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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

ALICIA ESQUIVEL GERLETTE, as an
individual and on behalf of all others similarly
situated,

Plaintiff,

vs.

ALTMAN SPECIALTY PLANTS, LLC, a
California Limited Liability Company; and
DOES 1 through 100,

Defendants.

Case No. 30-2023-01324651-CU-OE-CXC

*[Assigned for all purposes to the Hon. Layne
H. Melzer, Dept. CX102]*

**PLAINTIFF'S SUPPLEMENTAL BRIEF
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT**

Date: January 15, 2026
Time: 2:00 p.m.
Dept.: CX102

Action Filed: May 10, 2023
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 Plaintiff Alicia Esquivel Gerlette (“Plaintiff”) hereby submits the following Supplemental
3 Brief in Support of Motion for Preliminary Approval of Class and PAGA Action Settlement in
4 response to the questions posed by this Court in its November 13, 2025, Tentative Ruling
5 continuing the hearing on Plaintiff’s Preliminary Approval Motion (the “Tentative Ruling”). *See*
6 Declaration of Andrew J. Rowbotham (“Rowbotham Decl.”), **Exhibit A** (Tentative Ruling). After
7 reviewing the Tentative Ruling, Plaintiff and Defendant Altman Specialty Plants, LLC
8 (“Defendant”) (collectively, the “Parties”), met and conferred regarding the issues raised by the
9 Court, and address each of the issues below, following the same order in which the issues were
10 posed in the Tentative Ruling.

11 After meeting and conferring, the Parties have amended the Stipulation of Settlement
12 (“Amended Settlement Agreement”). Attached as **Exhibit B** to the Rowbotham Decl. is a redlined
13 version of the Parties’ Amended Settlement Agreement. Attached as **Exhibit C** is a clean copy of
14 the Parties’ fully executed Amended Settlement Agreement. Attached as **Exhibit D** to the
15 Rowbotham Decl. is a redlined version of the Parties’ revised Notice of Pendency of Class Action
16 and Proposed Settlement (“Notice Packet”). Attached as **Exhibit E** to the Rowbotham Decl. is a
17 clean copy of the Parties’ revised Notice Packet with all proposed edits incorporated therein.
18 Further, attached as **Exhibit F** to the Rowbotham Decl. is a redlined version of Plaintiff’s
19 Amended [Proposed] Order Granting Preliminary Approval of Class and PAGA Action
20 Settlement, reflecting all revisions made to the [Proposed] Order pursuant to the Court’s Tentative
21 Ruling. Lodged concurrently herewith and attached as **Exhibit G** to the Rowbotham Decl. is a
22 clean copy of Plaintiff’s Amended [Proposed] Order Granting Preliminary Approval of Class and
23 PAGA Action Settlement, with all proposed edits incorporated therein. Finally, Plaintiff has
24 submitted the revised Amended Settlement Agreement, the revised Notice Packet, the revised
25 Amended [Proposed] Order, and this supplemental briefing and all documents and declarations
26 filed in support hereof, to the California Labor and Workforce Development Agency (“LWDA”).
27 *See* Rowbotham Decl., **Exhibit H** (LWDA Submission); Proof of Service.

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1 **(1) Fully Executed and Text Searchable Settlement**

2 *“A fully executed copy of the Settlement Agreement must be submitted.”*

3 *“Plaintiff also failed to provide the court with a fully text-searchable settlement*
4 *agreement in compliance with CRC 2.256(b)(3).”*

5 Plaintiff apologizes for filing the incorrect version of the Settlement Agreement in her
6 initial Motion for Preliminary Approval. Plaintiff has ensured that a fully executed and text-
7 searchable version of the Settlement Agreement has been submitted along with this Supplemental
8 Brief. Rowbotham Decl., ¶ 5, **Exhibit C**.

