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as an individual and on behalf of all employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

KARINA A. SANTOYO, as an individual and
on behalf of all employees similarly situated,

Plaintiff,

v.

A P R CONSULTING, INC., a California
Corporation; LIBERTY UTILITIES (PARK
WATER) CORP., a California Corporation;
LIBERTY UTILITIES (APPLE VALLEY
RANCHOS WATER) CORP., a California
Corporation; LIBERTY UTILITIES
(CALPECO ELECTRIC) LLC, a California
LLC; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV04117

[Assigned for all purposes to Hon. Carolyn B.
Kuhl, Dept. 12]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR AN ORDER
APPROVING SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE PRIVATE
ATTORNEY GENERAL'S ACT OF 2004**

Date: May 29, 2025
Time: 10:30 a.m.
Courtroom: Dept. 12
Judge: Hon. Carolyn B. Kuhl

Action Filed: February 20, 2024
Trial Date: Not Set

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

Plaintiff KARINA A. SANTOYO (“Plaintiff”) and Defendants APR CONSULTING, INC. (“Defendant APR”), LIBERTY UTILITIES (PARK WATER) CORP., LIBERTY UTILITIES (APPLE VALLEY RANCHOS WATER) CORP., and LIBERTY UTILITIES (CALPECO ELECTRIC) LLC (“Defendants Liberty”) (hereinafter “Defendants”) (Plaintiff and Defendants are the “Parties”) have reached terms of settlement of this action alleging a claim for relief pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”).

Pursuant to PAGA, Plaintiff, on behalf of the Parties, has filed a motion seeking approval of the settlement of the claims asserted against Defendants in this action. Specifically, Plaintiff moves for an order:

1. granting approval of the terms of the Agreement pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.*, including the amount of the settlement; the amount of distributions to the State and Aggrieved Employees; the amounts allocated to attorney’s fees and costs; the amount allocated to the settlement administrator; and,
2. directing disbursement of the Gross Settlement Amount pursuant to the terms of the Agreement.

The PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE (referred to as the “Agreement,” or “Settlement,” and attached to the Declaration of Lilit Tunyan as Exhibit 1) is conditioned upon the Court’s approval. Capitalized terms in this Order have the same meaning as in the Settlement unless indicated otherwise. A summary of the terms of the Settlement is as follows:

- (a) The Aggrieved Employees: The Aggrieved Employees (also known as the “PAGA Members”) are: “All non-exempt or hourly employees of Defendants Liberty who worked in California during the PAGA Period and non-exempt or hourly employees placed to work for Defendants Liberty in California during the PAGA Period including from Defendant APR.” It is estimated that there are approximately **12,073** pay periods from February 19, 2023 through November 19, 2024. (Agreement, ¶¶ 1.4, 1.19, 4.1.)
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- (b) The PAGA Period: February 19, 2023 through the date of entry of order for approval of the Settlement by the Court or February 7, 2025, whichever is earlier.
- (c) No Reversion: The Settlement is non-reversionary. (Agreement, ¶ 3.1.)
- (d) Gross Settlement Amount: Defendants agrees to pay the maximum sum of **\$190,000.00** (hereinafter referred to as the “Gross Settlement Amount” or “GSA”) for settlement of the PAGA Penalties, which shall be inclusive of Plaintiff’s Counsel’s attorney’s fees and costs and the settlement administrator’s fees and costs. (Agreement, ¶ 3.1.)
- (e) Escalator Clause: This settlement is based on Defendants’ representation that as of November 19, 2024, there are 342 allegedly Aggrieved Employees who worked 12,073 Pay Periods from February 19, 2023 through November 19, 2024. The settlement as negotiated contemplates a PAGA Pay Period count through February 7, 2025 or the date the Court signs an Order approving the PAGA settlement, whichever is earlier. If the number of actual PAGA pay periods during the PAGA period exceeds 10% of the estimated pay periods (i.e., exceeds 13,280 pay periods), Defendants shall increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of pay periods in excess of 13,280 pay periods. For example, if there is a 1% increase over 10% then the GSA increases by 1%. APR and the Liberty Defendants will each contribute on a pro rata basis between them based on their increase in pay periods, if any. (Settlement, ¶ 8.)
- (f) Net Settlement Amount: At least **\$100,136.40** will be available for distribution to the Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at least **\$75,102.30** under the Agreement, and Aggrieved Employees will receive at least **\$25,034.10**. (Agreement, ¶ 1.15.)
- (g) Attorney’s Fees: Plaintiff’s Counsel request an award of attorney’s fees in the amount of **\$63,333.33**, which is one third of the GSA. (Agreement, ¶ 3.2.1.)
- (h) Litigation Costs: Plaintiff’s Counsel’s litigation costs are capped to a maximum amount of \$23,000. Those actual costs are **\$21,080.27** which include the future
-

