement.” (See also *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal.App.5th 521.)

11 Because this matter also proposes to settle PAGA claims, the Court also must consider the
12 criteria that apply under that statute. Recently, the Court of Appeal’s decision in *Moniz v. Adecco*
13 *USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found
14 that the “fair, reasonable, and adequate” standard applicable to class actions applies to PAGA
15 settlements. (*Id.*, at 64.) The Court also held that the trial court must assess “the fairness of the
16 settlement’s allocation of civil penalties between the affected aggrieved employees.” (*Id.*, at 64-
17 65.)

18 California law provides some general guidance concerning judicial approval of any
19 settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of*
20 *California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary
21 to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney*
22 *v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “the court cannot surrender its duty to see
23 that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.”
24 (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As
25 a result, courts have specifically noted that *Neary* does not always apply, because “where the rights
26 of the public are implicated, the additional safeguard of judicial review, though more cumbersome
27 to the settlement process, serves a salutary purpose.” (*Consumer Advocacy Group, Inc. v.*
28 *Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

1 **C. Attorney Fees and Other Costs**

2 Plaintiffs seek one-third of the total settlement amount as fees, relying on the “common
3 fund” theory, or \$50,000. Even a proper common fund-based fee award, however, should be
4 reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th
5 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine
6 whether the percentage allocated is reasonable. It stated: “If the multiplier calculated by means of
7 a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the
8 percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range,
9 but the court is not necessarily required to make such an adjustment.” (Id., at 505.)

10 Accordingly, plaintiffs have provided information concerning the lodestar fee amount.
11 They estimate the lodestar at \$28,045, representing an implied multiplier of 1.78. They based this
12 amount on a total of 38 hours. No adjustment from the one-third fee is necessary. The attorney’s
13 fees are reasonable and are approved.

14 The requested representative payment of \$10,000 for the named plaintiff was deferred until
15 this final approval motion. Criteria for evaluation of such requests are discussed in *Clark v.*
16 *American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07. Plaintiff has provided a
17 declaration in support of his request. He points out that he executed a broader release than the class
18 as a whole, but does not identify any particular claims of value that he may have. He also risks
19 damage to his reputation and more difficulty in obtaining employment. The representative payment
20 is approved.

21 Plaintiffs report incurring litigation costs of \$18,562 (mostly mediation and filing fees), As
22 provided in the settlement agreement and the preliminary approval, however, they seek recovery
23 of only \$15,000. These costs are reasonable and are approved.

24 The settlement administrator’s costs of \$10,000 are reasonable and are approved.

25 **D. Discussion and Conclusion**

26 The moving papers sufficiently establish that the proposed settlement is fair, reasonable,
27 and adequate to justify final approval. The allocation of PAGA penalties among the aggrieved
28 employees (based on pay periods) is reasonable.

1 The motion is granted.

2 The Court also hereby finds and Orders as follows:

3 1. The Court has personal jurisdiction over all Settlement Class Members and that the
4 Court has subject matter jurisdiction to approve the Agreement;

5 2. The terms of the Agreement are fair, just, reasonable, and adequate, consistent and
6 in compliance with California Code of Civil Procedure, the California and United States
7 Constitutions (including the due process clauses), the California Rules of Court and any other
8 applicable law, and in the best interest of each of the Parties and the Settlement Class Members
9 and is hereby finally approved in all respects.

10 3. The Parties are hereby directed to perform the terms of the Settlement as described
11 in the Agreement according to its terms and provisions.

12 4. The Agreement is binding on Plaintiff and all other Settlement Class Members,
13 except those who timely and properly filed Request for Exclusion, as well as their heirs, executors
14 and administrators, successors and assigns.

15 5. It is ordered that the Class is certified for settlement purposes only. The Court
16 finds that an ascertainable class exists and a well-defined community of interest exists in the
17 questions of law and fact involved because in the context of the Agreement: (i) there are questions
18 of law and fact common to the Settlement Class Members which, as to the Agreement and all
19 related matters, predominate over any individual questions; (ii) the Claims of Plaintiff are typical
20 of the Claims of the Settlement Class Members; and (iii) in negotiating, entering into and
21 implementing the Agreement, Plaintiff and Plaintiff's Attorneys have fairly and adequately
22 represented and protected the interest of the Settlement Class Members.