9 **(2) Order of Settlement Fund Distributions**

10 *“The Settlement Agreement does not specify the order of distributions, but Class*
11 *Members, Aggrieved Employees, and the LWDA should be paid first, followed by Plaintiff’s*
12 *enhancement, administration costs, attorneys’ fees and litigation costs.”*

13 The Parties have amended the Settlement Agreement to clarify the order of distributions
14 from the Maximum Settlement Amount. Rowbotham Decl., ¶ 5, **Exhibit C**, ¶ 4.D. The Parties
15 inserted a paragraph specifying that the Settlement Administrator shall first distribute payments
16 from the Maximum Settlement Amount to the Settlement Class, PAGA Aggrieved Employees,
17 and the LWDA. *Id.* Following this initial distribution, the Settlement Administrator shall issue
18 payments for Plaintiff’s Enhancement Award, settlement administration costs, attorneys’ fees and
19 litigation costs. *Id.* The Parties have also updated the Notice Packet to specify the order of
20 distributions from the Maximum Settlement Amount. *Id.*, **Exhibit E**, at p. 4.

21 **(3) Escalator Clause**

22 *“The escalator clause provides that if the actual number of total workweeks exceeds the*
23 *estimated total of 12,395 by more than 10% (or 13,634), and/or the actual number of aggregate*
24 *pay periods exceeds the estimated total of 162,478 by more than 10% (or 178,725), Defendant*
25 *will increase the GSA pro rata for each workweek above 13,634 workweeks or each pay period*
26 *above 178,725, whichever is the greater percentage increase. (Settlement, ¶ 6.2.) But if both*
27 *workweeks and pay periods increase by more than 10%, instead of just increasing the GSA pro*
28 *rata for either greater workweeks or greater pay periods depending on which has the greater*

percentage increase, Defendant should increase the GSA pro rata for both workweeks and pay periods so that there is sufficient funding for both Class Members based on increased workweeks and Aggrieved Employees based on increased pay periods, not just one or the other.”

The Parties have amended the Settlement Agreement to specify that, should the escalator clause trigger, the Maximum Settlement Amount will be increased on a pro rata basis for both workweeks and pay periods. Rowbotham Decl., ¶ 5, Exhibit C, ¶ 3.F.

(4) Sick Leave Violation and Timely Wages Valuation Analysis

“Valuation analysis is incomplete in that the moving papers do not address the sick leave violation claims and the claims for failure to pay timely wages twice per month.”

The Court noted that Plaintiff’s valuation analysis did not address the paid sick leave theory and the twice-monthly pay timing theory. The twice-monthly pay timing theory arises under Labor Code § 204 and is enforced through Labor Code § 210. An employee may either recover the Labor Code § 210 statutory penalty through Labor Code § 98 or seek the civil penalty under PAGA, but not both for the same violation. *See* Labor Code § 210(b)-(c).

As to paid sick leave, Plaintiff’s theory was that Defendant underpaid sick pay by failing to include Incentive Pay in the rate used to calculate sick pay, resulting in sick pay being paid at less than the regular rate of pay when Incentive Pay was earned in the same pay period. *See* Labor Code § 246. The paid sick leave theory is not enforceable in an independent civil action for statutory penalties. *See Iloff v. Lapaille* (2025) 18 Cal.5th 551, 573 (“Without a private right of action, employees are left with the Berman process as their sole avenue for vindicating their rights under the Paid Sick Leave law.”). However, civil penalties remain recoverable under PAGA. *See Wood v. Kaiser Foundation Hospitals* (2023) 88 Cal.App.5th 742, 764 (“[S]ection 248.5, subdivision (e) does not preclude an aggrieved employee from bringing a PAGA action for violations of the Act.”)

As to pay timing, Plaintiff alleged Defendant did not always pay wages at least twice per calendar month, in violation of Labor Code § 204. During the pre-settlement investigation, Class Counsel reviewed payroll data reflecting a regular biweekly pay schedule. Labor Code § 204 expressly recognizes that a weekly, biweekly, or semimonthly payroll satisfies the statute, so long

as wages are paid no more than seven calendar days after the close of the payroll period. Class Counsel therefore concluded that this claim was unlikely to be meritorious.

