

Kane Moon (SBN 249834)
E-mail: kmoon@moonlawgroup.com
Enzo Nabiev (SBN 332118)
E-mail: enabiev@moonlawgroup.com
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Marlon Aviles

FILED
Superior Court of California
County of Los Angeles

11/26/2024

David W. Slayton, Executive Officer / Clerk of Court

By: P. Herrera Deputy

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

MARLON AVILES, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

ALTADENA TOWN AND COUNTRY CLUB,
a California corporation; and DOES 1 through
10, inclusive,

Defendants.

Case No.: 23STCV24645

**SECOND AMENDED [~~PROPOSED~~]
ORDER AND JUDGMENT GRANTING
PLAINTIFF'S MOTION TO APPROVE
SETTLEMENT AGREEMENT AND
RELEASE OF PAGA CLAIMS PURSUANT
TO LABOR CODE SECTIONS 2698 *ET*
*SEQ.***

Date: November 20, 2024
Time: 10:00 a.m.

Complaint filed: October 10, 2023
Trial date: Not set

*Filed with Notice and Motion to Approve
Settlement, Declaration of Kane Moon, and
Declaration of Plaintiff Marlon Aviles*

**SECOND AMENDED [~~PROPOSED~~] ORDER AND JUDGMENT GRANTING PLAINTIFF'S
MOTION TO APPROVE SETTLEMENT AGREEMENT AND RELEASE OF PAGA CLAIMS
PURSUANT TO LABOR CODE SECTIONS 2698 *ET SEQ.***

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

2. The Court finds that it has jurisdiction over the subject matter of the action and over all Parties to the action, including all PAGA Settlement Members;

4. The Court finds that Plaintiff submitted the Settlement and Motion to Approve Settlement Agreement and Release of PAGA Claims to the California Labor Workforce Development Agency (“LWDA”) on October 24, 2024, thereby satisfying the administrative requirements for seeking approval of the Settlement;

5. The Court has considered all relevant factors for determining the fairness of the Settlement and has concluded that all such factors weigh in favor of approving the Settlement. In particular, the Court finds that the Settlement was reached following meaningful discovery conducted by Plaintiff; that the Settlement is the result of serious, informed, adversarial, and arm's-length negotiations between the Parties; and that the terms of the Settlement are in all respects fair, adequate, and reasonable. In so finding, the Court has considered all evidence presented, including evidence regarding the strength of Plaintiff's PAGA claims; the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the amount offered in settlement; the extent of investigation and discovery completed; and the experience and views of counsel. The Parties have provided the Court with sufficient information about the nature and magnitude of the

claims being settled, as well as the impediments to recovery, to make an independent assessment of the reasonableness of the terms to which the Parties have agreed;

6. Accordingly, the Settlement is hereby accepted and approved;

7. Plaintiff and all PAGA Settlement Members shall have, by operation of this Final Order and Judgment, fully, finally, and forever released, relinquished, and discharged the Released Parties from all Released Claims as follows:

Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

Released Parties: shall mean Defendant and its former, present, and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

Plaintiff's Release: Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

8. This Judgment shall be binding on all PAGA Settlement Members and the State of California, who are hereby barred by the doctrine of res judicata from re-litigating the Released PAGA Claims that accrued during the PAGA Period.

1 9. In addition, Plaintiff also releases all claims, whether known or unknown, to the
2 fullest extent permitted by law, against the Released Parties and waives all rights under California
3 Civil Code section 1542, as set forth in the Settlement.

4 10. The Parties shall bear their own respective attorneys' fees and costs, except as
5 otherwise provided for in the Settlement and approved by the Court.

6 11. "PAGA Period" refers to the period of October 8, 2022, through October 5, 2024.

7 12. The Settlement is not an admission by Defendant as defined below, nor is this Order
8 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order,
9 the Settlement, nor any document referred to herein, nor any action taken to carry out the
10 Settlement, may be used as an admission of any fault, wrongdoing, omission, concession, or
11 liability whatsoever by or against Defendant.

12 13. The Settlement Administrator will pay, pursuant to the terms of the Settlement:

- 13 a. Actual administration costs of \$3,550.00, payable to the Settlement ILYM Group,
14 Inc. for the administration of the Settlement;
- 15 b. Attorneys' fees to Plaintiff's Counsel in the amount of \$66,666.67 (33 1/3%);
- 16 c. Reimbursement for actual costs incurred by Plaintiff's Counsel in the amount of
17 \$21,311.02;
- 18 d. \$5,000.00 to the named Plaintiff in exchange for his general release and service on
19 behalf of the LWDA and Aggrieved Employees;
- 20 e. The remaining amount of the Gross Settlement Amount, which shall be allocated
21 as set forth in Labor Code § 2699(d), with 75% allocated to the LWDA, and the
22 remaining 25% to the PAGA Settlement Members on a pro-rata basis based on
23 the proportional number of pay periods worked by each PAGA Settlement
24 Member during the PAGA Period, as provided for in the Settlement.

