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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

ALEXA ROS COLEMAN, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

LL FLOORING, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: BCV-23-103493

[*Assigned to Hon. David Zulfa, Division J*]

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFF'S MOTION FOR
SETTLEMENT APPROVAL OF CLAIMS
BROUGHT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT AND
REASONABLE ATTORNEYS' FEES, COSTS,
AND ENHANCEMENT AWARD**

Date: March 18, 2024
Time: 8:30 a.m.
Division: J, 1215 Truxton Ave,
Bakersfield, CA 93301

Complaint Filed: March 4, 2020
Trial Date: None Set

LAW OFFICES OF RAPHAEL A. KATRI, APC

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Attorneys for Plaintiff
ALEXA ROS COLEMAN

1 This matter came on regularly for hearing before this Court on March 18, 2024, at 8:30 a.m.
2 Having considered the Parties' PAGA Settlement and Release Agreement ("Settlement"), the
3 documents and evidence presented in support thereof, and recognizing the disputed factual and legal
4 issues involved in this case, the risks of further prosecution, protracted litigation, and costs and
5 expenses associated therewith, the substantial benefits to be received by the State of California and the
6 Aggrieved Employees pursuant to the Settlement, the fair, reasonable, and adequate nature of the
7 settlement obtained as a result of good faith arm's-length negotiations between the parties, the Court
8 hereby makes a final ruling that the settlement is approved pursuant to Labor Code § 2699(l). Good
9 cause appearing therefor, the Court hereby GRANTS Plaintiff's Motion for Settlement Approval of
10 Claims brought under the Private Attorneys General Act and Reasonable Attorneys' Fees, Costs, and
11 Enhancement Award and ORDERS as follows:

12 1. The "Aggrieved Employees" shall be defined as:

13 All current and former hourly, non-exempt employees of Defendant LL
14 Flooring, Inc. who worked in California at any time from August 30, 2022
through February 6, 2024.

15 2. The "PAGA Period" means the time period from August 30, 2022 through February 6,
16 2024.¹

17 3. The Court hereby approves the Settlement as set forth in the Settlement as fair,
18 reasonable, and adequate, and directs the parties to effectuate the Settlement according to the terms of
19 the Settlement.

20 4. The Court orders that LL Flooring, Inc. ("LL Flooring" or "Defendant") shall deposit
21 the Gross Settlement Amount of Three Hundred Ninety Thousand Dollars and Zero Cents

22 //

23
24 ¹ Defendant represents that there are an estimated 13,480 pay periods worked by the Aggrieved
25 Employees during the PAGA Period of August 30, 2022 through February 6, 2024. If the number of
26 pay periods worked by the Aggrieved Employees during the PAGA period is more than 10% greater
27 than this figure, Defendant agrees to increase the Gross Settlement Amount on a proportional basis
equal to the percentage increase in the number of pay periods worked by the PAGA Period (i.e., if there
was an 11% increase in the number pay periods during the PAGA Period, Defendant agrees to increase
the Gross Settlement Amount by 11%). See Settlement, ¶ III.3.

1 (\$390,000.00) to the Settlement Administrator within thirty (30) calendar days of Court approval of
2 the settlement and the Court's Final Judgment becoming Final.

3 5. The Court hereby approves, as to form and content, the Notice of PAGA Settlement and
4 Release of Claims attached to the Settlement as **Exhibit B**, and attached to this Order and Judgment as
5 **Exhibit A**.

6 6. The Court hereby appoints Phoenix Settlement Administrators as Settlement
7 Administrator.

8 7. Within ten (10) business days after the Effective Date of this Order is signed by the
9 Court, Defendant shall provide the Settlement Administrator with information for Aggrieved
10 Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that
11 will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each
12 Aggrieved Employee's full name, last known mailing address, last known telephone number, start
13 date(s) of employment, end date(s) of employment, total pay periods worked, and Social Security
14 numbers. The list shall also include the sum total of all pay periods worked by Aggrieved Employees
15 during the PAGA Period.