1 motion and final report filing fees and CaseAnywhere future charges. Therefore,
2 \$21,080.27 is requested, by Plaintiff. (Agreement, ¶ 3.2.1)

3 (i) Settlement Administration: Payment to Aggrieved Employees and administration
4 will be accomplished through third-party settlement administrator ILYM Group,
5 Inc., which has agreed to perform Settlement Administrator duties for a flat fee
6 not to exceed **\$5,450.00**, which is reasonable, based on all of the services offered.
7 (Agreement, ¶ 3.2.2

8 (j) General Release by Plaintiff: Plaintiff shall receive **\$10,000.00** in lieu of
9 arbitrating Plaintiff's individual claims as a consideration for representing PAGA
10 Employees and for a general release of all Plaintiff's claims beyond PAGA
11 claims released in this action in accordance with a separate individual settlement
12 and release agreement entered between the Parties. (Agreement, ¶ 1.10.)

13 (k) Uncashed Checks: Funds represented by checks returned as undeliverable after a
14 re-mailing, and funds represented by checks remaining uncashed for more than
15 180 days after issuance, will be sent to the California State Controller's
16 Unclaimed Property division. (Agreement, ¶ 4.4.3.)

17 (l) Release: In exchange for the above settlement consideration, Defendants shall be
18 entitled to a release from the LWDA and each and every Aggrieved Employee,
19 including Plaintiff. (Agreement, ¶ 5.2.)

20 (m) Tax Allocation: The Settlement Payments to Aggrieved Employees are classified
21 as other miscellaneous income and will be allocated as 100% penalties, which
22 will be reported on IRS Form 1099-MISC, if required. (Agreement, ¶ 3.2.3.2)

23 (n) No Right to Opt-out: There is no statutory right for any Aggrieved Employee to
24 object, opt out or otherwise exclude themselves from the Settlement. (Agreement,
25 Exhibit B, Notice of Settlement)

26 (o) Notice to LWDA: The Declaration of Lilit Tunyan confirms that notice was
27 provided to the LWDA and that the Agreement was provided to the LWDA at
28 least 16 court days prior to this application filing and attaches the confirmatory

1 submission documents. (Tunyan Decl., ¶ 44 and Exh.3.)

2 After reviewing the Settlement and other related documents, and the filings submitted by
3 Plaintiff, **IT IS HEREBY ORDERED AS FOLLOWS:**

4 1. The Court hereby GRANTS approval of the PAGA settlement upon the terms and
5 conditions set forth in the Settlement attached as Exhibit 1 to the Declaration of Lilit Tunyan. The Court
6 finds that the terms of the proposed settlement are reasonable.

7 2. The Court hereby identifies the Aggrieved Employees as:

8 All non-exempt or hourly employees of Defendants Liberty who worked in California
9 and non-exempt or hourly employees placed to work for Defendants Liberty in
10 California including from Defendant APR from February 19, 2023 through February 7,
2025.

11 This Order incorporates by reference the definitions in the Settlement, and all capitalized terms defined
12 therein shall have the same meaning in this Order as set forth in the Settlement.

13 3. The Court hereby finds the Settlement was the product of informed, non-collusive
14 negotiations conducted at arms' length by the Parties. In making these findings, the Court considered
15 Defendants' potential liability, the benefit to the State of California, allocation of settlement proceeds
16 among Aggrieved Employees, and the fact that a settlement represents a compromise of the Parties'
17 respective positions rather than the result of a finding of liability at trial. The Court further finds that the
18 terms of the Settlement have no obvious deficiencies. The Court finds that the risks of further
19 prosecution are substantial and include the risks that (1) penalties would be reduced after evaluation of
20 the totality of the circumstances, or (2) that no penalties would be awarded for some or all of the alleged
21 violations.

22 4. The Court hereby approves ILYM Group, Inc. to serve as the settlement administrator
23 ("Settlement Administrator"). The Settlement Administrator will be paid pursuant to the Agreement's
24 terms for such distribution, in the requested amount of **\$5,450.00** out of the Gross Settlement Amount to
25 effectuate Administration.

26 5. Pursuant to the Agreement, the amount distributed as penalties under PAGA shall be
27 **\$190,000.00**, less administration costs, attorney's fees, and costs awarded to Plaintiff's counsel. The
28 LWDA shall receive 75% of the penalties allocated, which is **\$75,102.30**. Aggrieved Employees shall

1 receive 25% of the penalties allocated, which is **\$25,034.10**.