23 6. The Court finds that the Notice and notice methodology implemented pursuant to
24 this Agreement (i) constituted the best practicable notice; (ii) constituted notice that was
25 reasonably calculated, under the circumstances, to apprise Settlement Class Members of the
26 pendency of the Class Action, their right to object to or exclude themselves from the proposed
27 Agreement and their right to appear at the Final Settlement Hearing; (iii) were reasonable and
28 constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (iv)

1 met all applicable requirements of the California Code of Civil Procedure, the California and
2 United States Constitution (including the Due Process Clause), the California Rules of Court and
3 any other applicable law.

4 7. There is one (1) valid request for exclusion.

5 8. There are no objectors to the Agreement.

6 9. The Class is hereby made final. The Class is defined as:

7 "all individuals who are or were employed by Defendant as non-
8 exempt employees in California during the Class Period." (the
9 "Settlement Class Members" or "Settlement Class").

10 10. The "Class Period" is October 26, 2017 through March 25, 2023.

11 11. The Aggrieved Employees are defined as:

12 all individuals who were employed by Defendant as non-exempt
13 employees in California during the PAGA Period. ("Aggrieved
14 Employees" or "PAGA Members").

15 12. The PAGA Period is October 26, 2020 through March 25, 2023.

16 13. The Agreement is not an admission by Defendant, nor is this Final Order a finding
17 of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final Order,
18 the Agreement, nor any document referred to herein, nor any action taken to carry out the
19 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or
20 wrongdoing on the part of Defendant.

21 14. Pursuant to the Agreement, upon entry of this Final Order, Plaintiff and each
22 Settlement Class Member shall fully release, which provides:

23 "All claims arising out of or reasonably related to the
24 allegations set forth in the Operative Complaint and/or
25 PAGA notice to the LWDA that arose during the Class
26 Period including, e.g., (a) any and all claims involving any
27 alleged failure to pay wages; (b) failure to provide rest
28 periods; (c) failure to reimburse expenses; (d) failure to
provide accurate itemized wage statements; (e) failure to pay
all wages due at termination; (f) unfair business practices;
and all claims for liquidated damages, penalties, interest,
fees, costs based on the foregoing."

15. Pursuant to the Agreement, Plaintiff and each Aggrieved Employee shall fully

1 release and discharge the Released Parties pursuant to the following release:

2 "All claims for PAGA penalties that were alleged, or reasonably
3 could have been alleged, based on the PAGA Period facts stated in
4 the Operative Complaint and the PAGA Notice including any and
5 all claims involving any alleged failure to (a) pay overtime and
6 wages, (b) provide proper rest periods, (c) reimburse business
expenses, (d) provide proper wage statements, (e) pay all wages due
upon termination, and (e) engage in unfair business practices."

7 16. Plaintiff and all Settlement Class Members who have not been timely and properly
8 excluded from the Class, and any person acting on their behalf, are permanently barred and
9 enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class
10 members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any
11 state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any
12 jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Settlement Class
13 Members into a separate class for purposes of pursuing as a purported class action (including by
14 seeking to amend a pending complaint to include class allegations, or by seeking class certification
15 in a pending action) any lawsuit based on or relating to the Released Claims;

16 17. The Agreement provides that the Gross Settlement Amount is one million nine
17 hundred thousand dollars and zero cents (\$150,000.00). The Net Settlement Amount shall be
18 determined according to the terms of the Agreement.

19 18. The Court orders the calculations and the payments to be made and administered in
20 accordance with the terms of the Agreement.

21 19. The Court hereby finds that Plaintiff and Class Counsel adequately represented the
22 Class for purposes of entering into and implementing the settlement. The Court hereby confirms
23 Kingsley & Kingsley, APC and Abramson Labor Group as Class Counsel in the Class Action.

24 20. The Court hereby finds the unopposed application of Class Counsel for a costs and
25 attorneys' fees award provided for under the proposed Agreement to be fair and reasonable in light
26 of all the circumstances and is hereby granted. Of the Gross Settlement Amount, \$50,000.00 shall
27 be paid for attorney fees and \$15,000.00 shall be paid for litigation costs. Five percent (5%) of
28 the attorneys' fees are to be withheld by the Administrator pending satisfactory compliance as

1 found by the Court.

2 21. The unopposed application of Class Counsel for an enhancement payment to
3 Plaintiff is hereby granted. Of the Gross Settlement Amount, \$5,000.00 shall be allocated to Class
4 Representative Gildardo Mota Stevens as a Class Representative Service Payment.