16 8. Within seven (7) business days of receiving the Aggrieved Employees' information
17 from Defendants, the Settlement Administrator will circulate to counsel for all Parties an anonymized
18 spreadsheet containing the Individual Settlement Payments to each Aggrieved Employee and the data
19 used to calculate said payments. The Settlement Administrator shall also determine whether the
20 Escalator Clause in Section III.3 of the Settlement has been triggered. The Settlement Administrator
21 shall obtain approval from all counsel for all Parties of the calculations before mailing Individual
22 Settlement Payments. Within two (2) business days of receiving approval from counsel of the payment
23 calculations, Phoenix Settlement Administrators is directed to mail the Individual Settlement Payments
24 and the Notice of Settlement to the Aggrieved Employees. A true and correct copy of the proposed
25 Notice agreed upon by the Parties to be mailed to the Aggrieved Employees is attached hereto as
26 **Exhibit A**.

9. The Court finds that attorneys' fees in the total amount of \$130,000.00 for Haines Law Group, APC, Lidman Law, APC and Law Offices of Raphael A. Katri (collectively, "Plaintiff's Counsel"), and reimbursement of litigation costs of \$6,100.65 to Plaintiff's Counsel are fair, reasonable, and adequate, and orders that the Settlement Administrator distribute these payments to Plaintiff's Counsel as provided for in the Settlement. Within two (2) business days of receiving approval from counsel of the payment calculations as provided for in Paragraph 8 above, Phoenix Settlement Administrators is directed to distribute to Plaintiff's counsel the Court-approved attorneys' fees and costs.

10. The Court orders that the Settlement Administrator shall be paid \$4,000.00 for all of its work done and to be done until the completion of this matter and finds that sum appropriate.

11. The Court finds that enhancement award of \$7,500.00 to Plaintiff Alexa Ros Coleman, is fair and reasonable in recognition of the unique contributions she has made, the risks she undertook on behalf of the Aggrieved Employees and the State of California. Within two (2) business days of receiving approval from counsel of the payment calculations as provided for in Paragraph 8 above, Phoenix Settlement Administrators is directed to distribute to Plaintiff the Court-approved enhancement award.

12. The Court finds that the amount from the Gross Settlement Amount remaining after deductions for: (i) Plaintiff's Counsel's attorneys' fees and costs, (ii) enhancement award to Plaintiff; and (iii) Settlement Administrator fees ("Net Settlement Amount") of \$242,399.35 shall be distributed as follows: 75% or \$181,799.51 shall to be paid to the California Labor and Workforce Development Agency ("LWDA") and 25% or \$60,599.84 to be distributed to the 330 Aggrieved Employees *pro rata* based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period, as provided for in the Settlement. The Court finds that these amounts and the distribution formula as set forth in the Settlement is fair, adequate, and reasonable, and orders that payment be made to the LWDA and Aggrieved Employees in accordance with the terms of the Settlement.