2 6. The Court hereby awards Counsel attorneys' fees in the amount of **\$63,333.33**. The
3 Court finds that the attorneys' fees are reasonable compared to amounts routinely approved in similar
4 settlements and as guided by the California Supreme Court's decision concerning the awarding of fees
5 from monetary funds for class members. *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016).
6 Counsel proceeded on a contingency basis despite the uncertainty of any fee award. Counsel were
7 necessarily precluded from pursuing other potential sources of fees because of work in connection with
8 this Action. The Court observed that this is not a class action. It is more akin to contingent
9 representation with an additional requirement of Court review due to the qui tam nature of a PAGA
10 claim. Attorneys' fees that are fifty percent of a common fund are typically considered the upper limit,
11 with thirty to forty percent commonly awarded in cases where the settlement is relatively small. *See Van*
12 *Vranken v. Atlantic Richfield Company*, 901 F. Supp. 294 (N.D. Cal. 1995) (stating that most cases
13 where 30-50 percent was awarded involved "smaller" settlement funds of under \$10 million). Based on
14 these considerations, including the lodestar cross-check, a fee award of one third of the total settlement
15 amount is reasonable.

16 7. The Court hereby awards Counsel litigation costs in the total amount of **\$21,080.27**.

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

19 9. The Court approves, both as to form and content, the Notice of PAGA settlement to
20 Aggrieved Employees attached to the Agreement as Exhibit B which is attached to the Declaration of
21 Lilit Tunyan as Exhibit 1.

22 10. Pursuant to the terms of the Settlement, the released persons and entities include
23 Defendants Liberty and Defendant APR, and all their past, present and/or future, direct and/or indirect,
24 officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners,
25 investors, shareholders, administrators, parent companies, subsidiaries, sectors, affiliates, divisions,
26 predecessors, successors, assigns, joint venturers, and all companies, employee leasing companies,
27 staffing companies, professional employer organizations or payroll processing vendors that Defendants
28 Liberty and/or Defendant APR utilized during the PAGA Period and that have provided Aggrieved

1 Employees to work for or be assigned to work for the Defendants Liberty during the PAGA Period
2 (referred to in the Settlement as the “Released Parties”).

3 11. Upon entry of the Order approving this Settlement and the Judgment thereon, PAGA
4 claims are released as follows:

5 All Aggrieved Employees are deemed to release, on behalf of themselves and their
6 respective former and present representatives, agents, attorneys, heirs, administrators,
7 successors, and assigns, Defendants and the Released Parties from all claims for PAGA
8 penalties Plaintiff and/or the Aggrieved Employees had, or may claim to have, against
9 Defendants and Released Parties, arising out of the violations alleged in the Operative
10 Complaint or the PAGA Notices submitted in connection with the Action, including
11 failure pay all wages and hours worked, failure to provide meal periods, failure to
12 provide rest breaks, failure to provide accurate itemized wage statements, failure to
13 maintain accurate records, waiting time penalties, failure to reimburse necessary
14 business expenditures, and failure to timely pay wages (i.e., Labor Code sections 201,
15 202, 203, 204, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197,
16 1197.1, 1198, and 2802) This release is limited to claims arising during the PAGA
17 Period. With the exception of Plaintiff, who is providing a general release of all claims,
18 this settlement shall not impact aggrieved employees’ ability to assert claims (claims for
19 wages and other damages) other than the PAGA claims being released by this
20 Settlement.

21 12. The Court will enter Final Judgment in accordance with this Order.

22 13. The Court shall retain jurisdiction with respect to all matters related to the administration
23 and consummation of the Settlement, and any and all claims asserted in, arising out of, or related to the
24 subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the
25 determination of all controversies relating thereto.

26 **IT IS SO ORDERED.**

27 Dated: _____

28 _____
Hon. Carolyn B. Kuhl
LOS ANGELES COUNTY SUPERIOR COURT
JUDGE

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of
6 18 and not a party to the within action; my business address is 355 S. Grand Ave., Suite 1450
7 Los Angeles, California 90071.

8 On the date indicated below, I served the document described as: **[PROPOSED] ORDER**
9 **GRANTING PLAINTIFF'S MOTION FOR AN ORDER APPROVING SETTLEMENT OF**
10 **CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEY GENERAL'S ACT OF**
11 **2004** on the interested parties in this action by sending a true copy thereof to interested parties as
12 follows and as stated on the attached service list:

13 Lonnie Giamela
14 lgiamela@fisherphillips.com
15 Harrison M. Thorne
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17 Cina Kim
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Attorneys for Defendant APR Consulting, Inc.

23 [✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties
24 to accept electronic service, I caused the documents to be sent to the persons at the
25 electronic service addresses listed above via third-party cloud service
26 **CASEANYWHERE**. I did not receive an error message.

27 Executed on February 4, 2025 at Glendale, California.

28 _____
Name

Signature