5 22. The unopposed application of Class Counsel for claims administration fees to
6 Phoenix Settlement Administrators is hereby granted. Of the Gross Settlement Amount,
7 \$10,000.00 shall be paid for settlement administration fees.

8 23. Defendant shall have no further liability for costs, expenses, interest, attorneys'
9 fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

10 24. The Court approves the PAGA penalties in the amount of \$10,000.00. The Court
11 approves 75% of the PAGA penalties being allocated to the Labor and Workforce Development
12 Agency ("LWDA") in the amount of \$7,500.00. The Court further directs that the remaining 25%
13 of the PAGA penalties, in the amount of \$2,500.00 shall be allocated to the Net Settlement Amount
14 for distribution to the Settlement Class Members.

15 25. If a Settlement Class Member does not cash his or her settlement check within 180
16 days, the uncashed funds shall be transmitted by the Settlement Administrator to the State of
17 California Office of the Controller in the name of the class member who did not cash his or her
18 settlement check.

19 26. Defendant shall have no further liability for costs, expenses, interest, attorneys'
20 fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

21 27. The Court hereby grants and authorizes the Parties, without further approval from
22 the Court, to agree to and to adopt such amendments, modifications and expansions of this
23 Settlement and all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii)
24 do not limit the rights of Settlement Class Members under the Settlement.

25 28. The Court hereby dismisses the action (including all individual claims and Released
26 Claims presented thereby) with prejudice, without fees or costs to any party except as provided in
27 the Agreement.

28 29. The above-entitled Court sets a compliance hearing for July 11, 2024 at 9:00 a.m.

1 in Department 12. Plaintiff's Counsel shall file a compliance statement within seven (7) days prior
2 to the Compliance hearing.

3
4 DATED: NOV 29 2023



JUDGE OF THE SUPERIOR COURT

6 CHARLES S. TREAT
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EXHIBIT "1"

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 12
JUDICIAL OFFICER: CHARLES S TREAT
HEARING DATE: 10/19/2023

13. 9:00 AM CASE NUMBER: MSC21-02204

CASE NAME: GILDARDO STEVENS VS. PURPLE EAGLE LLC

*HEARING ON MOTION IN RE: FINAL APPROVAL OF CLASS ACTION SETTLEMENT

FILED BY:

TENTATIVE RULING:

Plaintiff Gilardo Mota Stevens moves for ~~preliminary~~ ^{final} approval of his class action and PAGA settlement with defendant Purple Eagle LLC. The motion is **granted**.

Since preliminary approval was granted, the administrator has mailed notices to 388 class members. 36 packets were returned by the post office. Follow up resulted in 32 new addresses, leaving 4 non-deliverable. No objections out have been received, and only one class member has opted out.

A. Background and Settlement Terms

Defendant is the parent of Hand & Stone Massage and Facial Spa. Plaintiff was employed with defendant as a neuromuscular therapist in the spring of 2021, though only briefly.

The original complaint was filed on October 26, 2021. A PAGA claim was added by amendment in January 2022.

The settlement will create a gross settlement fund of \$150,000. The class representative payment to the plaintiff will be \$5,000. Attorney's fees will be \$50,000 (one-third of the settlement). Litigation costs are requested at \$15,000. The settlement administrator's costs are \$10,000. PAGA penalties will be \$10,000, resulting in a payment of \$7,500 to the LWDA. The net amount paid directly to the class members will be \$62,500, not including distribution of the PAGA penalty. The fund is non-reversionary. There are 387 class members not opting out, a little more than previously estimated. Based on the estimated class size, the average net payment for each class member is approximately \$155, not including PAGA. The individual payments will vary considerably, however, because of the allocation formula prorating payments according to the number of weeks worked during the relevant time. The number of aggrieved employees for PAGA purposes is smaller, because the starting date of the relevant period is later.

The entire settlement amount will be deposited with the settlement administrator within 14 days after the effective date of the settlement.

The proposed settlement will certify a class of all current and former non-exempt employed at Defendants' California facilities between October 26, 2017 and March 25, 2023. For PAGA purposes, the period covered by the settlement is October 26, 2020 through March 25, 2023.

The class members will not be required to file a claim. Funds will be apportioned to class members based on the number of workweeks worked during the class period.

Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to the

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 12
JUDICIAL OFFICER: CHARLES S TREAT
HEARING DATE: 10/19/2023

Controller's unclaimed property fund.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are outside the scope of the allegations of the complaint.") "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. Plaintiff's principal claim centers on allegations that because therapy appointments are scheduled for the start of each shift, it was necessary for employees to arrive early to prepare the spa rooms, resulting in unpaid work time. Defendant responded that employees could clock in, and begin getting paid, when they arrived and started working. Plaintiff also asserted violations concerning rest breaks and meal breaks, but can point to no stated policy in violation of the law; hence, defendant contended that there is no documentation of any such violations, which are in any event difficult to prove and to certify for class treatment. Plaintiff also contended that employees were required to use their personal cell phones for clocking in and related purposes, but defendant contended that there is no such requirement.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include "stacking" of violations, the law may only allow application of the "initial violation" penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where "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.")) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, *e.g.*, *Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 937; but see *Gola v. University of San Francisco* (2023) 90 Cal.App.5th 548, 566-67.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion.

H. Legal Standards

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
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HEARING DATE: 10/19/2023

presence of a governmental participant, and the reaction ... to the proposed settlement.” (See also *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal’s decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the “fair, reasonable, and adequate” standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess “the fairness of the settlement’s allocation of civil penalties between the affected aggrieved employees.” (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “the court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because “where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

I. Attorney Fees and Other Costs

Plaintiffs seek one-third of the total settlement amount as fees, relying on the “common fund” theory, or \$50,000. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: “If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment.” (*Id.*, at 505.)

Accordingly, plaintiffs have provided information concerning the lodestar fee amount. They estimate the lodestar at \$28,045, representing an implied multiplier of 1.78. They based this amount on a total of 38 hours. No adjustment from the one-third fee is necessary. The attorney’s fees are reasonable and are approved.

The requested representative payment of \$10,000 for the named plaintiff was deferred until this final approval motion. Criteria for evaluation of such requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07. Plaintiff has provided a declaration in support of his request. He points out that he executed a broader release than the class as a whole, but does not identify any particular claims of value that he may have. He also risks damage to his

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 12
JUDICIAL OFFICER: CHARLES S TREAT
HEARING DATE: 10/19/2023

reputation and more difficulty in obtaining employment. The representative payment is approved.

Plaintiffs report incurring litigation costs of \$18,562 (mostly mediation and filing fees). As provided in the settlement agreement and the preliminary approval, however, they seek recovery of only \$15,000. These costs are reasonable and are approved.

The settlement administrator's costs of \$10,000 are reasonable and are approved.

J. Discussion and Conclusion

The moving papers sufficiently establish that the proposed settlement is fair, reasonable, and adequate to justify final approval. The allocation of PAGA penalties among the aggrieved employees (based on pay periods) is reasonable.

The motion is granted.

Counsel are directed to prepare an order reflecting this entire tentative ruling and the other findings in the previously submitted proposed order and a separate judgment.

The ultimate judgment must provide for a compliance hearing after the settlement has been completely implemented, to be determined in consultation with the Department's clerk by phone. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

14. 9:00 AM CASE NUMBER: MSC21-02526

CASE NAME: PARK VS SHAH

*HEARING ON MOTION IN RE: TO VACATE DISMISSAL

FILED BY: PARK, JEANIE CHAN JEAN

TENTATIVE RULING:

Plaintiff's second motion to vacate dismissal is **denied**.

This case was filed in December 2021. Now, approaching two years later, plaintiff still has taken no serious or substantial action to get it served on defendant, or otherwise move the case forward in any way.

The timeline is this:

- 12/3/21: Complaint filed, and summons issued.
- 2/25/22: OSC issued, why the case should not be dismissed for failure to serve or prosecute.
- 4/14/22: Response to OSC recited that plaintiff intentionally chose not to serve process, after the carrier tendered limits, because plaintiff wanted to investigate whether there was other

Michelle Tanzer

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Friday, November 17, 2023 1:47 PM
To: Michelle Tanzer
Subject: Thank you for your Proposed Settlement Submission

External Email!

