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

BRITTANY VIGNE, individually and on
behalf of all other Aggrieved Employees;

Plaintiff,

vs.

PAYBOXT LLC, a California limited
liability company, DYLIISH LLC, a
California limited liability company;
SWIPE TEC LLC, a California limited
liability company, and DOES 1 through
50, inclusive

Defendants.

Case No.: 23VECV02108

*[Assigned for all purposes to Honorable Huey
P. Cotton, Dept. A]*

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER GRANTING APPROVAL OF
REPRESENTATIVE PAGA SETTLEMENT
AND ENTERING JUDGMENT THEREON**

*[FILED CONCURRENTLY WITH DECLARATION OF
HAIG B. KAZANDJIAN IN SUPPORT THEREOF]*

Complaint Filed: May 15, 2023
Trial Date: None currently set

FILED
Superior Court of California
County of Los Angeles

05/31/2024

David W. Slayton, Executive Officer / Clerk of Court

By: R. Redmond Deputy

WHEREAS, “Action” refers to the civil action filed by Plaintiff Brittany Vigne (“Plaintiff”), initially filed on May 15, 2023 entitled *Brittany Vigne v. Payboxt LLC*; Dylish LLC; and Swipe Tec LLC (“Defendants”); and DOES 1 through 50, inclusive, in the Superior Court of the State of California for The County of Los Angeles, Case No. 23VECV02108.

WHEREAS, the Action is a representative action under the Private Attorneys General Act (the “PAGA”);

WHEREAS, Plaintiff and Defendants (collectively “the Parties”) recognize that, in accordance with Labor Code Section 2699(l), court approval is required in the event of a settlement of a PAGA action on a representative basis;

WHEREAS, as explained in *Arias v. Superior Court*, 46 Cal.4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of a settlement thorough a motion for preliminary or final approval. See also *Mendoza vs. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA authorizes a representative action without the need for class certification.”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“[A] PAGA suit is fundamentally different than a class action” in that “PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action.”); *Williams v. Sup. Ct.*, 3 Cal.5th 531, 546-547 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.”);

WHEREAS, the Parties seek to obtain the Court’s approval of the PAGA Settlement and Release Agreement (“PAGA Settlement Agreement”) and resolve this matter in the most efficient manner possible;

WHEREAS, nothing contained herein, nor in effectuating Settlement of the Action, shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the Releasees to the Agreement. Indeed, Defendants deny and dispute each and every allegation of wrongdoing, including the allegations described herein;

WHEREAS, on March 6, 2023, Plaintiff sent the LWDA and Defendants notice of her

intent to pursue a representative action against Defendants pursuant to the Private Attorneys General Act of 2004 (“PAGA”), as codified in California Labor Code § 2698 et seq., on behalf of herself and the State of California as well as on behalf of a group of aggrieved employees.

WHEREAS, after a minimum of 65 days passed without a response from the LWDA regarding the PAGA Notice, on May 15, 2023, Plaintiff commenced a representative action under the PAGA for alleged Labor Code violations (as further explained herein) on behalf of herself and other allegedly Aggrieved Employees.

WHEREAS, Plaintiff’s Complaint (the “Complaint”) alleged the following claims for PAGA penalties: (1) failure to provide employment records (Cal. Lab. Code §§ 226, 432, and 1198.5); (2) failure to pay overtime/double wages (Cal. Lab. Code §§ 510, 515 and 1198 and the applicable Wage Orders); (3) failure to provide meal periods and rest periods (Cal. Lab. Code §§ 226.7 and 512(a) and the applicable Wage Orders); (4) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1); (5) failure to keep and furnish accurate itemized wage statements (Cal. Lab. Code §§ 226(a), 1174(d), and 1198 and the applicable Wage Orders); (6) failure to pay reporting time wages (California Code of Regulations 11050 (5)(A)); (7) failure to pay split shift wages (Cal. Lab. Code § 1198; California Code of Regulations 11050 (4)(C)); (8) failure to timely pay wages during employment; (9) failure to timely pay wages at separation (Cal. Lab. Code §§ 201, 202, 203, 204, and 206); (10) failure to reimburse business-related expenses (Cal. Lab. Code §§ 2800 and 2802); (11) failure to provide notice of paid sick time and accrual (Cal. Lab. Code § 246); and (12) failure to pay all wages or otherwise causing violations of the Labor Code (Cal. Lab. Code §§ 558 and 558.1); (“Plaintiff’s Release”).

