

1 EVAN S. GAINES, ESQ. SBN 287668
2 **GAINES LAW CORPORATION**
3 4550 E. Thousand Oaks Blvd., Suite 100
4 Westlake Village, CA 93162
5 Telephone: (805) 892-8200
6 Facsimile: (805) 800-8928
7 evan@gaines.law

8 Attorneys for Plaintiff Luis Ochoa,
9 on behalf of himself and all "aggrieved employees"
10 pursuant to Labor Code § 2698 *et seq.*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF KINGS**

13 LUIS OCHOA, on behalf of himself and
14 all "aggrieved employees" pursuant to
15 Labor Code § 2698 *et seq.*,

16 Plaintiff,

17 v.

18 AGUSA, a California corporation, and
19 DOES 1 through 10, inclusive,

20 Defendants.

CASE NO: 24CU0042

Assigned the Honorable Robert Shane Burns,
Dept. 8

**STIPULATION AND ~~PROPOSED~~ ORDER
APPROVING SETTLEMENT PURSUANT TO
THE PRIVATE ATTORNEYS GENERAL
ACT**

[Concurrently filed: Declaration of Evan S.
Gaines]

Complaint Filed: February 2, 2024

FILED

BY SUPERIOR COURT OF CALIFORNIA,
COUNTY OF KINGS

10/28/2024

NOCIONA SOBOLESKI, CLERK OF THE COURT
KAYA GODINEZ, DEPUTY



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STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On November 28, 2023, Plaintiff Luis Ochoa ("Plaintiff") transmitted a letter to the California Labor & Workforce Development Agency ("LWDA") and Defendant Agusa ("Defendant") that Plaintiff alleges to be in compliance with the exhaustion requirements of the California Labor Code Private Attorneys General Act ("PAGA"), articulating claims related to the failure to pay all wages due; failure to pay all minimum and overtime wages due; the failure to pay premium wages for missed rest and meal breaks; the failure to issue accurate wage statements; and the failure to pay all wages due at the separation of employment. See Declaration of Evan S. Gaines ("Gaines Decl.") at ¶ 6; **Exhibit B** to Gaines Decl.

2. On February 2, 2024, Plaintiff filed a Representative Action Complaint in the Superior Court of the State of California for the County of Kings, thereby commencing this Action entitled *Luis Ochoa v. Agusa, a California corporation*, case number 24CU0042. Plaintiff filed his Complaint on behalf of the State of California and other aggrieved employees as a PAGA action based on violations of Labor Code §§ 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, and 1194. Gaines Decl. at ¶ 7.

3. On March 11, 2024, Plaintiff transmitted a supplemental letter to the LWDA and Defendant that Plaintiff alleges to be in compliance with the exhaustion requirements of the PAGA, articulating an additional claim related to the failure to properly blend bonuses and other non-base hourly wages into employees' regular rate of pay; the failure to provide an employee file or employment records upon written request; and requiring illegal background checks. Gaines Decl. at ¶ 8; **Exhibit C** to Gaines Decl.

4. On May 20, 2024, Plaintiff filed a First Amended Complaint that added claims for the failure to properly blend bonuses and other non-base hourly wages into employees' regular rate of pay, in violation of Labor Code §§ 226.7, 246, 510, 512, 558, and 1194; the failure to provide an employee file or employment records upon written request, in violation of Labor Code §§ 226(c),

1 432, and 1198.5; and requiring illegal background checks, in violation of Labor Code §§ 432.5 and
2 432.7. Gaines Decl. at ¶ 9.

3 5. Defendant disputes and denies the allegations and claims asserted in the Action and
4 denies that the Action is suitable for representative treatment. Gaines Decl. at ¶ 10.

5 6. During the course of the litigation, Plaintiff and Defendant (hereinafter, Plaintiff and
6 Defendant are collectively referred to as the “Parties”) engaged in informal discovery and fully
7 shared the information necessary for all sides to conduct a legitimate investigation into the
8 allegations of the action and potential defenses thereto. The Parties have reached their settlement
9 only after such discovery and investigation were performed. Gaines Decl. at ¶ 11.

10 7. Prior to attending a mediation and during that mediation, Defendant produced
11 extensive documents, including employee handbooks, wage statements and time records, summary
12 spreadsheets, and Aggrieved Employee time and pay records. The Parties attended mediation with
13 mediator Michael Ludwig, Esq. on September 18, 2024, wherein an agreement was reached. Gaines
14 Decl. at ¶ 12.