11/17/2023 01:46:13 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C01%7Cmichelle%40kingsleykingsley.com%7C670b7a8ffa464407c98608dbe7b6a9a1%7C121a7875dbb4c0fb25c5baf6c6ac7a5%7C1%7C0%7C638358543954759123%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=JZglzUOZ83Gx%2FdSD9qhx91vAOAlkLAlxaMhNuZ3WWxU%3D&reserved=0



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".
[Search for PAGA Case number](#)

The timing of the deposit of settlement checks is governed by the provisions of the State Administrative Manual. This ministerial, administrative act of depositing a settlement check mandated by state procedures should not be construed as nor does it constitute an unconditional, voluntary and/or absolute acceptance of settlement proceeds or approval of the terms of any settlement agreement or judgment related to that check.

Your Information (Person Who is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Court and Hearing Information

Court *

Contra Costa

Court Case Number *

MSC21-02204

Hearing Date (if any)

Hearing Time

Hearing Location

Number of aggrieved employees *

387

Gross settlement amount *

150,000

Gross penalty amount *

10,000

Penalties to LWDA *

7500

Date of proposed settlement *

03/20/2023

Proposed Settlement and Other Documents

Proposed Settlement *

 Proposed Am...rple Eagle.pdf

Other Attachment (if any)

 Proposed Fina...rple Eagle.pdf[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

EXHIBIT G

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Studio City, CA 91604

Tel: (213) 493-6300, Fax (213) 382-4083

Attorneys for Plaintiff and the aggrieved employees

FILED

KERN COUNTY SUPERIOR COURT

01/10/2024

BY Fogerson, Vickie

DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF KERN**BEAU LANINOVICH, an individual, on
behalf of himself and others similarly situated

PLAINTIFF,

v.

BEAR VALLEY SPRINGS ASSOCIATION;
and DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. BCV-21-102750-BCB

[Case Assigned for All Purposes to Hon.
Bernard C. Barmann, Jr. in Div. H]**~~PROPOSED~~ ORDER GRANTING
APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT**

Date: January 10, 2024

Time: 8:30 a.m.

Div.: H

Complaint Filed: January 20, 2022

FAC Filed: June 1, 2022

Trial Date: None Set

~~**[PROPOSED]**~~ **ORDER**

The Motion for Approval of Representative Action Settlement (“Motion”) came before this Court, the Honorable Bernard C. Barmann, presiding. The Court, having considered the papers submitted in support of the motion of the parties, **HEREBY ORDERS THE FOLLOWING:**

Having considered Plaintiff’s Motion, and all legal authorities and documents submitted in support thereof, including the PAGA Settlement Agreement (“Agreement”), attached to the Declaration of Kelsey M. Szamet as Exhibit “1”, and good cause appearing, IT IS HEREBY ORDERED that Plaintiff’s Motion is GRANTED, subject to the following findings and orders:

1. The Court finds the Settlement is fair and reasonable.
2. The Court approves the Gross Settlement Amount of \$75,000.00¹.
3. The Court approves the PAGA Penalties in the amount of \$30,984.83.
4. The Court approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$23,238.62.
5. The Court approves PAGA Counsel’s request for attorney fees of \$25,000.00.
6. The Court approves the PAGA Counsel’s request for reimbursement of case costs in the amount of \$9,015.17.
7. The Court approves Plaintiff’s litigation enhancement of \$5,000.00
8. The Court approves the settlement administration costs of \$5,000.00.
9. The Parties are ordered to carry out the terms of the Agreement.

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¹ Unless otherwise defined herein, all capitalized terms shall have the meaning assigned to them in the Agreement.

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3 10. Pursuant to C.C.P §664.6, the Court shall have and retain continuing jurisdiction
4 over this action and the Parties and the Aggrieved Employees including after the
5 entry of this Order, to the fullest extent necessary to interpret, enforce and
6 effectuate the terms and intent of the Agreement and this Order.
7

8 **DATED:** January 10, 2024

9 Signed: 1/10/2024 08:56 AM



10 **JUDGE OF THE SUPERIOR COURT**
11 **Bernard C. Barmann, Jr.**
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EXHIBIT H

03/28/2024

David W. Slayton, Executive Officer / Clerk of Court

By: O. Chavez Deputy

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Attorneys for Plaintiff and the aggrieved employees

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

MANNY HANECH ZIPERMAN, an
individual, on behalf of the State of
California, as a private attorney general,

PLAINTIFF,

v.

PARKWAY MOTORCARS VALENCIA
INC. DBA PARKWAY BUICK GMC
CADILLAC; and DOES 1 thru 50, inclusive,

DEFENDANTS.

