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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

DAVID A. GREENE, individually and as
representative of the State of California on
behalf of all aggrieved employees,

Plaintiff,

v.

KHALID M. ASIMI and HAMID M. ASIMI,
individuals doing business as Alert Security
Services in Corona, California, and DOES 1 -
20, inclusive,

Defendants.

Case No. 30-2024-01377249-CU-OE-CXC

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION
FOR AN ORDER: (1) APPROVING THE
SETTLEMENT OF PLAINTIFF'S
INDIVIDUAL PAGA CLAIMS AND
DISMISSING THOSE CLAIMS WITH
PREJUDICE; AND (2) DISMISSING
PLAINTIFF'S PAGA CLAIMS ON
BEHALF OF THE OTHER AGGRIEVED
EMPLOYEES WITHOUT PREJUDICE**

Hearing Date: Thursday, October 3, 2024

Hearing Time: 2:00 p.m.

Hearing Location: Department CX104

Complaint Filed: February 1, 2024

The Plaintiff, David A. Greene, by and through his undersigned counsel, respectfully
submits this Memorandum of Points and Authorities in support of Plaintiff's Unopposed Motion for
an Order (1) Approving the Settlement of Plaintiff's Individual PAGA Claims and Dismissing
Those Claims With Prejudice and (2) Dismissing Plaintiff's PAGA Claims on Behalf of the Other
Aggrieved Employees Without Prejudice (hereinafter, "Plaintiff's Unopposed Motion").

1 **I. SUMMARY OF THE CLAIMS AT ISSUE**

2 Plaintiff's claims against Defendants, Khalid M. Asimi and Hamid M. Asimi, individuals
3 doing business as Alert Security Services in Corona, California, are set forth in Plaintiff's
4 Individual and Representative Action Complaint (hereinafter, "Plaintiff's Complaint") filed on
5 February 1, 2024. (Declaration of Daniel V. Santiago in Support of Plaintiff's Unopposed Motion
6 [hereinafter, "Santiago Declaration"], ¶3). Therein, Plaintiff alleges the following causes of action
7 against the Defendants: (1) failure to pay all wages due and owing (including wages for all overtime
8 and off-the-clock hours worked) in violation of California Labor Code ("Labor Code") §§204(a),
9 218.6, 510(a), 1194(a) and 1197 and IWC Wage Order No. 4-2001, §§3(A) and 4(B) (First Cause of
10 Action); (2) failure to furnish itemized wage statements in violation of Labor Code §226(a) (Second
11 Cause of Action); (3) failure to timely pay all wages due upon termination of employment in
12 violation of Labor Code §§201-203 (Third Cause of Action); and (4) civil penalties under the
13 Private Attorneys General Act of 2004 ("PAGA"), Labor Code §2698 et seq., as representative of
14 the State of California on behalf of himself and all allegedly aggrieved employees (Fourth Cause of
15 Action). (Santiago Declaration, ¶3).

16 As alleged in Plaintiff's Complaint, the term "aggrieved employees" is defined as all
17 California residents who were employed by Defendants, or any of them, as hourly rate employees
18 and worked as security guards at any time within the time period of one year preceding the filing of
19 Plaintiff's Complaint in this action up to and through the trial of this action. (Santiago Declaration,
20 ¶4). As further alleged in Plaintiff's Complaint, Plaintiff is informed and believes that there are at
21 least 60 aggrieved employees, as defined. *Id.*

22 Defendants deny the causes of action and material allegations set forth in Plaintiff's
23 Complaint. (Santiago Declaration, ¶5). Defendants further deny any wrongdoing whatsoever. *Id.*

24 Plaintiff respectfully submits that, for the reasons set forth below, the Court should grant the
25 relief requested in Plaintiff's Unopposed Motion.
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1 **II. STATUS OF THE LITIGATION**

2 If the Court grants the relief requested in Plaintiff's Unopposed Motion, Plaintiff
3 respectfully submits that the Court should vacate all dates on its calendar relating to the Action.
4 (Santiago Declaration, ¶6). The Initial Case Management Conference in the Action is currently set
5 for June 27, 2024, at 9:00 a.m. in Department CX104 of the Orange County Superior Court, Civil
6 Complex Center. *Id.* This case is not currently set for trial. *Id.*

7 **III. THE PARTIES' SETTLEMENT AGREEMENT**

8 The parties, by and through their respective counsel, have agreed to resolve all of the
9 Plaintiff's individual claims against the Defendants in the Action. (Santiago Declaration, ¶7.) To
10 that end, the parties have executed a Confidential Settlement Agreement and Mutual Release of All
11 Claims (hereinafter, "Settlement Agreement"). *Id.*

12 The Settlement Agreement is expressly conditioned upon the Orange County Superior
13 Court's entry of an Order: (a) approving the settlement of Plaintiff's PAGA claims on behalf of
14 himself as an allegedly aggrieved employee of the Defendants (hereinafter referred to as "Plaintiff's
15 individual PAGA claims"); (b) dismissing with prejudice Plaintiff's individual PAGA claims as
16 well as Plaintiff's individual non-PAGA claims; and (c) dismissing without prejudice Plaintiff's
17 PAGA claims on behalf of the other allegedly aggrieved employees of the Defendants (such Order
18 is hereinafter referred to as "the Dismissal Order"). (Santiago Declaration, ¶8.)

