

MAR 27 2025

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as an individual and on behalf of all employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MARCO SEGOVIA SANCHEZ, as an
individual and on behalf of all employees
similarly situated,

Plaintiff,

v.

SHELTER ISLAND, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 37-2024-00005168-CU-OE-CTL

[Assigned for all purposes to Hon. Gregory W
Pollack, Dept. C-71]

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

Date: March 27, 2025

Time: 8:45 a.m.

Courtroom: Dept. C-71

Judge: Hon. Gregory W Pollack

Action Filed: September 5, 2023

Trial Date: Not Set

1 **TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2 Plaintiff MARCO SEGOVIA SANCHEZ ("Plaintiff") and Defendant SHELTER ISLAND,
3 INC. ("Defendant") (Plaintiff and Defendant are the "Parties") have reached terms of settlement of this
4 action alleging a claim for relief pursuant to the Labor Code Private Attorneys General Act of 2004,
5 Labor Code § 2698, *et seq.* ("PAGA").

6 Pursuant to PAGA, Plaintiff, on behalf of the Parties, has filed an unopposed *ex parte* application
7 seeking approval of the settlement of the claims asserted against Defendant in this action. Specifically,
8 Plaintiff moves for an order:

9 1. granting approval of the terms of the Agreement pursuant to the Labor Code Private
10 Attorneys General Act of 2004, Labor Code § 2698, *et seq.*, including the amount of the
11 settlement; the amount of distributions to the State and Aggrieved Employees; the amounts
12 allocated to attorney's fees and costs; the amount allocated to general release payment to Plaintiff;
13 the amount allocated to the settlement administrator; and,

14 2. directing disbursement of the Gross Settlement Amount pursuant to the terms of the
15 Agreement.

16
17 The PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
18 RELEASE (referred to as the "Agreement," or "Settlement," and attached to the Declaration of Lilit
19 Tunyan as Exhibit 1) is conditioned upon the Court's approval. Capitalized terms in this Order have the
20 same meaning as in the Settlement unless indicated otherwise. A summary of the terms of the
21 Settlement is as follows:

- 22 (a) The Aggrieved Employees: The Aggrieved Employees (also known as the
23 "PAGA Members") are: "All non-exempt employees who are or were employed
24 by Defendant within the State of California from February 2, 2023 through the
25 date of entry of order for PAGA settlement approval or 60 days after September
26 30, 2024, whichever is earlier ("PAGA Period")." It is estimated that there are
27 approximately 4,547 pay periods February 2, 2023 through September 30, 2024.
28 (Agreement, ¶¶ 2, 10.)
-

- 1 (b) No Reversion: The Settlement is non-reversionary. (Agreement, ¶ 7.)
- 2 (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of
- 3 **\$180,000.00** (hereinafter referred to as the “Gross Settlement Amount” or
- 4 “GSA”) for settlement of the PAGA Penalties, which shall be inclusive of
- 5 Plaintiff’s Counsel’s attorney’s fees and costs, Plaintiff’s General Release
- 6 payment and the settlement administrator’s fees and costs. (Agreement, ¶ 7.)
- 7 (d) Escalator Clause: This settlement is based on Defendant’s representation that
- 8 from February 2, 2023 through September 30, 2024, there were approximately
- 9 4,547 pay periods worked by the PAGA Group (“Qualifying Pay Periods”),
- 10 wherein the alleged aggrieved employees performed work. This estimate serves
- 11 as the basis for Plaintiff’s accepting the Gross Settlement Amount . If the number
- 12 of actual pay periods during the PAGA period exceeds 10% of the Qualifying
- 13 Pay Periods (i.e., exceeds 5,002 pay periods), Defendant shall increase the Gross
- 14 Settlement Amount by a pro-rata dollar value equal to the number of pay periods
- 15 in excess of 5,002 pay periods. For example, if there is a 1% increase over 10%
- 16 then the Maximum Settlement Amount increases by 1%. Aside from the terms
- 17 set forth in this paragraph, under no circumstances will Defendant be required to
- 18 pay any additional monies in order to receive the release of claims as set forth
- 19 herein. (Settlement, ¶ 10.)
- 20 (e) Net Settlement Amount: At least **\$100,563.37** will be available for distribution to
- 21 the Aggrieved Employees and the LWDA. Of this amount, the LWDA will
- 22 receive at least \$75,424.03 under the Agreement, and Aggrieved Employees will
- 23 receive at least \$25,141.34. (Agreement, ¶ 7.d.)
- 24 (f) Attorney’s Fees: Plaintiff’s Counsel request an award of attorney’s fees in the
- 25 amount of **\$60,000.00**, which is one third of the GSA. (Agreement, ¶ 7.a.)
- 26 (g) Litigation Costs: Plaintiff’s Counsel’s litigation costs are capped to a maximum
- 27 amount of \$18,000. Those actual costs are \$11,434.63 which include the future
- 28 ex parte application and final report filing fees. Therefore, **\$11,434.63** is
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requested, by Plaintiff. (Agreement, ¶¶ 7.a, 13.b.iii)