25 14. The Court finds that these amounts and the distribution formula set forth in the
26 Settlement is fair, adequate, and reasonable, and orders that payment be made to the LWDA and
27 the PAGA Settlement Members per the terms of the Settlement. The Settlement Administrator
28

1 shall issue an IRS Form 1099 to each PAGA Settlement Member for their Individual Settlement
2 Payment as needed.

3 15. PAGA Settlement Members shall have 180 calendar days to cash their settlement
4 payment checks. If any PAGA Settlement Member's check is not cashed within that period, the
5 settlement payment check will be voided and a stop-payment will be issued. Neither Defendant,
6 Defendant's counsel, Plaintiff, nor PAGA Counsel will have any liability for lost or stolen
7 settlement payment checks, forged signatures on settlement payment checks, unauthorized
8 negotiation of settlement payment checks or failure to timely cash a settlement payment check
9 within the 180 day period. Any unpaid cash residue or unclaimed Aggrieved Employee funds,
10 plus any accrued interest that has not otherwise been distributed pursuant to order of the Court,
11 shall be transmitted to California State Controller's Office for Unclaimed Property in the name
12 of each Aggrieved Employee who failed to cash their Individual PAGA Payment prior to the
13 void date.

14 16. "Effective Date" means the date by when both of the following have occurred:
15 (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the
16 Judgment is final. The Judgment is final as of the day the Court enters Judgment.

17 17. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds
18 to the Administrator no later than 14 days after the Effective Date. On the Payment Date, the
19 Settlement Administrator will pay from the Gross Settlement Amount to PAGA Counsel its
20 Court-approved Attorneys' Fees and Costs.

21 18. On the Payment Date, the Settlement Administrator will pay the LWDA Payment
22 from the Net Settlement Amount by issuing a check payable to "California Labor Workforce
23 and Development Agency."

24 19. The Court hereby confirms Kane Moon, and Enzo Nabiev of Moon Law Group, PC
25 as PAGA Counsel.

26 20. The Court finds that the fees requested by Plaintiff's Counsel of \$66,666.67 (33
27 1/3%) of the total settlement amount is reasonable, and the costs requested of up to \$26,000.00
28 were reasonable and necessary for the prosecution of this action. The Court hereby awards

1 attorney's fees of \$66,666.67 and costs of \$21,311.02 to Plaintiff's Counsel for their litigation
2 costs. The payment of fees and costs to Plaintiff's Counsel shall be made in accordance with the
3 terms of the Settlement.

4 21. The Court approves ILYM Group, Inc. as the Settlement Administrator. The Court
5 hereby awards administration fees in the amount of \$3,550.00.

6 22. The Court hereby awards a service award to Plaintiff of \$5,000.00.

7 23. The Court approves of the proposed letter attached to the Settlement as Exhibit A
8 as an Exhibit to be sent to PAGA Members along with their respective settlement check.

9 24. Plaintiff shall submit a copy of this Order and Judgment to the LWDA within ten
10 calendar days after entry of the Order and Judgment.

11 25. Without affecting the finality of the Order and Judgment, this Court shall retain
12 jurisdiction, pursuant to California Code of Civil Procedure section 664.6, over this action, the
13 Parties, and the PAGA Settlement Members to the fullest extent necessary to interpret, enforce,
14 and effectuate the terms and intent of the Settlement and this Order and Judgment.

15 26. The Court sets a status conference regarding the final accounting for March 12,
16 2025, at 8:30 a.m. By March 3, 2025, Plaintiff shall submit a final report including the actual
17 amounts paid to aggrieved employees, the other amounts distributed under the settlement, and the
18 amounts tendered to the Unclaimed Property Division. The administrator, ILYM Group shall also
19 file a declaration by March 3, 2025 with the actual amounts paid to aggrieved employees, the other
20 amounts distributed under the settlement, and the amounts tendered to the Unclaimed Property
21 Division

22
23 **IT IS SO ORDERED.**



Elihu M. Berle

24
25 DATE: 11/26/2024

Elihu M. Berle / Judge

Hon. Elihu M. Berle

Judge of the Los Angeles County Superior Court

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1 PROOF OF SERVICE