For valuation purposes, Plaintiff's PAGA exposure estimate assumed at least one Labor Code violation per employee pay period during the PAGA Period and did not stack penalties by claim. Under that approach, any Labor Code § 204 or paid sick leave violations did not materially affect the valuation analysis or the settlement's overall value. In addition, Incentive Pay was not earned in every pay period and paid sick leave usage was intermittent, which further limited the frequency and magnitude of any paid sick leave underpayment theory as compared to the other alleged violations.

(5) Requests for Exclusion, Objections, and Workweek Disputes; Fax and Email

"Class Members must have the option of submitting Requests for Exclusion, Objections, and Workweek Disputes by fax and email in addition to by mail."

The Parties have amended the Settlement Agreement to include that Settlement Class members who wish to submit Requests for Exclusion, Objections, and Workweek Disputes may do so by fax and email in addition to mail. Rowbotham Decl., ¶ 5, **Exhibit C**, ¶¶ 9.D.i, 9.E, 9.F. The Parties have likewise updated the Notice Packet to indicate that Requests for Exclusion, Objections, and Workweek Disputes may be submitted by fax and email in addition to mail. *Id.*, **Exhibit E**, at p. 5.

(6) Notice Remailing Response Deadline

"The deadline for responses to the Class Notice (i.e., opt outs, objections, and workweek disputes) after remailing is too short and should be at least 30 days after remailing."

The Parties have amended the Settlement Agreement to provide that Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional thirty (30) calendar days after the re-mailing date to opt-out, object, or dispute their Individual Settlement Payment. Rowbotham Decl., ¶ 5, **Exhibit C**, ¶ 9.C.

1 **(7) Release Effective Dates**

2 *“The Settlement Agreement states in the paragraph about releases that “[t]he Settlement*
3 *shall become effective on the date upon which the Court signs and makes accessible to Defendant*
4 *(whether via mailed notice or electronically on the Court’s docket) an order granting final*
5 *approval of the settlement agreement (‘Effective Date’).” (Settlement, ¶ 2.C.) This suggests that*
6 *the releases are effective on the date of final approval. However, the Settlement Agreement also*
7 *provides that Defendant will pay the GSA 30 days after the Effective Date. This suggests that the*
8 *releases are effective before Defendant funds the GSA. The releases should be effective after only*
9 *after Defendant funds the GSA.”*

10 The Parties have amended the Settlement Agreement to specify that the Settlement and
11 Releases shall become effective on the date upon which Defendant fully funds the Maximum
12 Settlement Amount. Rowbotham Decl., ¶ 5, **Exhibit C**, ¶ 2.C. Defendant shall fully fund the
13 Maximum Settlement Amount thirty (30) calendar days after the Court signs and makes
14 accessible to Defendant (whether via mailed notice or electronically on the Court’s docket) an
15 order granting final approval of the Settlement Agreement. *Id.*, ¶ 3.B. The Parties have likewise
16 updated the Notice Packet to indicate that the Releases shall not be effective until the date upon
17 which Defendant fully funds the Maximum Settlement Amount. *Id.*, **Exhibit E**, at p. 4.

18 **(8) Pending Cases Involving Similar Claims**

19 *“Class Counsel must attest to whether there are any concurrent pending cases involving*
20 *similar claims against Defendant, or confirm that there is none.”*

21 Class Counsel is aware of two other pending actions involving similar allegations against
22 Defendant: (1) *Angel F. Perez Luis v. Altman Specialty Plants, LLC, et al.*, San Diego County
23 Superior Court Case No. 25CU028646C, filed June 2, 2025, an action asserting individual wage-
24 and-hour claims, PAGA claims, and wrongful termination-related claims; and (2) *Oscar de La*
25 *Paz Garcia v. Altman Specialty Plants, LLC*, Riverside County Superior Court Case No.
26 CVRI2506352, filed November 4, 2025, a putative class action asserting wage-and-hour claims,
27 including overtime, minimum wages, meal period and rest period claims, pay timing claims,
28 waiting time claims, wage statement and recordkeeping claims, and UCL claims.

