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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WILLIAM SANDOVAL, individually and
GUILLERMO DOMINGUEZ, individually
and on behalf of all others similarly situated,

Plaintiff,

vs.

JOE'S SWEEPING, INC.; and DOES 2
through 20, inclusive,

Defendants.

Case No. 23STCV07799

*Assigned for All Purposes to:
Judge William F. Highberger;
Dept. 10*

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR APPROVAL
OF PAGA SETTLEMENT**

Date: March 5, 2025
Time: 10:30 a.m.
Dept: 10

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff William Sandoval (“Plaintiff Sandoval”) and Plaintiff Guillermo Dominguez
4 (“Plaintiff Dominguez”) (collectively “Plaintiffs”) seek approval of a settlement of claims under
5 the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* (“PAGA”) against
6 Defendant Joe's Sweeping, Inc. (“Defendant”) in the amount of \$228,000.00. Plaintiffs allege
7 approximately 149 aggrieved employees who worked for Defendant were allegedly not paid all
8 wages owed, not provided with meal periods or compensation in lieu thereof, not provided with
9 rest breaks or compensation in lieu thereof, and were not provided with accurate wage statements.

10 Under Labor Code § 2699(l)(2), the Court must review and approve any proposed PAGA
11 settlement. Here, the proposed Settlement is sufficient to deter and punish future violations. The
12 Settlement is attached to the Declaration of Jamie Loos in Support of Motion for Approval of PAGA
13 Settlement (“Loos Decl.”) as **Exhibit 1**, and the proposed letter to be sent to the aggrieved
14 employees is attached thereto as **Exhibit A**. Plaintiffs now seek this Court's approval of the
15 Settlement terms.

16 **II. FACTUAL AND PROCEDURAL BACKGROUND**

17 On April 10, 2023, Plaintiff Sandoval’s counsel sent a letter to the California Labor &
18 Workforce Development Agency (“LWDA”) via online submission and to Defendant via certified
19 mail regarding Defendant’s alleged violations. *See* Loos Decl., ¶ 3, Exhibit 2. The LWDA did not
20 respond to this notice within 65 days, indicating it did not intend to investigate, thus allowing
21 Plaintiff to file the instant lawsuit pursuant to Labor Code Section 2699.3(a)(2)(A). *See* Loos Decl.,
22 ¶ 4.

23 On April 10, 2023, Plaintiff Sandoval filed his Complaint as a class action lawsuit, alleging
24 that, Defendant failed to: (1) pay minimum wages, (2) pay overtime wages, (3) comply with
25 California Prevailing Wage Law (4) provide lawful meal periods or compensation in lieu thereof, (5)
26 permit rest breaks, (6) provide accurate itemized wage statements, (7) pay all wages due upon
27 separation of employment, and (8) abide by the requirements of Business & Professions Code §§
28 17200, *et seq.* Loos Decl. ¶ 5. On June 20, 2023, Plaintiff Sandoval filed a First Amended Complaint

1 alleging an additional cause of action against Defendant for enforcement of Labor Code § 2698, *et*
2 *seq.* (“PAGA”). *Id.* at ¶ 6. After initial meet and confer efforts, Plaintiff Sandoval and Defendant
3 filed a Joint Initial Status Conference Statement in which they informed the Court that Plaintiff
4 Sandoval had agreed to dismiss his class action claims without prejudice. *Id.* at ¶ 7. Accordingly, on
5 August 17, 2024, the Court entered an order dismissing all class claims, leaving only the PAGA
6 claim remaining. *Id.*

7 On October 24, 2023, Plaintiff Dominguez filed a Complaint alleging causes of action
8 against Defendant for failure to: (1) pay minimum wages, (2) failure to pay overtime compensation,
9 (3) failure to provide meal periods, (4) failure to authorize and permit rest breaks, (5) failure to
10 indemnify necessary business expenses, (6) failure to timely pay final wages at termination, (7)
11 failure to provide accurate itemized wage statements, and (8) unfair business practices. See
12 Declaration of H. Scott Leviant in Support of Motion for Approval of PAGA Settlement (“Leviant
13 Decl.”) at ¶ 5. On December 26, 2023, after providing the requisite notice to the LWDA and
14 Defendant, Plaintiff Dominguez filed a First Amended Complaint alleging an additional cause of
15 action against Defendant for enforcement of Labor Code § 2698, *et seq.* (“PAGA”). *Id.* at ¶ 6.
16 Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant
17 and the LWDA by sending the PAGA Notices.