1 13. The Court hereby approves the limited scope of the release as set forth in the Settlement.
2 Specifically, following entry of this Order and Final Judgment, Plaintiff, the State of California, and
3 all Aggrieved Employees shall and will fully and finally release Defendant and its former, present and
4 future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future
5 officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers,
6 agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants,
7 insurers, reinsurers, and/or legal representatives; and any individual and/or entity acting on behalf of
8 or concert with Defendant or which could be jointly liable with respect to this Action (hereinafter the
9 “Released Parties”) from and with respect to any and all claims, rights, demands, liabilities and causes
10 of action for civil penalties under the Labor Code and Private Attorneys General Act (“PAGA”), Labor
11 Code § 2698 et seq., against the Released Parties as pled, or could have been pled based on the facts
12 alleged, in the operative complaint in the Action and any future amendments to the operative complaint,
13 (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197,
14 and 1198, as well as applicable Wage Order(s)); (b) failure to pay all overtime wages (Labor Code
15 sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s)); (c) failure to provide meal
16 periods, or pay premium pay at the correct rate for non-compliant meal periods (Labor Code sections
17 226.7, 512 and 558, as well as applicable Wage Order(s)); (d) failure to authorize and permit rest periods,
18 or pay premium pay at the correct rate for non-compliant rest periods (Labor Code sections 226.7, 516
19 and 558, as well as applicable Wage Order(s) including); (e) failure to reimburse necessary business
20 expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s)); (f) failure to
21 provide accurate, itemized wage statements (Labor Code section 226 et seq.), (g) failure to provide and
22 pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure
23 to pay sick pay at the legal pay rate, failure to provide sufficient amount of sick leave and failure to
24 provide written notices itemizing available sick leave (Labor Code sections 246 and 248.5), and (i)
25 failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of
26 employment (Labor Code sections 201-203), as well as including any related claims for attorneys’ fees,
27
28

costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom (“PAGA Released Claims”).

14. In her capacity as a Private Attorney General or “aggrieved employee” acting on behalf of herself, the State of California, and Aggrieved Employees, and in consideration of the enhancement award awarded to her, upon the Effective Date of this Settlement, Plaintiff hereby releases Defendant and Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period. Moreover, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that upon approval of this Settlement by the Court, she is forever releasing and discharging all of her individual claims for civil penalties under the PAGA and that he therefore will no longer be an “aggrieved employee” under PAGA, and that, except to seek approval of the Settlement pursuant to California Labor Code section 2699(1), she will have no standing to act as a named or representative plaintiff in any action against Defendant or with any of the other Released Parties under PAGA based upon any event occurring prior to the date of execution of this Agreement. That is, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that she would be barred under claim and issue preclusion, to the fullest extent permissible, from bringing any subsequent administrative action, civil action, or arbitration under PAGA based upon any event occurring prior to the date of execution of the Settlement Agreement.

15. Unless otherwise set forth under the Settlement to the contrary, the Released Claims herein do not release the Released Parties from any underlying Labor Code violations upon which Plaintiff’s Cause of Action for PAGA is based.

16. Upon entry of this Final Order and Judgment, the Court permanently enjoins and forever bars Plaintiff and the Aggrieved Employees from instituting or prosecuting any action, claim, cause of action, and/or issue against the Released Persons which was and/or were resolved as part of the Settlement. Without affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction to enforce the terms of the Settlement.

17. Plaintiff shall file a declaration confirming the final distribution of funds on or before _____, 2024.

IT IS SO ORDERED.

Dated: _____, 2024

By: _____
Honorable David Zulfa
Judge of the Superior Court

EXHIBIT A

EXHIBIT A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Alexa Ros Coleman v. LL Flooring, Inc.
Kern County Superior Court Case No. BCV-23-103493

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX -

I. NOTICE OF PAGA SETTLEMENT

Plaintiff Alexa Ros Coleman (“Plaintiff”), a former employee of LL Flooring, Inc. (“LL Flooring”), commenced the above-referenced lawsuit in the California Superior Court for the County of Kern on October 18, 2023 (“Action”). This Action was alleged on behalf of herself, the State of California, and other former and current hourly, non-exempt employees of LL Flooring (“Aggrieved Employees”).

Specifically, in this Action, Plaintiff sought to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency (“LWDA”) and other Aggrieved Employees under the California Private Attorneys General Act (the “PAGA”). These civil penalties are based on Plaintiff’s allegations that LL Flooring: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide legally compliant meal periods, and/or remit proper payment of meal period premiums for non-compliant meal periods; (4) failed to permit and authorize compliant rest periods, and/or remit proper payment of rest period premiums for non-compliant rest periods; (5) failed to reimburse necessary business expenditures; (6) failed to pay sick pay at the proper rate, provide proper sick leave and itemize accrued sick leave; (7) failed to provide accurate, itemized wage statements; and (8) failed to pay and/or timely pay all wages owed at the time of separation and/or termination of employment; and as a result is liable for civil penalties under the PAGA. LL Flooring denies all liability and allegations raised under Plaintiff’s operative complaint, and has raised various defenses to the claims asserted by Plaintiff. LL Flooring contends that it has at all time complied with applicable federal, state, and local laws and regulations.