- (h) Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator Simpluris, Inc., which has agreed to perform Settlement Administrator duties for a flat fee not to exceed \$3,000.00, which is reasonable, based on all of the services offered. (Agreement, ¶ 14)
- (i) General Release by Plaintiff: Plaintiff shall receive \$5,000.00 as a consideration for general release of his individual wage and hour and other claims and for representing the Aggrieved Employees. (Agreement, ¶¶ 4, 7.c.)
- (j) Uncashed Checks: Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be sent to the California State Controller's Unclaimed Property division. (Agreement, ¶ 13.c)
- (k) Release: In exchange for the above settlement consideration, Defendant shall be entitled to a release from the LWDA and each and every Aggrieved Employee, including Plaintiff. (Agreement, ¶ 3.)
- (l) Tax Allocation: The Settlement Payments to Aggrieved Employees are classified as other miscellaneous income and will be allocated as 100% penalties, which will be reported on IRS Form 1099-MISC, if required. (Agreement, ¶ 11)
- (m) No Right to Opt-out: There is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude themselves from the Settlement. (Agreement, ¶6.)
- (n) Notice to LWDA: The Declaration of Lilit Tunyan confirms that notice was provided to the LWDA and that the Agreement was provided to the LWDA at least 16 court days prior to this application filing and attaches the confirmatory submission documents. (Declaration of Lilit Tunyan, hereinafter "Tunyan Decl.", ¶ 48 and Exh. 3.)

After reviewing the Settlement and other related documents, and the filings submitted by

1 Plaintiff, **IT IS HEREBY ORDERED AS FOLLOWS:**

2 1. The Court hereby GRANTS approval of the PAGA settlement upon the terms and
3 conditions set forth in the Settlement attached as Exhibit 1 to the Declaration of Lilit Tunyan. The Court
4 finds that the terms of the proposed settlement are all respects, fair, adequate, and reasonable and directs
5 the Parties to effectuate the PAGA Settlement Agreement according to its terms.

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

7 All non-exempt employees who are or were employed by Defendant within the State of
8 California from February 2, 2023 and November 29, 2024.

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

11 3. The Court hereby finds the Settlement was the product of informed, non-collusive
12 negotiations conducted at arms' length by the Parties. In making these findings, the Court considered
13 Defendant' potential liability, the benefit to the State of California, allocation of settlement proceeds
14 among Aggrieved Employees, and the fact that a settlement represents a compromise of the Parties'
15 respective positions rather than the result of a finding of liability at trial. The Court further finds that the
16 terms of the Settlement have no obvious deficiencies. The Court also finds that settlement now will
17 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
18 to continue to litigate the case. The Court has reviewed the monetary recovery being provided as part of
19 the Settlement and recognizes the significant value accorded to PAGA Settlement Group Members. The
20 Court finds that the risks of further prosecution are substantial and include the risks that (1) penalties
21 would be reduced after evaluation of the totality of the circumstances, or (2) that no penalties would be
22 awarded for some or all of the alleged violations.

23 4. The Court hereby approves Simpluris, Inc. to serve as the settlement administrator
24 ("Settlement Administrator"). The Settlement Administrator will be paid pursuant to the Agreement's
25 terms for such distribution, in the requested amount of **\$3,000.00** out of the Gross Settlement Amount to
26 effectuate Administration.

27 5. Pursuant to the Agreement, the amount distributed as penalties under PAGA shall be
28 **\$180,000.00**, less administration costs, attorney's fees, and costs awarded to Plaintiff's counsel,

1 Plaintiff's General Release payment. The LWDA shall receive 75% of the penalties allocated, which is
2 **\$75,424.03**. Aggrieved Employees shall receive 25% of the penalties allocated, which is **\$25,141.34**.

3 6. The Court hereby awards Counsel attorneys' fees in the amount of **\$60,000.00**. The
4 Court finds that the attorneys' fees are reasonable compared to amounts routinely approved in similar
5 settlements and as guided by the California Supreme Court's decision concerning the awarding of fees
6 from monetary funds for class members. *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016).
7 Counsel proceeded on a contingency basis despite the uncertainty of any fee award. Counsel were
8 necessarily precluded from pursuing other potential sources of fees because of work in connection with
9 this Action. The Court observed that this is not a class action. It is more akin to contingent
10 representation with an additional requirement of Court review due to the qui tam nature of a PAGA
11 claim. Attorneys' fees that are fifty percent of a common fund are typically considered the upper limit,
12 with thirty to forty percent commonly awarded in cases where the settlement is relatively small. *See Van*
13 *Vranken v. Atlantic Richfield Company*, 901 F. Supp. 294 (N.D. Cal. 1995) (stating that most cases
14 where 30-50 percent was awarded involved "smaller" settlement funds of under \$10 million). Based on
15 these considerations, including the lodestar cross-check, a fee award of one third of the total settlement
16 amount is reasonable.

17 7. The Court hereby awards Counsel litigation costs in the total amount of **\$11,434.63**.

