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individually and on behalf of all others similarly situated
9

10 **IN THE SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES**
12

13 IAN WILSON DECOSTA, individually and on
behalf of all others similarly situated,

14 Plaintiff(s),

15 v.
16

17 BARKLEY & ASSOCIATES, INC; and DOES 1
through 100,

18 Defendant(s).
19

Case No. 23STCV14292

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND JUDGMENT**

20 Plaintiff Ian Wilson DeCosta (“Plaintiff”) and Defendant Barkley & Associates, Inc.
21 (“Defendant,” and collectively with Plaintiff as “the Parties”) have entered into a PAGA Settlement
22 and Release (“Settlement Agreement”) to settle the above-captioned PAGA action subject to the
23 Court’s approval (the “Settlement”). On January 30, 2025 Plaintiff filed a motion for Approval of
24 PAGA Settlement, including a request for approval of Plaintiff’s service award and Plaintiff
25 Counsel’s attorney fees and costs.

26 The matter came on regularly for hearing on March 26, 2025 at 9:00 a.m. in Department 52.
27 The appearances are as stated in the record. Having reviewed and considered the written
28 submissions of all parties and being fully advised, the Court rules as follows:

1 **I. SUMMARY OF THE MONETARY TERMS OF THE SETTLEMENT**

2 The Settlement Agreement is attached as **Exhibit A**. Unless otherwise stated, all capitalized
3 terms in this Order and Judgment have the same meanings as in the Agreement.

4 **a. Aggrieved Employees**

5 The Aggrieved Employees are defined as any person employed by Defendant in California
6 and classified as a non-exempt employee during the PAGA period, which is defined as March 29,
7 2022 to January 9, 2024.

8 **b. Gross Settlement Amount**

9 The Settlement Agreement provides for a Gross Settlement Amount of Seventy Thousand
10 Dollars (\$70,000).

11 **c. Service Payment and Individual Claims**

12 The Settlement Agreement permits Plaintiff to receive Ten Thousand Dollars (\$10,000)
13 from the Gross Settlement Amount, characterized as compensation for the release of Plaintiff's
14 individual claims and a general waiver under Civil Code Section 1542. Plaintiff's Motion for
15 Approval also argues this amount is justifiable as a service award.

16 **d. Plaintiff's Counsel's Fees and Costs**

17 The Settlement Agreement permits Plaintiff's counsel to receive from the Gross Settlement
18 Twenty-Four Thousand Five Hundred Dollars (\$24,500) for attorney fees and up to One Thousand
19 Dollars (\$1,000) in costs. Plaintiff's Counsel requests only \$800 on the basis that prior to the
20 instant motion the actual costs paid were \$725.40, and estimating the costs of this motion, including
21 court filing fee and electronic filing and service, as a little less than \$75.

22 **e. Settlement Administration Costs**

23 The Settlement Agreement provides for the payment of the fees and expenses reasonably
24 incurred by the Settlement Administrator, in an amount up to Three Thousand Six Hundred
25 Seventy-Five Dollars(\$3,675).

26 **f. Net Settlement/PAGA Penalties**

27 After the deductions above, the remainder of the Gross Settlement shall be paid as PAGA
28 Penalties pursuant to Labor Code section 2699 Subd. (i) as that section read at the time of filing of

1 the present complaint (i.e. in effect from June 27, 2016, to June 30, 2024), 25% pro rata to the
2 Aggrieved Employees and 75% to the Labor and Workforce Development Agency (“LWDA”).
3 The Settlement Agreement estimates this amount as Thirty Thousand Eight Hundred Twenty-Five
4 Dollars (\$30,825). Adding in the \$200 reserved for Plaintiff’s costs but not spent, the Net
5 Settlement Amount is Thirty-One Thousand Twenty-Five Dollars (\$31,025).

6 7 **II. NOTICE TO THE LWDA**

8 The Declaration of Theodore Tang establishes that the LWDA was provided with a copy of
9 the PAGA Notice and the operative complaint. It also establishes that a copy of the Settlement
10 Agreement, as well as Plaintiff’s Motion for Approval, via upload to
11 <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html> on
12 January 30, 2025, the same day Plaintiff’s Motion for Approval of PAGA Settlement was filed.

13 14 **III. THE SETTLEMENT IS FAIR AND REASONABLE**

15 A trial court “shall review and approve any civil action filed pursuant to this part. The
16 proposed settlement shall be submitted to the agency at the same time that it is submitted to the
17 court.” Lab. Code § 2699(1)(2). The court “should evaluate a PAGA settlement to determine
18 whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate present labor
19 law violations, deter future ones, and to maximize enforcement of state labor laws.” *Moniz v.*
20 *Adecco USA, Inc.*, (1st Dist. 2021) 72 Cal. App.5th 56, 77. Many of the factors relevant to evaluate
21 class action settlements, such as “the strength of the plaintiff’s case, the risk, the stage of the
22 proceeding, the complexity and likely duration of further litigation, and the settlement amount” can
23 be “useful in evaluating the fairness of a PAGA settlement.” *Id.*

24 Here, Plaintiff has demonstrated that the maximum value of the PAGA cause of action as
25 plead is approximately \$288,600 before attorney fees and costs. The settlement amount of \$70,000
26 is approximately 24.3% of that maximum under the *Raines* calculation for wage statement penalties.
27 Under the *Gunther* calculation, the maximum drops to \$181,650, of which the settlement amounts
28 to 38.5%. As a percentage, these fall well within the rate that courts typically approve for PAGA

1 settlement. Further, this amounts to approximately \$98.18 per pay period. The Court finds this to
2 be a sufficient amount to promote the PAGA's purpose of remediating labor law violations, deter
3 future ones, and maximize the enforcement of the state labor laws.