Case No. 21STCV31959

[Case Assigned for All Purposes to Hon. Holly
J. Fujie in Dept. 56]

**[PROPOSED] ORDER GRANTING
APPROVAL OF REPRESENTATIVE
ACTION SETTLEMENT**

*[Filed concurrently with Declarations of Kelsey
M. Szamet, Jonathan Paul of Xpand Legal, and
Plaintiff Manny Hanech Ziperman in Support of
Plaintiff's Motion for Approval of
Representative Action Settlement]*

Date: ~~March 7, 2024~~ March 28, 2024

Time: 8.30a.m.

Dept.: 56

Reservation Number: 456564842760

Complaint Filed: August 30, 2021

Trial Date: None Set

~~PROPOSED~~ ORDER

The Motion for Approval of Representative Action Settlement (“Motion”) came before this Court, the Honorable Holly J. Fujie, presiding. The Court, having considered the papers submitted in support of the motion of the parties, **HEREBY ORDERS THE FOLLOWING:**

Having considered Plaintiff’s Motion, and all legal authorities and documents submitted in support thereof, including PAGA Settlement Agreement (“Agreement” or “Settlement”), attached to the Kingsley Declaration as Exhibit “1”, and good cause appearing, IT IS HEREBY ORDERED that Plaintiff’s Motion is GRANTED, subject to the following findings and orders:

1. The Court finds the Settlement is fair and reasonable.
2. The Court approves the Gross Settlement Amount of \$160,000.00
3. The Court approves the PAGA Penalties in the amount of \$ 84,711.72.
4. The Court approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$63,533.79.
5. The Court directs that the remaining 25% of the PAGA Penalties, in the amount of \$21,177.93 shall be allocated to the Aggrieved Employees.
6. The court approves the PAGA Counsel’s request for reimbursement of case costs in the amount of \$10,454.95.
7. The Court approves the settlement administration costs of \$6,500.00.
8. The Court approves an enhancement payment to Plaintiff Manny Hanech Ziperman of \$5,000.00.
9. The Parties are ordered to carry out the terms of the Agreement.
10. Pursuant to C.C.P §664.6, the Court shall have and retain continuing jurisdiction over this action and the Parties and the Aggrieved Employees including after the entry of this Order, to the fullest extent necessary to interpret, enforce and effectuate the terms and intent of the Agreement and this Order.



Holly J. Fujie

Holly J. Fujie / Judge

DATED: 03/28/2024

JUDGE OF THE SUPERIOR COURT

EXHIBIT J

FILED

APR - 9 2024

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

BY DEPUTY

KINGSLEY & KINGSLEY, APC
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RECEIVED
12/20/2023 9:37 AM
FRESNO COUNTY SUPERIOR COURT
By: A. Hoffman, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

SHELTON HARPER, an individual, on
behalf of himself and others similarly
situated,

PLAINTIFF,

v.

SAN MAR PROPERTIES; and DOES 1 thru
50, inclusive,

DEFENDANTS.

CASE NO. 21CECG03563

[Case Assigned for All Purposes to Hon.
Jonathan Skiles in Dept. 403]

**~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT**

Date: January 18, 2024
Time: 3:30 PM
Dept.: 403

Complaint Filed: December 2, 2021
FAC Filed: February 7, 2022
Trial Date: None Set

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class and representative action lawsuit brought by Plaintiff
3 Shelton Harper (“Class Representative” or “Plaintiff”) against Defendant SAN MAR
4 PROPERTIES (“Defendant”). The Motion for Final Approval of Class Action Settlement came
5 before this Court, on January 19, 2024.

6 **WHEREAS**, Judge Jonathan Skiles granted preliminary approval of the Amended Class
7 Action and PAGA Settlement Agreement (“Agreement”), attached to the concurrently-filed
8 Declaration of Kelsey M. Szamet as Exhibit “1”, on September 11, 2023.

9 **WHEREAS**, Plaintiff Shelton Harper has applied to the Court for an order granting final
10 approval of the Agreement.

11 **WHEREAS**, the Agreement sets forth the terms and conditions for the proposed
12 Agreement and for entry of an Order of Final Approval and entry of final judgment thereon. The
13 Court having read and considered Plaintiff’s Motion for Final Approval of Class Action
14 Settlement; Motion for Approval of Attorneys’ Fees and Costs; the Declarations of Kelsey M.
15 Szamet, Shelton Harper; and Makenna Snow of ILYM Group, Inc.; and the supporting documents
16 annexed thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all Class Members and that the Court has
19 subject matter jurisdiction to approve the Agreement;

20 2. The terms of the Agreement are fair, just, reasonable, and adequate, consistent and
21 in compliance with California Code of Civil Procedure, the California and United States
22 Constitutions (including the due process clauses), the California Rules of Court and any other
23 applicable law, and in the best interest of each of the Parties and the Class Members and is hereby
24 finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as described
26 in the Agreement according to its terms and provisions.