WHEREAS, Defendants deny: the allegations in the Complaint, that they have engaged in any unlawful activity, that they have failed to comply with the law in any material respect, or that they have any liability to anyone under the claims asserted in the Action;

WHEREAS, after the filing of the PAGA Complaint, the Parties engaged in extensive settlement discussions which included exchange of information such as PAGA group data points, including, number of current and formerly-employed non-exempt employees, and approximate total numbers of workweeks and pay periods.

WHEREAS, following the settlement discussions, the parties reached an agreement to settle in light of all known facts and circumstances-including Plaintiff's and Plaintiff's Counsel's recognition of the expense and length of continued proceedings necessary to litigate the case through trial and through any possible appeals. Plaintiff also considered the uncertainty and risk of the outcome of further litigation, and the difficulty and delays inherent in such litigation.

WHEREAS, Plaintiff and Plaintiff's Counsel also considered the burdens of proof necessary to establish liability of the claims asserted in the case, both generally and in response to Defendants' defenses, including but not limited to manageability issues due to the different job titles and duties of Aggrieved Employees, and the difficulties in establishing penalties, and other relief sought in the case, particularly where, as here, Plaintiff may face difficulty obtaining the cooperation of PAGA Members who are current employees, given their likely reluctance to aid in the prosecution of a lawsuit against their employer. Based on the foregoing, Plaintiff and Plaintiff's Counsel determined that the Settlement set forth in the Agreement is fair, adequate, and reasonable and is in the best interests of the State of California and of the PAGA Members.

WHEREAS, the Parties now seek approval of the PAGA Settlement Agreement, attached hereto as **Exhibit 1** to the Declaration of Haig B. Kazandjian ("Kazandjian Decl.").

WHEREAS, upon the entry of the final judgment in this case, all Aggrieved Employees are deemed to release and discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties of and from all claims for PAGA penalties that were alleged, or could have been alleged, including: (1) failure to provide employment records (Cal. Lab. Code §§ 226, 432, and 1198.5); (2) failure to pay overtime/double wages (Cal. Lab. Code §§ 510, 515 and 1198 and the applicable Wage Orders); (3) failure to provide meal periods and rest periods (Cal. Lab. Code §§ 226.7 and 512(a) and the applicable Wage Orders); (4) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1); (5) failure to keep and furnish accurate itemized wage statements (Cal. Lab. Code §§ 226(a), 1174(d), and 1198 and the applicable Wage Orders); (6) failure to pay reporting time wages (California Code of Regulations 11050 (5)(A)); (7) failure to pay split shift wages (Cal. Lab. Code § 1198; California Code of Regulations 11050 (4)(C));

(8) failure to timely pay wages during employment; (9) failure to timely pay wages at separation (Cal. Lab. Code §§ 201, 202, 203, 204, and 206); (10) failure to reimburse business-related expenses (Cal. Lab. Code §§ 2800 and 2802); (11) failure to provide notice of paid sick time and accrual (Cal. Lab. Code § 246); and (12) failure to pay all wages or otherwise causing violations of the Labor Code (Cal. Lab. Code §§ 558 and 558.1); stated in the Operative Complaint and the PAGA Notice for the time period of March 6, 2022 through the date of approval of this Settlement Agreement.

WHEREAS, upon the entry of the final judgment in this case, Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors and assigns generally, release and discharge Released Parties of and from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: all claims that were, or could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice (“Plaintiff’s Release”). Plaintiff’s Release does not extend to any claims or actions to enforce the PAGA Settlement Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ 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.

WHEREAS, based on their own independent investigations and evaluations, Plaintiff and her counsel are of the opinion that the settlement for the consideration and on the terms set forth in the attached PAGA Settlement Agreement is fair, reasonable and adequate and is in the best interests of the Plaintiff, the Aggrieved Employees, and the State of California in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Plaintiff’s Counsel believes that the settlement amount entered into is in the best interests of the State of California, and that the settlement for each Aggrieved Employee is fair, reasonable and adequate, given the inherent risk of litigation.