18 On January 17, 2024, Plaintiff Dominguez and Defendant filed a Joint Initial Status
19 Conference Statement in which they also informed the Court that Plaintiff Dominguez agreed to
20 dismiss his class claims without prejudice. *Id.* at ¶ 7. Accordingly, on February 9, 2024, the Court
21 entered an order dismissing the individual and class claims, thereby leaving only the PAGA claim
22 remaining. *Id.*

23 Plaintiffs and Defendant agreed to attend private global mediation for Plaintiffs’
24 representative PAGA claims. Loos Decl. at ¶ 8. In preparation for mediation, Defendant informally
25 produced data and documents for Plaintiffs to evaluate the PAGA claims and calculate the alleged
26 exposure, including Plaintiffs’ personnel files, employee handbooks, other relevant wage and hour
27 policies, exemplar wage statements, time and pay records, and data pertaining to the aggrieved
28

1 employees. *Id.* Plaintiff Sandoval’s Counsel also engaged an expert to quantify the potential exposure
2 using the time and payroll records, and then assessed the risks associated with each of the claims. *Id.*

3 On August 9, 2024, the Parties participated in an all-day mediation presided over by Eve
4 Wagner. *Id.* at ¶ 9. After a full day of negotiating, the Parties agreed to a settlement amount and
5 executed a Memorandum of Understanding with the material terms the parties had agreed to. *Id.* The
6 Parties spent the next few months negotiating the terms of the Settlement, which was finalized in
7 October of 2024. *Id.*

8 Pursuant to the Parties’ global settlement and agreement to consolidate Plaintiffs’ claims,
9 Plaintiff Sandoval filed a Third Amended Complaint adding Plaintiff Dominguez to the action, on
10 November 8, 2024. The Third Amended Complaint is the operative complaint in the actions (the
11 “Operative Complaint.”). Defendant denies the allegations in the Operative Complaint, denies any
12 failure to comply with the laws identified in in the Operative Complaint and denies any and all
13 liability for the causes of action alleged.

14 Plaintiffs provided notice of the Settlement and a copy of this Motion to the LWDA.

15 **III. PAGA REQUIREMENTS**

16 Based on the California Supreme Court's opinions in *Arias v. Superior Court*, 46 Cal. 4th
17 969 (2009), and *Iskanian v. CLS Transportation Los Angeles, LLC*, 59 Cal. 4th 348 (2014),
18 Plaintiffs can seek appropriate civil penalties as called for under PAGA on behalf of the State of
19 California and other similarly aggrieved employees without seeking class certification or meeting
20 the requirements of class certification (i.e. numerosity, typicality, commonality and adequacy). As
21 such, the class action two-step preliminary and final approval process is not required.

22 PAGA was enacted to allow enforcement of the Labor Code and recovery of penalties by
23 the State and by private individuals who have been aggrieved by their employers. The statute calls
24 for 75% of any penalties recovered to be paid to California's LWDA and the remaining 25% to the
25 aggrieved employees (Cal. Lab. Code § 2699(i) (2016)).

26 In order to enforce and seek penalties under PAGA in a civil action, an aggrieved employee
27 must first provide written notice to the LWDA and the employer of the particular Labor Code
28 violations the aggrieved employee alleges the employer has violated. *See* Cal. Labor Code §

1 2699.3(a)(1)(A) (2016). Once the LWDA notifies the aggrieved employee that it does not intend to
2 investigate the alleged violations, or if the LWDA does not respond within a certain time period,
3 the aggrieved employee is then allowed to proceed in a civil action against the employer on behalf
4 of the LWDA and all other similarly aggrieved employees. *See* Cal. Labor Code § 2699.3(a)(2)(A)
5 (2016).

6 In 2009, the California Supreme Court considered the issue of whether an aggrieved
7 employee who brings a PAGA representative claim needs to meet class certification requirements.
8 *Arias, supra*, 46 Cal. 4th at 976. After a substantial review of the legislative history of PAGA, the
9 Court held that an aggrieved employee's representative action brought on behalf of other aggrieved
10 employees against an employer for PAGA violations does not need to meet the requirements for
11 class certification. *Id.* at 975, 980-88. As the Court held, a plaintiff bringing suit under PAGA does
12 so as the proxy or agent of California's labor law enforcement agencies. *Id.* at 986. Because the
13 employee's PAGA action functions as a substitute for an action brought by the government itself, a
14 judgment in the PAGA action binds all those who would be bound by a judgment in an action
15 brought by the government. *Id.*

16 Finally, in a settlement of a PAGA action brought by an aggrieved employee, the court
17 need only "review and approve" the settlement. Cal. Lab. Code § 2699(1)(2) (2016). The Parties
18 to this current PAGA action have reached such an agreement and now seek this Court's approval of
19 the proposed settlement.