27 4. The Agreement is binding on Plaintiff and all other Class Members, except those
28 who timely and properly filed Request for Exclusion, as well as their heirs, executors and

1 administrators, successors and assigns.

2 5. There are zero (0) valid requests for exclusion.

3 6. There are no objectors to the Agreement.

4 7. It is ordered that the Class is certified for settlement purposes only. The Court
5 finds that an ascertainable class exists and a well-defined community of interest exists in the
6 questions of law and fact involved because in the context of the Agreement: (i) there are questions
7 of law and fact common to the Class Members which, as to the Agreement and all related matters,
8 predominate over any individual questions; (ii) the Claims of Plaintiff are typical of the Claims of
9 the Class Members; and (iii) in negotiating, entering into and implementing the Agreement,
10 Plaintiff and Plaintiff's Attorneys have fairly and adequately represented and protected the interest
11 of the Class Members.

12 8. The Court finds that the Notice and notice methodology implemented pursuant to
13 this Agreement (i) constituted the best practicable notice; (ii) constituted notice that was
14 reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the
15 Action, their right to object to or exclude themselves from the proposed Agreement and their right
16 to appear at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and
17 sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements
18 of the California Code of Civil Procedure, the California and United States Constitution (including
19 the Due Process Clause), the California Rules of Court and any other applicable law.

20 9. The Class is hereby made final. The Class is defined as: "all non-exempt employees
21 who are employed or have been employed by SAN MAR PROPERTIES, INC., in the State of
22 California who worked one or more pay periods during the Covered Period." ("Class")

23 10. The "Covered Period" is from December 2, 2017 through May 31, 2022.

24 11. The Aggrieved Employees are hereby made final. The Aggrieved Employees are
25 defined as: "all non-exempt employees who are employed or have been employed by SAN MAR
26 PROPERTIES, INC., in the State of California who worked one or more pay periods during the
27 PAGA Period." ("Aggrieved Employees" or "PAGA Members")

28 12. The "PAGA Period" is from December 2, 2020 through May 31, 2022.

1 13. The Agreement is not an admission by Defendant, nor is this Final Order a finding
2 of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final Order,
3 the Agreement, nor any document referred to herein, nor any action taken to carry out the
4 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or
5 wrongdoing on the part of Defendant.

6 14. Pursuant to the Agreement, upon entry of this Final Order, Plaintiff and each Class
7 Member shall fully release and discharge the Released Parties pursuant to the following release
8 and expressly waive and relinquish any and all claims, rights or benefits that they may have under
9 California Civil Code § 1542, which provides:

10 “any and all claims, debts, liabilities, demands, obligations,
11 penalties, guarantees, costs, expenses, attorney’s fees, damages,
12 action or causes of action of whatever kind or nature, whether
13 known or unknown, contingent or accrued, that are alleged, or that
14 reasonably could have arisen out of the same facts alleged in the
15 Action, including: (1) failure to pay wages and/or overtime under
16 Labor Code sections 510, 1194, 1194.2, and 1199; (2) failure to
17 provide meal breaks pursuant to Labor Code sections 512 and 226.7;
18 (3) failure to provide rest breaks pursuant to Labor Code section
19 226.7; (4) failure to provide accurate itemized wage statements
20 pursuant to Labor Code section 226(a); (5) waiting time penalties
pursuant to Labor Code section 203; (6) violation of Business &
Professions Code section 17200; and (7) penalties pursuant to Labor
Code section 2699. (collectively, the “Released Claims”). Except as
set forth in Section 6.3 of this Agreement, Participating Class
Members do not release any other claims, including claims for
vested benefits, wrongful termination, violation of the Fair
Employment and Housing Act, unemployment insurance, disability,
social security, workers’ compensation, or claims based on facts
occurring outside the Covered Period.