WHEREAS, Plaintiff and her counsel recognize the risks inherent in PAGA actions, including courts' discretion to reduce the amount of civil penalties. See *Thurman v. Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1135 (2012) ("[U]nder section 2699, subdivision (e)(2) a trial court may exercise its discretion to award lesser penalties based on the enumerated considerations.") (emphasis in original) (internal quotation marks and citations omitted). Specifically, the trial court may reduce the civil penalty if declining to do so "would result in an award that is unjust, arbitrary, oppressive, or confiscatory based on the facts and circumstances of [the] case." *Id.* Courts routinely exercise this discretion in the rare PAGA cases that proceed to trial and obtain a successful verdict. See, e.g., *Fleming v. Covidien Inc.*, 2011 WL 7563047, at *4 (C.D. Cal. Aug. 12, 2011) (awarding PAGA penalties of \$500,000.00 instead of maximum recovery of \$2.8 million); cf. *Aguirre v. Genesis Logistics*, 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013) (after granting summary judgment, awarding PAGA penalty of \$500,000.00 instead of maximum recovery of \$1.8 million).

WHEREAS, Plaintiff provided notice of the proposed settlement to the LWDA as required by PAGA. See **Exhibit 4** to the Kazandjian Decl. which contains a true and correct copy of the confirmation that Plaintiff submitted the proposed PAGA Settlement Agreement to the LWDA.

WHEREAS, prior to the submission of this Stipulation, the Parties met and conferred and agreed upon a Proposed Order and Final Judgment pursuant to this Stipulation.

IT IS HEREBY STIPULATED AND PROPOSED BY THE PARTIES HERETO AS FOLLOWS:

The Parties stipulate and jointly propose that the Court approve the fully executed PAGA Settlement Agreement, which includes the following key terms:

A. As consideration for the settlement described herein and the release contained in the PAGA Settlement Agreement, Defendants agree to make a payment of \$46,000.00 (the "Gross Settlement Amount"). The PAGA Gross Settlement Amount shall include all individual settlement payments to Aggrieved Employees, payment to the LWDA, attorneys' fees and costs awarded to Plaintiff's Counsel, Plaintiff Brittany Vigne's general release and incentive award,

1 and Administration Costs. No portion of the PAGA Gross Settlement Amount will revert to
2 Defendants.

3 B. The Gross Settlement Amount will be allocated as follows: (a) Plaintiff's
4 Counsel's attorneys' fees up to the requested amount of 33% of the Gross Settlement Amount of
5 \$46,000.00, which amounts to \$15,180.00; (b) Plaintiff's Counsel's request for reimbursement of
6 litigation costs in the amount incurred of up to \$754.11; (c) Plaintiff's General Release and
7 Incentive Award in the amount of \$7,500.00; (d) PAGA Settlement Administration costs of
8 actual costs of \$2,900.00 to be paid to the Settlement Administrator; and I the remainder of the
9 Gross Settlement Amount after deducting the items (a) through (d) herein shall be designated as
10 the PAGA Penalty Fund, which is estimated to be \$19,665.89 and will be allocated between the
11 LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i) with seventy-five
12 percent (75%) paid to the LWDA (\$14,749.42) and twenty-five percent (25%) paid to the
13 Aggrieved Employees (PAGA Members) (\$4,916.47) on a pro-rata basis, which is further
14 explained below. Each PAGA Member's pro-rata share of the PAGA Penalty Fund represents
15 their Individual Settlement Payment.

16 C. Individual Settlement Calculation. Plaintiff and the Aggrieved Employees shall
17 receive a pro rata share of the twenty-five percent (25%) of the PAGA Penalty Fund allocated to
18 Aggrieved Employees (estimated to be \$4,916.47). Plaintiff and each Aggrieved Employee's
19 Individual Settlement Payment shall be determined by multiplying this 25 percent of the PAGA
20 Penalty Fund allocated to Aggrieved Employees by the ratio of (a) the number of Eligible Pay
21 Periods worked by that employee to (b) the total number of Eligible Pay Periods worked by all
22 Aggrieved Employees (including Plaintiff). All Individual Settlement Payments made to
23 Aggrieved Employees will be reported on an IRS Form 1099.