20 **IV. THE SETTLEMENT TERMS AND DISTRIBUTION OF PENALTIES**

21 The Parties have agreed that Defendant will pay a total settlement amount of \$228,000.00
22 (the "Gross Settlement Amount"). *See* Settlement Agreement, § 3.1. From this amount, up to one-
23 third (1/3) of the Gross Settlement Amount, or \$76,000.00, is allocated to attorneys' fees and up to
24 \$23,000.00 to actual litigation costs. *Id.* at § 3.2.1. To date, Plaintiffs' counsel has spent \$18,405.52
25 in actual litigation costs and incurred \$122,725.00 in attorneys' fees. *See* Loos Decl., ¶¶ 30-31,
26 Exhibit 4; *see also* Leviant Decl. ¶¶ 15-17. The Settlement allocates up to \$3,250.00 to payment for
27 Phoenix Settlement Administrators' costs associated with administration of the Settlement.
28 Settlement Agreement, § 3.2.3. For Plaintiffs efforts in assisting with the lawsuit and in exchange

1 for a general release of each of their individual claims, \$10,000.00 is allocated to each Plaintiff, for
2 a total of \$20,000.00. *Id.* at § 3.2.2.

3 After deducting the above amounts for attorneys' fees and costs, Settlement
4 Administrator's costs, and Plaintiff's individual settlement award, the remaining fund will
5 constitute the "PAGA Penalties" in which 75% will be paid to the LWDA (the "LWDA PAGA
6 Payment") and 25% will be paid to the Aggrieved Employees as their "Individual PAGA
7 Payments". Settlement Agreement, ¶ 3.2.4. The Aggrieved Employees are all current and former
8 persons employed by Defendant in California as a non-exempt employee at any time during the
9 PAGA Period. *Id.* at ¶ 1.6. The PAGA Period means the period from April 16, 2022 to October 22,
10 2024. *Id.* at ¶ 1.21.

11 The Individual PAGA Payments will be calculated pro rata based on the number of pay
12 periods working during the PAGA Period. Settlement Agreement, § 3.2.4.1. If the number of pay
13 periods worked by Aggrieved Employees in the PAGA Period exceeds 5,717 by more than 10%,
14 then the Gross Settlement Amount will increase pro rata per additional PAGA Pay Period. *Id.* at §
15 8. The Individual PAGA Payments shall be paid to the Aggrieved Employees by way of a single
16 check which will be valid for 180 days. *Id.* at § 4.4.1. All funds not claimed within 180 days of
17 mailing of payment shall be sent to the California State Controller's Office Unclaimed Property
18 Fund with an identification of the amount of unclaimed funds attributable to each PAGA Employee.
19 *Id.* at § 4.4.3. The Individual PAGA Payments will be characterized as penalties for tax purposes
20 and reported on IRS Form 1099. *Id.* at § 3.2.4.2.

21 Prior to this disbursement, the Settlement Administrator shall check the Aggrieved
22 Employees' addresses provided by Defendant using the National Change of Address database.
23 Settlement Agreement, § 4.4.1. For any returned payments without a forwarding address, the
24 Settlement Administrator shall run a skip trace. *Id.* at § 4.4.2. Aggrieved Employees will receive a
25 letter along with their Individual PAGA Payment explaining the reason for the payment, the content
26 of which will be submitted to the Court for approval. The proposed letter is attached to the
27 Settlement Agreement as Exhibit A.

1 In exchange for the settlement payment, the State of California and the Aggrieved
2 Employees will release the “Released Parties” meaning “Defendant and each of its former and
3 present directors, employees, independent contractors, officers, shareholders, owners, members,
4 attorneys, insurers, predecessors, successors, assigns, subsidiaries, related entities of any kind, and
5 affiliates.” from “all claims for PAGA penalties arising during the PAGA Period that were alleged,
6 or reasonably could have been alleged, based on the facts stated in the [Operative Complaint] and
7 the PAGA Notices.” Settlement Agreement, §§ 1.26, 5.2.

