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

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KINGS

LUIS OCHOA, on behalf of himself and
all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiff,

v.

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

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

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2 **STIPULATION**

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

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

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

18 3. On March 11, 2024, Plaintiff transmitted a supplemental letter to the LWDA and
19 Defendant that Plaintiff alleges to be in compliance with the exhaustion requirements of the PAGA,
20 articulating an additional claim related to the failure to properly blend bonuses and other non-base
21 hourly wages into employees’ regular rate of pay; the failure to provide an employee file or
22 employment records upon written request; and requiring illegal background checks. Gaines Decl. at
23 ¶ 8; **Exhibit C** to Gaines Decl.

24 4. On May 20, 2024, Plaintiff filed a First Amended Complaint that added claims for
25 the failure to properly blend bonuses and other non-base hourly wages into employees’ regular rate
26 of pay, in violation of Labor Code §§ 226.7, 246, 510, 512, 558, and 1194; the failure to provide an
27 employee file or employment records upon written request, in violation of Labor Code §§ 226(c),
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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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1 comprehensive general release in favor of Defendant. In connection with his general release of all
2 claims, Plaintiff will be paid a confidential sum, separate from the Gross Settlement Amount.¹ *Id.*
3 Plaintiff's Counsel are not recovering any attorney's fees from Plaintiff's individual settlement. *Id.*

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

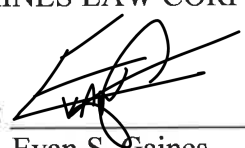
7 12. Plaintiff has submitted a copy of the Settlement Agreement, together with this
8 Stipulation and Order and Judgement, and the Declaration of Evan S. Gaines, to the LWDA as
9 required by PAGA. Gaines Decl. at ¶ 16; **Exhibit E**.

10 13. The Parties request that the Court enter the below order approving the Settlement,
11 as permitted by Labor Code § 2699(1), and entering Judgment in accordance with the terms and
12 conditions of the Settlement Agreement. Gaines Decl. at ¶ 17.

13 **IT IS SO STIPULATED.**

14 Dated: October 23, 2024

GAINES LAW CORPORATION

15
16 By: 

Evan S. Gaines

Attorney for Plaintiff Luis Ochoa

17
18 Dated: October 23, 2024

BARSAMIAN & MOODY, APC

19
20 By: 

Patrick S. Moody, Esq.

Catherine M. Houlihan, Esq.

Attorneys for Defendant Agusa

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

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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.

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.

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.

Dated: _____

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_____ (For messenger) my business address is:

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____ (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.

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

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

EVAN S GAINES, ESQ.