21 15. Pursuant to the Agreement, upon entry of this Final Order, Plaintiff and each
22 Aggrieved Employee shall fully release and discharge the Released Parties from any and all claims
23 for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA
24 Period facts stated in the Operative Complaint, the PAGA Notice and ascertained in the course of
25 the Action including, violations of Labor Code sections 201, 202, 203, 226(a), 226.7, 510, 512,
26 551, 1194, 1194.2, and 1199 .

27 16. Plaintiff and all Class Members who have not been timely and properly excluded
28 from the Class, and any person acting on their behalf, are permanently barred and enjoined from:

(i) filing, commencing, prosecuting, intervening in, participating in (as class members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Class Members into a separate class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any lawsuit based on or relating to the Released Claims;

17. The Agreement provides that the Gross Settlement Amount is three hundred twenty-five thousand dollars and zero cents (\$325,000.00). The Net Settlement Amount shall be determined according to the terms of the Agreement.

18. The Court orders the calculations and the payments to be made and administered in accordance with the terms of the Agreement.

19. The Court hereby finds that Plaintiff and Class Counsel adequately represented the Class for purposes of entering into and implementing the settlement. The Court hereby confirms Kingsley & Kingsley, APC and Abramson Labor Group as Class Counsel in the Action.

20. The Court hereby finds the unopposed application of Class Counsel for a costs and attorneys' fees award provided for under the proposed Agreement to be fair and reasonable in light of all the circumstances and is hereby granted. Of the Gross Settlement Amount, \$108,333.33 shall be paid for attorney fees and \$6,692.91 shall be paid for litigation costs.

21. The unopposed application of Class Counsel for an enhancement payment to Plaintiff is hereby granted. Of the Gross Settlement Amount, a \$5,000.00 Class Representative Enhancement Payment shall be allocated to Class Representative Shelton Harper.

22. The unopposed application of Class Counsel for claims administration fees to ILYM Group, Inc. is hereby granted. Of the Gross Settlement Amount, ~~\$15,000.00~~ ^{\$8,500} shall be paid for settlement administration fees.

23. Defendant shall have no further liability for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

24. The Court approves the PAGA Penalties in the amount of \$10,000.00. The Court

1 approves 75% of the PAGA Penalties being allocated to the Labor and Workforce Development
2 Agency ("LWDA") in the amount of \$7,500.00. The Court further directs that the remaining 25%
3 of the PAGA Penalties, in the amount of \$2,500.00 shall be allocated to the Net Settlement Amount
4 for distribution to the Class Members.

5 25. If a Class Member does not cash his or her settlement check by the void date, the
6 uncashed funds shall be transmitted by the Administrator to the State of California Office of the
7 Controller in the name of the class member who did not cash his or her Individual Settlement
8 Payment check.

9 26. Defendant shall have no further liability for costs, expenses, interest, attorneys'
10 fees, or for any other charge, expense, or liability, except as provided for in the Agreement.

11 27. The Court hereby grants and authorizes the Parties, without further approval from
12 the Court, to agree to and to adopt such amendments, modifications and expansions of this
13 Stipulation and all exhibits attached hereto as (i) are consistent with the Final Judgment; and (ii)
14 do not limit the rights of Class Members under the Stipulation.

15 28. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
16 shall retain jurisdiction over the Action, the Parties, and the Class, as well as the administration
17 and enforcement of the terms of the Settlement of this action to enforce the terms of the judgment.
18 Without affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction
19 over the Action, the Parties, and the Class, as well as the administration and enforcement of the
20 Settlement. Any disputes or controversies arising with respect to the interpretation,
21 consummation, enforcement, or implementation of the Settlement shall be presented by motion to
22 the Court; provided however, that nothing in this Part shall restrict the ability of the Parties to
23 exercise their rights to terminate the Settlement pursuant to the terms of the Agreement.

24 29. This Final Order shall constitute a final judgment.

25
26 DATED: 4-9-2024


JUDGE OF THE SUPERIOR COURT

(Proof of Submission to Labor &
Workforce Development Agency)

EXHIBIT K

(PROOF OF SERVICE)
[CCP 1013(a)(3)]
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 28, 2024, I served all interested parties in this action the following documents described as: **SUPPLEMENTAL DECLARATION OF LIANE KATZENSTEIN LY IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Kevin S. Wattles
kwattles@slfesq.com
Rachael L. Marko
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Attorneys for Defendant

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[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] BY ELECTRONIC MAIL TRANSMISSION: I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 28, 2024, at Woodland Hills, California.



Michelle Tanzer