19 Additional terms of the Settlement Agreement include, *inter alia*:

20 (a) The parties wish to avoid the expense and uncertainty of further litigation and desire
21 to resolve any and all claims that actually were alleged, or that could have been alleged, in the
22 Action;

23 (b) Defendants deny and dispute all of Plaintiffs' alleged causes of action and
24 allegations in the Action;

25 (c) The Gross Settlement Amount of Twenty Five Thousand U.S. Dollars (\$25,000) is to
26 be distributed as follows:
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1 [i] \$1,500 is to be paid to the Labor and Workforce Development Agency
2 ["LWDA"] for the settlement of Plaintiff's individual PAGA claims to be reported on an IRS Form
3 1099 (the parties agree to settle Plaintiff's individual PAGA claims for \$2,000, 75% of which
4 [\$1,500] is to be paid to the LWDA and 25% of which [\$500] is to be paid to Plaintiff, as required);

5 [ii] \$11,250 is to be paid to Plaintiff (more specifically, that sum consists of a
6 settlement payment of \$500 for the settlement of Plaintiff's individual PAGA claims to be reported
7 on an IRS Form 1099, a settlement payment of \$7,750.00 for the settlement of Plaintiff's individual
8 non-PAGA claims other than his individual unpaid wage claim to be reported on an IRS Form 1099,
9 and a payroll check in the amount of \$3,000.00, less withholdings and deductions, for the settlement
10 of Plaintiff's individual unpaid wage claim to be reported on an IRS Form W-2); and

11 [iii] \$12,250 is to be paid to Plaintiff's undersigned counsel (more specifically,
12 that figure consists of the sum of Plaintiff's counsel's costs and fees incurred in the prosecution of
13 Plaintiff's individual claims in the amounts of \$1,500 and \$10,750, respectively).

14 (d) The Gross Settlement Amount of \$25,000 is to be paid in full by June 1, 2024, or
15 within 7 calendar days of the Court's entry of the Dismissal Order, whichever date is later.

16 (e) If any of the settlement payments described in the Settlement Agreement is more
17 than five (5) calendar days late, then Plaintiff reserves his rights in the exercise of his sole discretion
18 to enforce the Settlement Agreement and the terms governing the settlement payments described
19 therein in accordance with California Code of Civil Procedure 664.6.

20 (Santiago Declaration, ¶9.)

21 The Settlement Agreement is further conditioned upon the Defendants' executions of
22 declarations supporting their claimed financial difficulties and limited assets. (Santiago
23 Declaration, ¶10.) Defendants' counsel submitted those declarations for Plaintiff's counsel's review
24 prior to the parties' execution of the Settlement Agreement. *Id.* Those declarations support

1 Plaintiff's agreements: (a) to settle Plaintiff's individual claims on the foregoing terms (including
2 his individual PAGA claims subject to the Court's approval and dismissal of those claims with
3 prejudice); and (b) not to continue prosecuting Plaintiff's PAGA claims on behalf of the other
4 aggrieved employees (subject to the Court's dismissal of those claims without prejudice). *Id.*

5 **IV. PLAINTIFF REQUESTS THE COURT'S APPROVAL OF THE PROPOSED**
6 **SETTLEMENT OF HIS PAGA CLAIMS, AS REQUIRED.**

7 The proposed settlement of Plaintiff's individual PAGA claims against the Defendants is
8 fair and reasonable in light of the following factors, among others: (a) Plaintiff's counsel has
9 conducted sufficient investigation of the facts underlying Plaintiff's claims that support Plaintiff's
10 counsel's conclusion that the proposed settlement of Plaintiff's individual PAGA claims is fair and
11 reasonable (such investigation and discovery have included, *inter alia*: engaging in numerous,
12 detailed conversations with Plaintiff regarding the underlying facts and the status of the parties'
13 settlement discussions); (b) any settlement, including the proposed settlement in the Action, should
14 take into consideration the time, inconvenience and uncertainty of trial that are avoided by the
15 settlement; (c) under Labor Code §2699(i), allegedly aggrieved employees like Plaintiff are entitled
16 to receive only 25% of any PAGA settlement with the remaining 75% to be paid to the LWDA; (d)
17 as explained in greater detail in the Santiago Declaration, the proposed settlement of Plaintiff's
18 individual PAGA claims for \$2,000 exceeds Plaintiff's counsel's evaluation of a fair and reasonable
19 settlement of those PAGA claims; and (e) as explained in greater detail in the Santiago Declaration,
20 Plaintiff's counsel's background and experience support the conclusion that the proposed settlement
21 of Plaintiff's individual PAGA claims is fair and reasonable. (Santiago Declaration, ¶¶11-16 and
22 20-23).