15 8. The terms and conditions of the settlement are set forth in the Private Attorneys
16 General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“Settlement” or “Settlement
17 Agreement”). The Settlement Agreement resolves all claims asserted in the LWDA Letters and First
18 Amended Complaint. Gaines Decl. at ¶ 13; **Exhibit D** to the Gaines Decl.

19 9. Based on the information and documents obtained through informal discovery,
20 Plaintiff assessed the maximum value of the limited PAGA claims to be released by the settlement
21 to be approximately \$247,000 (at the rate of a \$100 penalty for approximately 2,470 pay periods at
22 issue for approximately 39 Aggrieved Employees, without stacking violations). Gaines Decl. at ¶
23 14.

24 10. As set forth in the Settlement Agreement, the Gross Settlement Amount is \$220,000,
25 and includes an apportionment of attorneys’ fees and costs, payment to the settlement administrator,
26 and a general release payment/enhancement award to Plaintiff. Gaines Decl. at ¶ 15. By a separate
27 confidential agreement, the Parties have resolved all of Plaintiff’s individual claims through a
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comprehensive general release in favor of Defendant. In connection with his general release of all claims, Plaintiff will be paid a confidential sum, separate from the Gross Settlement Amount.¹ *Id.* Plaintiff's Counsel are not recovering any attorney's fees from Plaintiff's individual settlement. *Id.*

11. Based on his extensive experience litigating over 60 representative actions, counsel for Plaintiff believe the settlement here is fair and reasonable and warrants approval by the Court. Gaines Decl. at ¶¶ 2-5; **Exhibit A** to Gaines Decl.

12. Plaintiff has submitted a copy of the Settlement Agreement, together with this Stipulation and Order and Judgement, and the Declaration of Evan S. Gaines, to the LWDA as required by PAGA. Gaines Decl. at ¶ 16; **Exhibit E**.

13. The Parties request that the Court enter the below order approving the Settlement, as permitted by Labor Code § 2699(l), and entering Judgment in accordance with the terms and conditions of the Settlement Agreement. Gaines Decl. at ¶ 17.

IT IS SO STIPULATED.

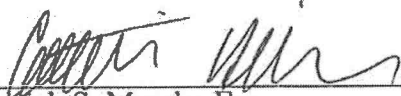
Dated: October 23, 2024

GAINES LAW CORPORATION

By: 
Evan S. Gaines
Attorney for Plaintiff Luis Ochoa

Dated: October 23, 2024

BARSAMIAN & MOODY, APC

By: 
Patrick S. Moody, Esq.
Catherine M. Houlihan, Esq.
Attorneys for Defendant Agusa

¹ If the Court wishes to see the Confidential Individual Settlement Agreement, Plaintiff's Counsel will provide it for the Court's *in camera* review.

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ORDER

The Court has reviewed the Parties' Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (the "Settlement" or "Settlement Agreement") attached as **Exhibit D** to the concurrently-filed Declaration of Evan S. Gaines, together with the Stipulation of the Parties and the Declaration of Evan S. Gaines and exhibits attached thereto. Based thereon, it is hereby ordered as follows:

1. The Court finds the Settlement was entered into in good faith, that the settlement is fair, reasonable, and adequate, and that the settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law.

2. The Court approves the penalties to be paid to the aggrieved employees and the State of California as set forth in the Settlement, pursuant to Labor Code § 2699(1). The Court further approves all payments to be made to Plaintiff counsel and Plaintiff based on the terms of the Settlement.

3. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on the provisions and timelines set forth in the Settlement Agreement.

4. The Court retains jurisdiction over this Action and over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Settlement Agreement.

5. The Action is dismissed with prejudice, with all Parties to bear their separate fees and costs, except as expressly set forth in the Settlement Agreement.

IT IS SO ORDERED.

Dated: 10/28/2024


JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of VENTURA, State of California. I am over the age of 18 and not a party to the within action; my business address is 4550 East Thousand Oaks Blvd., Suite 100, Westlake Village, CA 91362.

____ (For messenger) my business address is:

On October 23, 2024, I served the foregoing document described as **STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Patrick S. Moody pmoody@theemployerslawfirm.com
Catherine M. Houlihan (choulihan@theemployerslawfirm.com)
Clare Demera cdemera@theemployerslawfirm.com
Barsamian & Moody laborlaw@theemployerslawfirm.com
BARSAMIAN & MOODY
1141 W Shaw Ave # 104,
Fresno, CA 93711
(Served via email only)

____ (BY x U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

 X (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic transmission via email on the counsel of record listed above.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 23, 2024, at Westlake Village, California.



EVAN S. GAINES, ESQ.