4 5 **IV. ORDER AND JUDGMENT**

6 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS
7 FOLLOWS:

8 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
9 Settlement Agreement attached as Exhibit A, except where expressly given a separate definition
10 herein.

11 2. The Court has jurisdiction over the subject matter of the litigation, Plaintiff as
12 Private Attorney General for the State of California, the Aggrieved Employees, and the Parties for
13 themselves.

14 3. The Court approves and hereby appoints ILYM Group, Inc. as the designated
15 Settlement Administrator.

16 4. The Court approves the Settlement of the above-captioned action, as set forth in the
17 Settlement Agreement, as fair, just, reasonable. The Parties and the Settlement Administrator are
18 directed to perform in accordance with the terms of the settlement.

19 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear
20 their own costs and attorney's fees.

21 6. With respect to the PAGA representative claims, this Court finds that the \$70,000
22 Gross Settlement is fair, reasonable, and adequate in that it remediates the alleged violations, is
23 sufficient to deter future similar conduct, and maximizes enforcement of California's labor laws.

24 7. Pursuant to the terms of the Settlement Agreement, the Settlement Administrator
25 shall make the following payments from the Gross Settlement Amount:

26 a. To Plaintiff's attorneys, Twenty-Four Thousand Five Hundred Dollars
27 (\$24,500) for attorney fees and Eight Hundred \$800 for costs;

28 b. To Plaintiff, Ten Thousand Dollars (\$10,000), of which 25% shall be

1 allocated as wages for tax purposes and 75% shall be allocated as penalties
2 and interest for tax purposes;

3 c. To the Settlement Administrator, Three Thousand Six Hundred Seventy-Five
4 Dollars (\$3,675) for costs of settlement administration;

5 d. The remainder shall be the Net Settlement Amount of Thirty One Thousand
6 Twenty Five Dollars (\$31,025), 75% of which (\$23,268.75) shall be paid to
7 the LWDA, and 25% of which (\$7,756.25) shall be distributed among the
8 Aggrieved Employees.

9 8. The Court finds that the amounts set forth in section 7 (a) through (d) are fair and
10 reasonable payments, and shall be distributed by the Settlement Administrator pursuant to the
11 Settlement Agreement.

12 9. Checks from the Gross Settlement shall state the void date, to be not less than 180
13 days from the date of mailing. For any Individual PAGA Payment check that remains uncashed and
14 canceled after the void date, the Settlement Administrator shall transmit the funds represented by
15 such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved
16 Employee.

17 10. Pursuant to the Settlement Agreement, Plaintiff shall be bound by the following
18 Release, found in the Settlement Agreement at §5.1 et seq.:

19 5.1: Plaintiff's Release. Plaintiff and his, her or their respective former and present
20 spouses, representatives, agents, attorneys (including PAGA Counsel), heirs,
21 administrators, successors and assigns generally, release and discharge Released
22 Parties from all claims, transactions or occurrences that occurred during the PAGA
23 Period, including, but not limited to: all claims that were, or reasonably could have
24 been, alleged, based on the facts contained in the Operative Complaint and the
25 PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any
26 claims or actions to enforce this Agreement, or to any claims for vested benefits,
27 unemployment benefits, disability benefits, social security benefits, workers'
28 compensation benefits that arose at any time or based on occurrences outside the
PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law
different from, or in addition to, the facts or law that Plaintiff now knows or believes
to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain
effective in all respects, notwithstanding such different or additional facts or
Plaintiff's discovery of them.

5.1.1 Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of

1 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights,
2 and benefits, if any, of section 1542 of the California Civil Code, which reads:

3 **A general release does not extend to claims that the creditor or releasing party**
4 **does not know or suspect to exist in his or her favor at the time of executing the**
5 **release, and that if known by him or her would have materially affected his or**
6 **her settlement with the debtor or Released Party.**

7 11. In addition, the Aggrieved Employees shall be bound by the following release, found
8 in §5.2 of the Settlement Agreement:

9 5.2 Release by Aggrieved Employees:

10 All Aggrieved Employees are deemed to release, on behalf of themselves and their
11 respective former and present representatives, agents, attorneys, heirs,
12 administrators, successors and assigns, the Released Parties from all claims for
13 PAGA penalties that were alleged, or reasonably could have been alleged, based on
14 the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

15 12. PAGA Counsel shall be bound by the following Release, found in § 5.3 of the
16 Settlement Agreement:

17 5.3 Release by PAGA Counsel:

18 PAGA Counsel release on behalf of their present and former attorneys, employees,
19 agents, successors and assigns the Released Parties from all claims for PAGA Fees
20 incurred in connection with the Operative Complaint and the PAGA Period facts
21 stated in the Operative Complaint and the PAGA Notice, except as otherwise
22 described herein.

23 13. The Court hereby enters final judgment in this case in accordance with the terms of
24 the Settlement and this Order in favor of the Plaintiff on behalf of the State of California and in his
25 individual capacity and against Defendant in the amounts and under the terms discussed *supra*.
26 Without affecting the finality of the Settlement or Judgment entered, this Court shall retain
27 exclusive and continuing jurisdiction over the action and the Parties, including the Aggrieved
28 Employees, for purposes of enforcing and interpreting this Order and Judgment and the Settlement
Agreement. The Court shall retain jurisdiction to enforce this settlement pursuant to Code of Civil
Procedure section 664.6.

14. A final compliance hearing is set for _____ at _____ a.m. in Department
52. PAGA Counsel and/or the Settlement Administrator shall file a declaration or declarations

1 attesting to compliance with this order no later than 7 court days before the hearing.

2 IT IS SO ORDERED, ADJUDGED, AND DECREED.

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6 Date:

Hon. Armen Tamzarian

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