23 Plaintiff requests the Court's approval of the proposed settlement of his individual PAGA
24 claims in accordance with Labor Code §2699(l)(2) which requires Court approval for every PAGA
25 settlement.¹ Labor Code §2699(l)(2) further requires that the proposed PAGA settlement be
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27 ¹ Labor Code §2699(l)(2) provides that "[t]he superior court shall review and approve any settlement of any
28 civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same
time that it is submitted to the court."

1 submitted to the LWDA at the same time that it is submitted to the Court. Accordingly, Plaintiff's
2 counsel submitted copies of the parties' Stipulation, Plaintiff's Unopposed Motion and all related
3 papers to the LWDA (via online filing with the LWDA) immediately before filing those papers in
4 the Orange County Superior Court. (Santiago Declaration, ¶24.) A true and correct copy of the
5 email Plaintiff's counsel received from the DIR PAGA Unit on behalf of the LWDA confirming his
6 submission of those papers to the LWDA earlier that day is attached to the Santiago Declaration as
7 Exhibit 1. *Id.*

8 Plaintiff's counsel does not anticipate receiving any objection or other communication from
9 the LWDA regarding the relief requested in the parties' Stipulation and Plaintiff's Unopposed
10 Motion. (Santiago Declaration, ¶25.) Plaintiff's counsel will promptly advise the Court if he
11 receives any such objection or other communication from the LWDA. *Id.*

12 **V. NECESSITY FOR REQUESTED RELIEF**

13 Plaintiff respectfully submits that the relief requested in the parties' Stipulation and
14 Plaintiff's Unopposed Motion is warranted in light of the following factors, among others: (1) the
15 parties are prepared to consummate their Settlement Agreement immediately after the Court
16 approves of the settlement of Plaintiff's individual PAGA claims, dismisses those claims with
17 prejudice, and further dismisses Plaintiff's PAGA claims on behalf of the other aggrieved
18 employees without prejudice; and (2) there is no just reason to delay the consummation of the
19 parties' Settlement Agreement. (Santiago Declaration, ¶17.)

20 Of note, notice of the proposed settlement of Plaintiff's individual PAGA claims and the
21 dismissals of Plaintiff's individual PAGA claims as well as his PAGA claims on behalf of the other
22 aggrieved employees as described herein is not required to be provided to any other employee of
23 Defendants. *See, e.g., Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1122 (9th Cir. 2014)
24 ("PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees
25 opt out of a PAGA action); *O'Connor v. Uber Techs., Inc.*, 201 F. Supp. 3d 1110, 1134 (N.D. Cal.
26 2016) ("PAGA does not require class actions procedures, such as notice and opt-out rights."); and
27 *Ochoa-Hernandez v. Cjaders Foods, Inc.*, 2010 WL 134077, at *5 (N.D. Cal. Apr. 2, 2010)

1 (“Unnamed employees need not be given notice of the PAGA claim, nor do they have the ability to
2 opt-out of the representative PAGA claim.”) (Santiago Declaration, ¶18.) Moreover, Plaintiff’s
3 counsel is unaware of any aggrieved employee who is relying on Plaintiff or Plaintiff’s counsel for
4 the prosecution of any of the PAGA claims in the Action. (Santiago Declaration, ¶19.)

5 **VI. REQUESTED RELIEF**

6 For the foregoing reasons, Plaintiff respectfully requests that the Court enter an Order, *inter*
7 *alia*: (1) approving the settlement of Plaintiff’s individual PAGA claims against the Defendants and
8 dismissing those claims with prejudice; (2) dismissing Plaintiff’s non-PAGA claims against the
9 Defendants with prejudice; (3) dismissing Plaintiff’s PAGA claims against the Defendants on
10 behalf of the other aggrieved employees without prejudice; and (4) granting such additional relief as
11 the Court deems just and appropriate. Plaintiff respectfully files under separate cover a [Proposed]
12 Order reflecting the relief requested herein.

13 Notably, Plaintiff has filed concurrently herewith under separate cover the parties’
14 Stipulation calling for the Court to grant the relief requested herein. (Santiago Declaration, ¶2.)

15 Dated: May 28, 2024

LAW OFFICES OF DANIEL V. SANTIAGO, P.C.

16 By:



17 Daniel V. Santiago, Esq.

18 Attorney for Plaintiff, David A. Greene
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