On [INSERT DATE OF APPROVAL ORDER], the Kern County Superior Court (the “Court”) issued an Order approving settlement of the claims advanced by Plaintiff pursuant to the PAGA, Labor Code section 2698 et seq. The Settlement reached by and between the Parties is neither an admission of any liability or wrongdoing by LL Flooring nor an indication that any laws, codes, and/or regulations were violated. The Court has ***not*** made any determination(s), finding(s), and/or ruling(s) with respect to the merits, claims, causes of action, and/or allegations advanced by Plaintiff.

Accordingly, this Notice is not to be understood or interpreted as an expression of any opinion, finding, and/or ruling by the Court as to the merits of Plaintiff’s claims set forth in this Action. This Settlement has been entered into by LL Flooring purposes of compromising and settling the Action to avoid the cost and operational burden of continued litigation.

As such, you are receiving this Notice because you are in the group of employees referred to as “Aggrieved Employees,” which is defined as: “all current and former hourly, non-exempt employees of Defendant LL FLOORING Modular, Inc. who worked in California at any time from August 30, 2022 through [insert date of

approval or February 6, 2024, whichever is earlier].” The foregoing period of time is the PAGA Period applicable to this Action.

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. Your individual PAGA payment has been calculated at \$[**AMOUNT PAID TO THIS EMPLOYEE**]. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties reported on an IRS Form 1099, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor LL Flooring has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties’ Settlement Agreement (“Settlement”). By operation of the Settlement’s terms, Plaintiff, the State of California and all Aggrieved Employees, including you, have fully and finally released LL Flooring and its former, present and future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants, insurers, reinsurers, and/or legal representatives; and any and all persons and/or entities acting under, by, through, or in concert with any of them (“Released Parties”) from any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act (“PAGA”), Labor Code § 2698 et seq., against the Released Parties as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action, any future amendments to the operative complaint, including: (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197, and 1198, as well as applicable Wage Order(s)); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s)); (c) failure to provide meal periods, or pay premium pay at the correct rate for non-compliant meal periods (Labor Code sections 226.7, 512 and 558, as well as applicable Wage Order(s)); (d) failure to authorize and permit rest periods, or pay premium pay at the correct rate for non-compliant rest periods (Labor Code sections 226.7, 516 and 558, as well as applicable Wage Order(s) including); (e) failure to reimburse necessary business expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s)); (f) failure to provide accurate, itemized wage statements (Labor Code section 226 et seq.), (g) failure to provide and pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure to pay sick pay at the legal pay rate, failure to provide sufficient amount of sick leave and failure to provide written notices itemizing available sick leave (Labor Code sections 246 and 248.5), and (i) failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of employment (Labor Code sections 201-203), as well as including any related claims for attorneys’ fees, costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom (“PAGA Released Claims”).

Upon entry of the Order approving the Settlement, and the Superior Court’s Final Judgment issued becoming final, any Aggrieved Employee covered by this Agreement (including you) will be barred from proceeding with any of the PAGA Released Claims arising during the PAGA Period released by the Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Phoenix Settlement Administrators at **[INSERT DMINISTRATOR INFO INCLUDING ADDRESS, PHONE NUMBER, FAX NUMBER AND EMAIL]** with any questions.

Settlement checks will be valid for 180 days from the date of issuance. It is strongly encouraged that you cash or deposit this check as soon as possible following receipt. If not deposited or cashed within 180 days from the date of issuance, settlement checks will be determined to be void. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.