

09/04/2024

Clad File, Executive Officer / Clerk of the Court

By:  Deputy
B. Mercado

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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

MARIA DEL CARMEN CRUSES ARENAS,
an individual, on behalf of herself, others
similarly situated,

PLAINTIFF,

v.

THE BERKELEY GROUP LLC, a California
Limited Liability Company, VALIANCE
CAPITAL LLC, a California Limited
Liability Company, and DOES 1 thru 50,
inclusive,

DEFENDANTS.

Case No: 23CV047470

Reservation No.: 659943459261

[Assigned for All Purposes to the Hon. Brad
Seligman, Dept. 22]

**[PROPOSED] ORDER GRANTING
APPROVAL OF PAGA SETTLEMENT
AND ENTERING FINAL JUDGMENT**

Date: September 3, 2024

Time: 3:00 p.m.

Dept.: 22

Complaint Filed: October 12, 2023

FAC Filed: December 12, 2023

Trial Date: None Set

**[PROPOSED] ORDER GRANTING APPROVAL OF PAGA SETTLEMENT AND ENTERING FINAL
JUDGMENT**

1 The Court has received and considered the application of Plaintiff Maria Del Carmen Cruses
2 Arenas, an individual, on behalf of the people of the State of California acting as a private attorney
3 general under the Labor Code Private Attorneys General Act of 2004, § 2698, *et seq.* (“PAGA”)
4 for approval of the Private Attorney General Act Settlement Agreement (“Settlement Agreement”
5 or “Settlement”) entered into between Plaintiff on behalf of the state of California as a private
6 attorney general pursuant to PAGA and Defendants The Berkeley Group LLC and Valiance Capital
7 LLC. The Court hereby approves the Representative PAGA Settlement and enters judgment in
8 favor of Plaintiff on the PAGA claims in the amount of \$105,000.00 and in the amount of
9 \$15,000.00 on Plaintiff’s individual claims.

10 **NOW THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED:**

11 1. All terms used in this Order Granting Approval of PAGA Settlement and Judgment
12 (the “Order”) shall have the same meanings given as those terms are used and/or defined in the
13 Parties’ Settlement Agreement.

14 2. The Court has jurisdiction over the subject matter.

15 3. The Court finds that the instant action presented a good faith dispute of the claims
16 alleged, and the Court finds in favor of settlement approval.

17 4. The Court finds the Parties proposed Settlement is fair, reasonable, and adequate in
18 view of PAGA's purposes to remediate present labor law violations. As such, the Court approves
19 the Settlement of the above-captioned action, as set forth in the Settlement Agreement. The Settling
20 Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

21 5. The Court appoints and confirms Plaintiff Maria Del Carmen Cruses Arenas as the
22 PAGA representative.

23 6. The Court appoints David S. Winston and Winston Law Group, P.C. as PAGA
24 Counsel.

25 7. The Court hereby enters FINAL JUDGMENT in conformity with the Settlement
26 Agreement. All terms used herein shall have the same meaning as defined in the Settlement
27

1 Agreement. The Settlement Administrator shall distribute the Gross Settlement Amount of
2 \$105,000 as follows:

- 3 (a) PAGA Counsel's attorneys' fees in the amount of one-third of the
4 Settlement Payment (\$35,000.00);
- 5 (b) PAGA Counsel's cost reimbursement in the amount of \$14,557.45;
- 6 (c) Settlement Administration costs of \$2,500.00 to be paid to the Settlement
7 Administrator ILYM ;
- 8 (d) A service award to Maria Del Carmen Cruses Arenas in the amount of
9 \$500.00;
- 10 (e) the remainder of the Settlement Payment after deducting the items (a), (b),
11 (c), and (d) herein shall be designated as PAGA Penalties, which are
12 estimated to be \$52,442.55 and will be allocated between the LWDA and
13 the Aggrieved Employees pursuant to Labor Code section 2699(i) with 75%
14 (\$39,331.91) paid to the LWDA and 25% (\$13,110.64) paid to the
15 Aggrieved Employees on a pro rata basis based upon the number of pay
16 periods worked during the PAGA period as set forth in the Parties'
17 Settlement Agreement.

18 8. Upon the date the Court enters Judgment, Plaintiff, the Aggrieved Employees, and the
19 State of California, shall fully release and forever discharge Defendants and the Released Parties
20 for the period from September 29, 2022, to October 1, 2024, from claims for PAGA penalties
21 under Labor Code section 2699 that were alleged in the September 29, 2023 PAGA Notice based
22 upon claims under Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 226.8, 246-248,
23 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2776-2787, 2802,
24 2810.5, 3700, and 3700.5 (the "Settled Claims" or "Released Claims") as well as for attorneys'
25 fees incurred by Plaintiff in the prosecution of the Covered Claims in this Lawsuit.

26 9. All checks to Aggrieved Employees shall remain valid and negotiable for 180 days
27 from the date of their issuance. The Court finds that distribution of any residual funds to the
28

1 proposed *cy pres* beneficiary Alameda County Court Appointed Special Advocates Program aka
2 CASA of Alameda County complies with the requirements of Code of Civil Procedure section 384.
3 The Court hereby appoints Alameda County Court Appointed Special Advocates Program aka
4 CASA of Alameda County as the *cy pres* beneficiary for any residual funds, pursuant to the terms
5 of the Settlement. Upon the expiration of the check cashing deadline, the Settlement Administrator
6 shall promptly send all unclaimed funds to Alameda County Court Appointed Special Advocates
7 Program aka CASA of Alameda County and provide a report to PAGA Counsel that shall be filed
8 with this Court evidencing that such payment has been made.