8 **V. THE SETTLEMENT IS FAIR AND REASONABLE**

9 **A. Standard for Approval**

10 PAGA settlements must be “fair, reasonable, and adequate in view of PAGA’s purposes to
11 remediate present labor law violations, deter future ones, and to maximize enforcement of state
12 labor laws.” *Moniz v. Adecco USA, Inc.*, 72 Cal.App.5th 56, 77 (2021). The court must find that
13 the plaintiff “has adequately represented the state’s interests, and hence the public interest.” *Id.* at
14 89. The LWDA must be notified of the settlement and be given an opportunity to object. The court
15 may look to parallel class action guidelines to determine what is “fair, adequate and reasonable.”
16 *Kullar v. Foot Locker Retail*, 168 Cal.App.4th 116, 126 (2008). In that analysis, the court has
17 “broad discretion in making this determination.” *In re Microsoft I-V Cases*, 135 Cal.App.4th 706,
18 723 (2006). Relevant factors may include “the strength of the plaintiffs’ case, the risk, expense,
19 complexity and likely duration of further litigation, ... the amount offered in settlement, the extent
20 of discovery completed and the stage of the proceedings, the experience and views of counsel, the
21 presence of a governmental participant” *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1801
22 (1996).

23 **B. The Settlement Meets the Standard for Approval**

24 Here, the \$228,000.00 Gross Settlement Amount is reasonable for a group of
25 approximately 149 employees. A penalty of \$228,000.00 is large enough to punish Defendant for
26 alleged past violations and deter future violations. The settlement amount is equivalent to a penalty
27 of about \$1,530.00 per employee. At the same time, the penalty amount is not so large as to be
28 unjust, oppressive or confiscatory, considering the company’s potential exposure explained below.

Loos Decl., ¶ 11. The Gross Settlement Amount is also reasonable in light of the facts of the foregoing action, the real risk that no PAGA penalties would be paid, and inherent risks and uncertainties associated with PAGA claims. *Id.* at ¶ 12.

Plaintiffs calculated the potential exposure at the initial violation rate of \$100.00 per pay period as follows: 5,717 x \$100.00 per pay period is \$571,700.00 Loos Decl., ¶ 13. If the Court stacked different types of penalties in each pay period, Plaintiff calculated the exposure as follows:

- a. 5,717 pay periods x \$100 per pay period x 100% violation rate = \$571,700.00 for rest break violations;
- b. 5,717 pay periods x \$100 per pay period x 61% violation rate = \$348,737.00 for meal period violations;
- c. 5,717 pay periods x \$100 per pay period x 100% violation rate (for failure to pay prevailing wages and for all hours worked) = \$571,700.00 for unpaid wages;
- d. 5,717 pay periods x \$100 per pay period x 100% violation rate = \$571,700.00 for wage statement penalties and;
- e. 5,717 pay periods x \$100 per pay period x 50% violate rate= \$285,850.00 for unreimbursed business expenses.

Id. Defendant raised a number of arguments during settlement negotiations and provided evidence that could have defeated Plaintiffs' claims. *Id.* at ¶ 14. For example, Defendant argued that only a small amount of employees were involved in public work projects and that it did pay some prevailing wages to these employees, thus limiting the exposure. *Id.* Further, Defendant argued that it paid for all hours worked, and that employees signed attestations to confirm the accuracy of their hours worked. *Id.* Moreover, Plaintiffs alleged Defendant failed to reimburse necessary business expenses by requiring employees to use personal phones for work-related purposes. *Id.* However, Defendant responded by stating there was no requirement to use personal cell phones, and that employees only did so out of convenience for themselves. *Id.* Regarding meal period violations, Plaintiffs argued that Defendant's records reflect a violation rate of at least 61%, yet Defendant had failed to pay any premiums for the violations. *Id.* Defendant responded by citing policy documents that allegedly authorized compliant meal periods and argued that employees

1 could, and often did, waive their meal periods via written waivers. *Id.* Plaintiffs also argued that
2 Defendant failed to permit rest breaks, but Defendant again cited its compliant policies and stated
3 that employees could, and often did, waive their rest breaks as well. *Id.*

4 Another crucial factor in evaluating the value of a PAGA-only case is that all PAGA
5 awards are discretionary and can be reduced by the Court. Loos Decl., ¶ 17. Under Labor Code §
6 2699(e)(2), the Court can reduce the PAGA penalties “if, based on the facts and circumstances of
7 the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive,
8 or confiscatory.” In other words, were this matter to go to trial, any award granted would be at the
9 discretion of the Court. *Id.* In settling this case, Plaintiffs recognize that, although they believe
10 there would be no persuasive grounds to reduce the penalties, the Court could determine otherwise
11 and significantly reduce the PAGA penalties. *Id.* The wide range of potential recovery and the
12 additional delays and risks of trial justified settling for a reasonable amount of recovery. *Id.*

13 **VI. CONCLUSION**

14 For the foregoing reasons, Plaintiffs respectfully request the Court approve the proposed
15 settlement pursuant to PAGA in this Action.

16 Dated: January 24, 2025

AEGIS LAW FIRM, PC

18 By _____



19 Jamie Loos
20 Attorneys for Plaintiff William Sandoval