24 D. "Effective Date" means the date by when both of the following have occurred: (a)
25 the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment
26 is final. The Judgment is final as of the latter of: (a) the date upon which the deadline for seeking
27 appellate review of the Judgment has passed without the filing of a timely appeal or a timely
28 request for review; or (b) if an appeal, review or writ is sought from the Judgment, the date upon

which all appellate and/or other proceedings resulting from the appeal, review or writ have been finally terminated in such a manner as to permit the Judgment to take effect in substantially the form described herein.

E. Subject to the Court approval of this Settlement, the payment of the Settlement amounts shall be disbursed as follows:

- No later than thirty (30) days after the Effective Date, Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet from each Defendant.
- Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than forty-five (45) days after the Effective Date.
- Within fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments to the Aggrieved Employees, the LWDA PAGA Payment to the LWDA, and mail the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and any general release and incentive award for Plaintiff. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.
- The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- The Administrator must conduct an address search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the prior address search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall

promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, if requested by the Aggrieved Employee prior to the void date.

- For any Aggrieved Employee whose Individual Settlement Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

If there is a conflict between the language of this Stipulation and the language of the PAGA Settlement Agreement attached to the Kazandjian Decl. as **Exhibit 1**, the language of the PAGA Settlement Agreement shall control.

Dated: May 30, 2024

HAIG B. KAZANDJIAN LAWYERS, APC

By: /s/ Amy Nshanyan

Haig Kazandjian, Esq.
Cathy Gonzalez, Esq.
Amy Nshanyan, Esq.
*Attorneys for PLAINTIFF Brittany Vigne and
all other Aggrieved Employees*

Dated: May 30, 2024

**LEWITT, HACKMAN, SHAPIRO, MARSHALL
& HARLAN, LLP**

By: /s/ Tal Burnoski Yeyni

Tal Burnoski Yeyni, Esq.
Nicholas Kanter, Esq.
*Attorneys for DEFENDANTS Payboxt LLC,
Dylish LLC, and Swipe Tec LLC*

~~PROPOSED~~ ORDER AND JUDGMENT

The Court, having reviewed the Parties' Settlement Agreement and Release (the "Settlement" or "Settlement Agreement") attached as Exhibit 1 to the concurrently-filed Kazandjian Declaration, together with the Stipulation of the Parties and the Declaration of Haig B. Kazandjian and exhibits attached thereto, hereby ORDERS AND ADJUDGES:

1. The Court finds the Settlement was entered into in good faith, that the settlement is fair, reasonable and adequate, and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

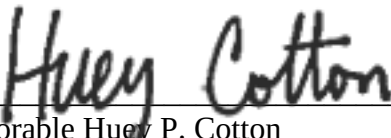
2. The Court approves the penalties to be paid to the PAGA Claims Members and the State of California as set forth in the Settlement, pursuant to Labor Code § 2699(l). The Court further approves all payments to be made to Plaintiff's counsel, Plaintiff, and the Settlement Administrator, based on the terms of the Settlement.

3. Upon entry of this Order and Judgment, the Parties and the Settlement Administrator shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

4. Judgment is hereby entered in accordance with the Settlement Agreement and this Court shall retain continuing jurisdiction over the construction, interpretation, implementation, and enforcement of the Settlement, in accordance with its terms, and over the administration and distribution of the settlement proceeds pursuant to California Code of Civil Procedure section 664.6 and other applicable law.

IT IS SO ORDERED.

Dated: 5/31/24



Honorable Huey P. Cotton
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

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 and not a party to the within action; my business address is 801 North Brand Boulevard, Suite 970, Glendale, California 91203.

On May 30, 2024, I served the foregoing document(s) described as: **STIPULATION AND [PROPOSED] ORDER GRANTING APPROVAL OF REPRESENTATIVE PAGA SETTLEMENT AND ENTERING JUDGMENT THEREON** by method indicated below, on the interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

SERVICE LIST

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Tal Yeyni, Esq.
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Attorneys for Defendants Paybox LLC, Dylish LLC, and Swipe LLC

[X] **BY ELECTRONIC MAIL:** I transmitted the foregoing document(s) by electronic mail from ashley@hbklawyers.com to the electronic mail addresses indicated on the attached mailing list. The transmission was reported as complete and without error.

[X] (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 30, 2024, at Glendale, California.

/s/ Ashley Narinyans

Ashley Narinyans