

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Lilit Ter-Astvatsatryan (SBN 320389)
E-mail: lilit@moonlawgroup.com
Nichelle Christopherson (SBN 349221)
E-mail: nchristopherson@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, CA 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff JUAN MARCHELL KING

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

JUAN MARCHELL KING, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

LOS ANGELES REGIONAL FOOD BANK, a
California corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 23STCV17761

*[Assigned for all purposes to the Honorable
Lawrence P. Riff, Dept. 7]*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

*[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities, and the
Declarations of Kane Moon and Plaintiff in
Support of Motion]*

PRELIMINARY APPROVAL HEARING:

Date: November 22, 2024

Time: 10:00 am

Dept.: 7

Action Filed: July 27, 2023

FAC Filed: October 31, 2023

Trial Date: Not Set

The Court, having considered Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement, the accompanying Memorandum of Points and Authorities, the supporting Declarations of Kane Moon and Plaintiff Juan Marchell King (“Plaintiff”), and good cause appearing,

1. The Court grants preliminary approval of the proposed Settlement and the Settlement Class based upon the terms set forth in the Class Action and PAGA Settlement Agreement and Class Notice (the “Settlement”) attached as **Exhibit 1** to the Declaration of Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement. The Court finds, on a preliminary basis, that the Settlement appears to be fair, adequate, and reasonable, and thus, meets the requirements for preliminary approval. The Court also preliminarily finds that the terms of the Settlement appear to be within the range of possible approval, pursuant to California Code of Civil Procedure section 382 and applicable law.

2. The Settlement falls within the range of reasonableness of a settlement which could ultimately be given final approval by this Court, and appears to be presumptively valid, subject only to any objections that may be raised before and/or at the Final Approval Hearing and final approval by this Court. The Court notes that Defendant Los Angeles Regional Food Bank (“Defendant”) (together with Plaintiff, the “Parties”) agree to create a common, non-reversionary gross fund of \$591,000.00 (the “Gross Settlement Amount”), in addition to any and all of Defendant’s employer payroll taxes owed on the wage portions of Individual Class Payments, to cover (a) Individual Class Payments to Participating Class Members; (b) Administration Expenses Payment of up to \$7,000.00; (c) PAGA Penalties of \$30,000.00 for settlement of claims for civil penalties under the Private Attorneys General Act, Labor Code sections 2698, *et seq.* (“PAGA”), and distributed as 25% (\$7,500.00) to Aggrieved Employees (“Individual PAGA Payments”) and 75% (\$22,500.00) to the California Labor and Workforce Development Agency (the “LWDA”) (“LWDA PAGA Payment”); (d) the Class Representative Service Payment of up to \$10,000.00 to Plaintiff; (e) the Class Counsel Fees Payment of not more than thirty-three and one third percent

(33.33%) of the Gross Settlement Amount (currently estimated to be \$196,980.30); and (f) the Class Counsel Litigation Expenses Payment for reimbursement of litigation expenses up to \$25,000.00 (currently calculated to be \$17,516.66).

3. The Court finds on a preliminary basis that: (1) the settlement amount is fair and reasonable to the Class Members when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues, and potential appeals; (2) significant informal discovery, investigation, research, and litigation have been conducted such that counsel for the respective Parties at this time are able to reasonably evaluate their respective positions; (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented by the further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of serious, informed, adversarial, and arms-length negotiations between the Parties. Accordingly, the Court preliminarily finds that the Settlement was entered into in good faith and meets the requirements for preliminary approval.

4. A final approval hearing on the question of whether the proposed Settlement, Class Counsel's attorneys' fees and costs, Settlement Administration Costs, the Individual and LWDA PAGA Payment, and the Class Representative Service Award should be finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set in accordance with the Implementation Schedule set forth below.

5. The Court provisionally certifies, for settlement purposes only, the following class ("Class Members"): All current and former non-exempt, hourly paid employees who worked for Defendant Los Angeles Regional Food Bank in California during the Class Period. The "Class Period" means the period from July 27, 2019 to September 1, 2024. Excluded from the Class will be any Class Member who opts out of the Class portion of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

6. Further, the Court provisionally certifies, for settlement purposes only, the following "Aggrieved Employees": all current and former non-exempt, hourly paid employees who worked for Defendant Los Angeles Regional Food Bank in California during the PAGA Period. The "PAGA Period" means the period from July 27, 2022 to September 1, 2024.

1 7. Release of Claims. Effective on the date when Defendant fully funds the entire Gross
2 Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
3 Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
4 follows:

5 1.1. Released Parties. “Released Parties” means: Defendant, including each of its past,
6 present, and future parent companies, subsidiaries, affiliated and related companies,
7 successors, employees, and predecessors, as well as their respective past, present, and future
8 owners, officers, directors, shareholders, employees, managers, agents, principals,
9 representatives, administrators, accountants, auditors, consultants, fiduciaries, insurers and
10 reinsurers, company-sponsored employee benefit plans, and attorneys, both individually and
11 in their official capacities, as well as all persons acting by, through, under, or in concert with
12 any of these persons or entities.