18 8. The Court hereby awards General Release Payment in the total amount of **\$5,000** to
19 Plaintiff.

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

22 10. The Court approves, both as to form and content, the Notice of PAGA settlement to
23 Aggrieved Employees attached to the Agreement as Exhibit B which is attached to the Declaration of
24 Lilit Tunyan as Exhibit 1.

25 11. Pursuant to the terms of the Settlement, the released persons and entities include
26 Defendant and each of its past or present owners, officers, directors, employees, agents, shareholders,
27 employees, principals, heirs, representatives, accountants, auditors, consultants, insurers and
28 reinsurers (referred to in the Settlement as the "Released Parties").

1 12. Upon entry of the Order approving this Settlement and the Judgment thereon, PAGA
2 claims are released as follows:

3 The Parties agree and acknowledge that, to the maximum extent permitted by law, the
4 final judgment entered pursuant to this settlement will bind all those who would be
5 bound by a judgment if the Lawsuit had been brought by the LWDA, including
6 Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of
7 civil penalties under the California Private Attorneys General Act, California Labor
8 Code § 2698, et. seq. as against Defendant and each of its past or present owners,
9 officers, directors, employees, agents, shareholders, employees, principals, heirs,
10 representatives, accountants, auditors, consultants, insurers and reinsurers (collectively,
11 the "Released Parties"). It is expressly understood and agreed that this settlement
12 effects a full release of the PAGA claims for civil penalties under the California Private
13 Attorneys General Act, California Labor Code § 2698, et. seq. ("PAGA") based upon
14 the allegations of Defendant's conduct set forth in Plaintiff's pre-filing PAGA notice
15 letter filed with the LWDA upon the Effective Date and full funding of the Gross
16 Settlement amount (all of the foregoing are collectively referred to as "Released PAGA
17 Claims"). With the exception of Plaintiff, who is providing a general release of all
18 claims, this settlement shall not impact aggrieved employees' ability to assert claims
19 (claims for wages and other damages) other than the PAGA claims being released by
20 this Settlement.

21 13. The Court further finds and determines that the terms of the PAGA Settlement are fair,
22 reasonable, and adequate to the PAGA Settlement Group Members and to each PAGA Settlement Group
23 Member and that the Settlement is ordered finally approved, and that all terms and provisions of the
24 Settlement shall be and hereby are ordered to be performed as set forth in the PAGA Settlement
25 Agreement.

26 14. The PAGA Settlement Agreement is not an admission by Defendant or by any other
27 Released Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by
28 Defendant or any other Released Party. Neither this Order, the Settlement Agreement, nor any document
referred to herein, nor any action taken to carry out the PAGA Settlement Agreement, may be construed
as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or liability
whatsoever by or against Defendant or any of the other Released Parties.

 15. Defendant and the other Released Parties shall have no further liability for costs,
expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided in the
PAGA Settlement Agreement.

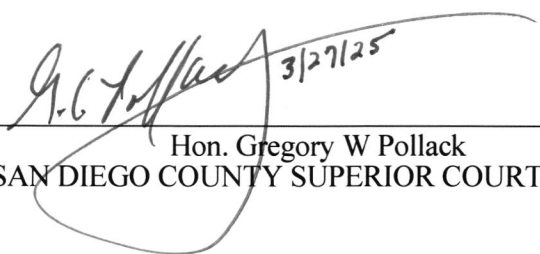
 16. Defendant shall pay each PAGA Settlement Group Member pursuant to the procedure
described in the PAGA Settlement Agreement.

1 17. The Court further enters an Order in this Action, in accordance with the terms of the
2 PAGA Settlement Agreement, and this Order.

3 18. The Court shall retain jurisdiction with respect to all matters related to the administration
4 and consummation of the Settlement, and any and all claims asserted in, arising out of, or related to the
5 subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the
6 determination of all controversies relating thereto.

7
8 **IT IS SO ORDERED.**

9 Dated: _____



Hon. Gregory W Pollack
SAN DIEGO 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, CA 90071.

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

13 Bruno W. Katz
14 bruno.katz@wilsonelser.com

15 John A. Guarino
16 john.guarino@wilsonelser.com

17 Abbey Jahnke
18 abbey.jahnke@wilsonelser.com

19 Eva Chavez
20 Eva.Chavez@wilsonelser.com

21 **WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP**

22 401 West A Street Suite 1900

23 San Diego, CA 92101

24 Telephone: 619-321-6200

25 Facsimile: 619-321-6201

26 *Attorneys for Defendant SHELTER ISLAND, INC.*

27 ☒ **BY E-MAIL:** I hereby certify that this document was served from Glendale, California,
28 by e-mail delivery on the parties listed herein at their most recent known e-mail address
or e-mail of record in this action.

☒ **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept
electronic service, I caused the documents to be sent to the persons at the electronic
service addresses listed above via electronic mail. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on March 5, 2025, at Glendale, California.

Karen Arellano

Name

Karen Arellano
Signature