1 **(9) Class Notice; Formatting and Typographical Errors**

2 *“The following sentence on p. 1 should be bolded: “Because your rights may be affected*
3 *by the Settlement, it is important that you read this Notice carefully.””*

4 *“The correct department number should be listed throughout the notice.”*

5 Plaintiff apologizes for the erroneous typo in the Notice Packet that the Court identified.
6 The Parties have revised the notice packet to put the sentence identified by the Court in bold and
7 have corrected the department number throughout the notice. Rowbotham Decl., ¶ 6, **Exhibit E**,
8 at pp. 1, 6.

9 **(10) Class Notice; Final Determination on Workweek Disputes**

10 *“In the section on “Disputing Information in Notice,” the notice states that the settlement*
11 *administrator will make the final and binding decision on workweek disputes. This contradicts*
12 *the settlement agreement, which provides at ¶ 9.F. that the Court will make the final*
13 *determination.”*

14 The Parties have revised the Notice Packet to align with the provision of the Settlement
15 Agreement that the Court will make the final determination regarding workweek disputes.
16 Rowbotham Decl., ¶ 6, **Exhibit E**, p. 5.

17 The revised Notice Packet now states: “Your dispute must be mailed, faxed, or emailed
18 to the Settlement Administrator and postmarked no later than <<RESPONSE DEADLINE>>.”
19 The Settlement Administrator may contact you for clarification and will consult with both parties
20 to determine whether an adjustment is appropriate. If no agreement is reached, the *Parties* will
21 submit your dispute *to the Court for a* final and binding decision regarding your eligibility and
22 payment amount.” *Id.*

23 **(11) Class Notice; In-Person Objections**

24 *“As worded, the notice does not make it clear that Class Members may raise objections*
25 *by appearing at the Final Approval Hearing even if they have not submitted a written objection*
26 *to the administrator.”*

1 The Parties have revised the Notice Packet to clarify that Class Members may raise
2 objections by appearing at the Final Approval Hearing even if they have not submitted a written
3 objection to the administrator. Rowbotham Decl., ¶ 6, **Exhibit E**, p. 5.

4 **(12) Class Notice; Administrator Website URL**

5 *“In addition to class counsel’s contact information and the court’s URL, the notice should*
6 *also provide a URL to a website, maintained by the settlement administrator or plaintiff’s counsel,*
7 *that has links to the notice and key case documents, including the settlement agreement.”*

8 The Parties have revised the Notice Packet to provide the URL to a website, maintained
9 by the Settlement Administrator that has links to the Notice Packet and key case documents,
10 including the Settlement Agreement. Rowbotham Decl., ¶ 6, **Exhibit E**, p. 6.

11 **(13) Proposed Order; Caption**

12 *“Attorney information must be deleted from the caption page.”*

13 *“The date for the preliminary approval hearing should be updated to reference the*
14 *continued hearing date.”*

15 The Parties have revised the caption page of the [Proposed] Order to remove the attorney
16 information and updated the hearing date for the continued Hearing on Plaintiff’s Motion for
17 Preliminary Approval throughout. Rowbotham Decl., ¶ 7, **Exhibit G**.

18 **(14) Proposed Order; Correct Title of Settlement Agreement**

19 *“The correct title of the settlement agreement should be used.”*

20 The Parties have revised the [Proposed] Order to correct the title of the Amended
21 Stipulation of Settlement. Rowbotham Decl., ¶ 7, **Exhibit G**, at p. 1.