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

27 b. Release by Participating Class Members. Upon remittance of the Gross Settlement
28 Amount by Defendant to the Settlement Administrator and entry of Judgment by

the Court, the Settlement Class Members, other than those who timely submit valid requests for exclusion, will fully and finally release and discharge Defendant and all Released Parties from any and all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in Plaintiff's First Amended Complaint, or any subsequent amended complaint including but not limited to claims for: (i) failure to pay minimum wages in violation of Labor Code §§ 204, 1194, 1194.2 and 1197; (ii) failure to pay overtime compensation in violation of Labor Code §§ 1194 and 1198; (iii) failure to provide meal periods in violation of Labor Code §§ 226.7 and 512 or failure to provide adequate compensation in lieu of meal periods; (iv) failure to authorize and permit rest breaks in violation of Labor Code §§ 226.7; (v) failure to pay the correct rate of pay for paid sick leave; (vi) failure to indemnify necessary business expenses in violation of Labor Code §§ 2802; (vii) failure to timely pay final wages at termination in violation of Labor Code §§ 201-203; (viii) failure to provide accurate itemized wage statements in violation of Labor Code § 226; (ix) unfair business practices in violation of Cal. Business & Professions Code §§ 17200 (collectively, the "Released Claims"). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California's Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any such Released Claims if raised in the future.

- c. Release by Class Members Who Are Aggrieved Employees. Upon remittance of the Gross Settlement Amount by Defendant to the Settlement Administrator and entry

1 of Judgment by the Court, PAGA Class Members, whether they timely submit valid
2 requests for exclusion from the Settlement Class or not, will fully and finally
3 release and discharge Defendant and all Released Parties from any and all claims,
4 causes of action, demands, damages, or liabilities arising at any time during the
5 PAGA Period that were pled or which could have been pled based on the factual
6 allegations contained in Plaintiff's First Amended Complaint (collectively, the
7 "PAGA Released Claims").

8 8. The Court, for purposes of this Preliminary Approval Order, hereby refers to and
9 adopts all terms and definitions as set forth in the Settlement.

10 9. The Court finds, for settlement purposes only, that the Settlement Class meets the
11 requirements for certification under California Code of Civil Procedure section 382 in that: (1)
12 the Settlement Class is so numerous that joinder is impractical; (2) there are questions of law and
13 fact that are common, or of general interest, to all Settlement Class Members, which predominate
14 over individual issues; (3) Plaintiff's claims are typical of the claims of the Settlement Class
15 Members; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests of the
16 Settlement Class Members; and (5) a class action is superior to other available methods for the
17 fair and efficient adjudication of the controversy.

18 10. The Court appoints, for settlement purposes only, Plaintiff as the "Class
19 Representative." The Court approves, on a preliminary basis, payment of a Class Representative
20 Service Award to Plaintiff of up to \$10,000.00 from the Gross Settlement Amount, in addition to
21 the amount he is eligible to receive as a Class Member, for his significant contributions and
22 participation throughout all stages of the litigation, for the risks and duties attendant to his role as
23 the Class Representative, and for his general release of claims against the Released Parties. Should
24 the Court approve a Class Representative Service Payment less than the amount requested, the
25 Administrator will retain the remainder in the Net Settlement Amount.

26 11. The Court appoints, for settlement purposes only, Plaintiff's Counsel Moon Law
27 Group, PC as "Class Counsel." The Court approves, on a preliminary basis, Class Counsel's ability
28 to request attorneys' fees of up to thirty-three and one third percent (33.33%) of the Gross

1 Settlement Amount (currently estimated to be \$196,980.30), as well as reimbursement for actual
2 costs not to exceed \$25,000.00 (currently calculated at \$17,516.66), payable from the Gross
3 Settlement Amount. Should the Court approve a Class Counsel Fees Payment and/or a Class
4 Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will
5 allocate the remainder to the Net Settlement Amount.

6 12. The Court appoints Simpluris – Legal Administration Services (“Simpluris”) as
7 the “Settlement Administrator” with payment, payable from the Gross Settlement Amount, for
8 administration costs not to exceed \$7,000.00, except upon a showing of good cause and as
9 approved by the Court. To the extent administration costs are less or the Court approves payment
10 less than \$7,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

11 13. The Settlement Administrator shall perform services and duties as provided for in
12 the Settlement, including, but not limited to, mailing the Class Notice via first-class U.S. Mail, in
13 English and Spanish, to Class Members. Class Members shall not be required to submit a claim
14 form to receive individual settlement payments. The Administrator will send checks for Individual
15 PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who
16 qualify as Aggrieved Employees.

17 14. The Court approves the transmission of any uncashed settlement checks to the Cy
18 Pres Recipient, Legal Aid at Work, pursuant to California Code of Civil Procedure section 384.

19 15. The Court approves the Class Notice in substantially similar form and content as
20 is attached to the Settlement as **Exhibit A**. The Court finds, on a preliminary basis, that the plan
21 for distribution of the Class Notice satisfies due process, provides the best notice practicable under
22 the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

23 16. The obligations set forth in the Settlement are deemed part of this Preliminary
24 Approval Order, and the Parties and Settlement Administrator are ordered to carry out the
25 Settlement according to its terms and provisions.

26 17. The Court orders the following Implementation Schedule:
27
28

Defendant to provide the Administrator with the Class Data	Within 21 calendar days after entry of this Preliminary Approval Order
Administrator to mail the Class Notice	Within 14 calendar days after Defendant funds the Gross Settlement Amount
Response Deadline for Class Members	Within 60 calendar days after the Administrator mails the Class Notice (extended by 14 calendar days for any re-mailed Class Notices)
Last Day to File a Motion For Final Settlement Approval	At least 16 court days before the Final Approval Hearing:
Final Approval Hearing	

18. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to Class Members.

19. The Settlement is preliminarily approved but is not an admission by Defendant of the validity of any claims in this class action, or of any wrongdoing by Defendant or of any violation of law. Neither the Settlement nor any related document shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding other than as may be necessary to consummate or enforce the Settlement.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE LAWRENCE P. RIFF
Judge of the Superior Court, Los Angeles County