9 10. The Court shall hold a compliance hearing on 4/22/2025, at
10 3 a.m./p.m. in Department 22 to confirm the distribution of funds under Code of Civil
11 Procedure Section 384 and that the unclaimed funds have been paid to Alameda County Court
12 Appointed Special Advocates Program aka CASA of Alameda County who is the appointed *cy pres*
13 recipient. PAGA Counsel shall file a declaration on behalf of the ILYM Group, Inc. regarding the
14 Status of Settlement Administration and the amount of residual funds paid to the *cy pres* recipient
15 at least five (5) court days before the Code of Civil Procedure Section 384 compliance hearing.
16 PAGA Counsel shall have a courtesy copy of the Code of Civil Procedure Section 384 compliance
17 report delivered directly to Department 22.

18 11. After the Code of Civil Procedure Section 384 Compliance Hearing and entry of the
19 Amended Judgment, PAGA Counsel shall also send the information required by Code of Civil
20 Procedure Section 384.5 to the California Judicial Council and shall file a Declaration attesting that
21 such report has been made.

22 12. The Settlement Proceeds shall be distributed according to the Payment and
23 Distribution Plan set forth in the Parties' Settlement Agreement.

24 13. Except as otherwise provided in the Settlement Agreement, the Settling Parties are
25 to bear their own fees and costs.

26 14. The Alameda County Superior Court shall retain jurisdiction to enforce this
27 Agreement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain
28

1 continuing jurisdiction over this Lawsuit and over all Parties and aggrieved employees, to the fullest
2 extent to enforce and effectuate the terms and intent of this Agreement.

3 15. This document shall constitute a Judgment and is intended to be a final disposition
4 of the above captioned action in its entirety, and is intended to be immediately appealable.

5 **IT IS SO ORDERED.**

6
7 DATED: 09/04/2024



HON. BRAD SELIGMAN
JUDGE OF THE SUPERIOR COURT

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

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 years and not a party to the within action. My business address is 1880 Century Park East, Suite 511, Los Angeles, California 90067.

On **September 3, 2024**, I served all interested parties in this action the following documents described as on the persons below as follows: **[PROPOSED] ORDER GRANTING APPROVAL OF PAGA SETTLEMENT AND ENTERING FINAL JUDGMENT**

Jason Geller, Esq.
jgeller@fisherphillips.com
David Shannon, Esq.
dshannon@fisherphillips.com
FISHER & PHILLIPS LLP
1 Montgomery Street, Suite 3400
San Francisco, CA 94104

Attorneys for Defendants **THE BERKELEY GROUP LLC** and **VALIANCE CAPITAL LLC**

Assistants to be served:
Lisa Hamann
lhamann@fisherphillips.com
Sharice Valenzuela
svalenzuela@fisherphillips.com

[XX] (BY EMAIL OR ELECTRONIC TRANSMISSION): Pursuant Code of Civil Procedure § 1010.6 and to an agreement to accept electronic service via e-mail, I caused the document to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[XX] (STATE): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **September 3, 2024**, at Los Angeles, California.


Brigitte Bahari



Superior Court of Alameda County Public Portal

Make a Reservation

ARENAS vs THE BERKELEY GROUP, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, et al.

Case Number: 23CV047470 Case Type: Civil Unlimited Category: Other Employment Complaint Case

Date Filed: 2023-10-12 Location: Rene C. Davidson Courthouse - Department 22

Reservation

Case Name:

ARENAS vs THE BERKELEY GROUP, LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY, et al.

Case Number:

23CV047470

Type:

Motion re: (Motion for Approval of PAGA Settlement)

Status:

RESERVED

Filing Party:

MARIA DEL CARMEN CRUSES ARENAS (Plaintiff)

Location:

Rene C. Davidson Courthouse - Department 22

Date/Time:

09/03/2024 3:00 PM

Number of Motions:

1

Reservation ID:

659943459261

Confirmation Code:

CR-Q43HEKNBP6C5NXG4N

Fees

Description	Fee	Qty	Amount
Motion re: (name extension)	0.00	1	0.00
Court Technology Fee	1.00	1	1.00
TOTAL			\$1.00

Payment

Amount:

\$1.00

Type:

Visa

Account Number:

XXXX2030

Authorization:

02333G

Payment Date:

n/a

 Print Receipt

 Reserve Another Hearing

 View My Reservations

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 09/04/2024 Chad Finke, Executive Officer / Clerk of the Court By:  Deputy B. Mercado
PLAINTIFF/PETITIONER: MARIA DEL CARMEN CRUSES ARENAS		
DEFENDANT/RESPONDENT: THE BERKELEY GROUP, LLC, a California Limited Liability Company et al		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: 23CV047470

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order [PROPOSED] ORDER GRANTING APPROVAL OF PAGA SETTLEMENT AND ENTERING FINAL JUDGMENT entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

David M. Shannon
FISHER & PHILLIPS LLP
dshannon@fisherphillip.com

David S. Winston
WINSTON LAW GROUP, P.C.
david@employmentlitigators.com

Dated: 09/04/2024

Chad Finke, Executive Officer / Clerk of the Court

By:



B. Mercado, Deputy Clerk