22 **(15) Proposed Order; Reference to Declarations**

23 *“The proposed order should reference by name and ROA number all the declaration(s)*
24 *to which the fully executed settlement agreement and any amendments thereto are attached.”*

25 *“The proposed order should reference by name and ROA number all the declaration(s)*
26 *to which the revised class notice is attached.”*

1 The Parties have revised the [Proposed] Order to identify by name and ROA number the
2 Declaration of Andrew J. Rowbotham to which the fully executed Amended Stipulation of
3 Settlement and Revised Class Notice are attached. Rowbotham Decl., ¶ 7, **Exhibit G**, at p. 1, ¶ 8.

4 **(16) Proposed Order; Specify Settlement Fund Allocations**

5 *“The proposed order should specify the amounts proposed to be allocated from the GSA*
6 *to attorneys’ fees, litigation costs, enhancement(s), administration costs, and PAGA penalties*
7 *(including to the LWDA and to Aggrieved Employees).”*

8 The Parties have revised the [Proposed] Order to specify the amounts proposed to be
9 allocated from the Maximum Settlement Amount to attorneys’ fees, litigation costs, Plaintiff’s
10 Class Representative Enhancement Award, settlement administration costs, and PAGA penalties.
11 Rowbotham Decl., ¶ 7, **Exhibit G**, at ¶ 3.

12 **(17) Proposed Order; Definitions of PAGA Aggrieve Employees and PAGA**
13 **Period**

14 *“The proposed order should also include the definitions for PAGA Aggrieved Employees*
15 *and the PAGA Period.”*

16 The Parties have revised the [Proposed] Order to include the definitions for PAGA
17 Aggrieved Employees and the PAGA Period. Rowbotham Decl., ¶ 7, **Exhibit G**, at ¶ 5.

18 **(18) Proposed Order; Implementation Schedule**

19 *“Counsel should not leave blank but should instead propose a realistic Final Approval*
20 *hearing date, taking into account the deadlines associated with mailing and remailing the notice*
21 *and responses thereto and the documentation required to support final approval (including but*
22 *not limited to time records or a summary of time spent by Class Counsel so as to enable the Court*
23 *to evaluate the lodestar and attorneys’ fee request; detailed litigation cost breakdowns; an*
24 *Administrator declaration and invoice; and Plaintiff’s declaration to support the enhancement*
25 *request). The Court usually sets these hearings at least 4 months after preliminary approval. All*
26 *supporting papers must also be filed at least sixteen (16) court days before the Final Approval*
27 *hearing date.”*

1 The Parties have revised the [Proposed] Order to include a realistic Final Approval hearing
2 date of June 11, 2026 at 2:00 p.m. and have revised the proposed implementation schedule
3 accordingly (assuming the Court grants preliminary approval of the Settlement Agreement on
4 January 15, 2026). Rowbotham Decl., ¶ 7, **Exhibit G**, at ¶¶ 14, 17. The Parties have additionally
5 revised the [Proposed] Order to include the Court's requirement that all papers filed in support of
6 Plaintiff's Motion for Final Approval be filed at least sixteen (16) court days prior to the Final
7 Approval hearing date (which is May 19, 2026 based on the June 11, 2026 hearing). *Id.*, ¶ 16.

8 **(19) Proposed Order; Court's Continuing Jurisdiction**

9 *"The proposed order should specify the Court's continuing jurisdiction is pursuant to*
10 *both California Code of Civil Procedure section 664.6 and California Rules of Court, rule*
11 *3.769(h)."*

12 The Parties have revised the [Proposed] Order to specify that the Court's continuing
13 jurisdiction is pursuant to both California Code of Civil Procedure section 664.6 and California
14 Rules of Court, rule 3.769(h). Rowbotham Decl., ¶ 7, **Exhibit G**, at ¶ 14.

15
16 Dated: December 22, 2025

Respectfully submitted,
HAINES LAW GROUP, APC

17
18 By:



Andrew J. Rowbotham
Attorneys for Plaintiff