

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

Attorneys for Plaintiff Kelvin Coenen,
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 STANISLAUS

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

Plaintiff,

v.

ECONTACTLIVE, INC., a California
corporation, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: CV-24-007300

Assigned the Honorable John D. Freeland, Dept. 23

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

*[Concurrently filed: Declaration of Evan S.
Gaines]*

Complaint Filed: September 16, 2024

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

2 1. On July 12, 2024, Plaintiff Kelvin Coenen (“Plaintiff”) transmitted a letter to the
3 California Labor & Workforce Development Agency (“LWDA”) and Defendant eContactlive, Inc.
4 (“Defendant”) that Plaintiff alleges to be in compliance with the exhaustion requirements of the
5 California Labor Code Private Attorneys General Act (“PAGA”), articulating claims related to the
6 failure to pay meal and rest period premiums, regular wages, overtime wages, vacation wages, and
7 sick pay wages at the correct rates; reimburse all business expenses incurred; pay all vacation wages
8 due; issue accurate wage statements; and pay all wages due at the separation of employment. See
9 Declaration of Evan S. Gaines (“Gaines Decl.”) at ¶ 6; **Exhibit B** to Gaines Decl.

10 2. On September 16, 2024, Plaintiff filed a Representative Action Complaint in the
11 Superior Court of the State of California for the County of Stanislaus, thereby commencing this
12 Action entitled *Kelvin Coenen v. eContactlive, Inc., a California corporation*, case number CV-24-
13 007300. Plaintiff filed his Complaint on behalf of the State of California and other aggrieved
14 employees as a PAGA action based on violations of Labor Code §§ 201, 202, 226(a), 226.3, 226.7,
15 227.3, 246, 510, 512, 558, 1194, and 2802 and seeking penalties pursuant to Labor Code §2699.
16 Gaines Decl. at ¶ 7.

17 3. Defendant disputes and denies the allegations and claims asserted in the Action and
18 denies that the Action is suitable for representative treatment. Gaines Decl. at ¶ 8.

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

24 5. Defendant produced extensive documents, including employee handbooks, wage
25 statements and time records, and summary spreadsheets. The Parties then directly negotiated an
26 agreement to resolve the claims in the Action. Gaines Decl. at ¶ 10.

1 6. The terms and conditions of the settlement are set forth in the Private Attorneys
2 General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“Settlement” or “Settlement
3 Agreement”). The Settlement Agreement resolves all claims asserted in the LWDA Letters and the
4 Complaint. Gaines Decl. at ¶ 11; **Exhibit C** to the Gaines Decl.

5 7. Based on the information and documents obtained through informal discovery,
6 Plaintiff assessed the maximum value of the limited PAGA claims to be released by the settlement
7 to be approximately \$123,250 (at the rate of a \$100 penalty for approximately 2,465 weekly pay
8 periods at issue for approximately 72 Aggrieved Employees, without stacking violations). Since this
9 Action falls into the gambit of the revised PAGA statute, any weekly pay periods are halved (and
10 included in the calculation above), and Defendant is entitled to a discount on the maximum penalty
11 for complying with PAGA at early stages of the litigation, which Defendant sought to do. As such,
12 the Parties agreement represents a compromise considering these additional elements. Gaines Decl.
13 at ¶ 12.

14 8. As set forth in the Settlement Agreement, the Gross Settlement Amount is \$45,000,
15 and includes an apportionment of attorneys’ fees and costs, and payment to the settlement
16 administrator. By a separate confidential agreement, the Parties have resolved all of Plaintiff’s
17 individual claims through a comprehensive general release in favor of Defendant. In connection
18 with his general release of all claims, Plaintiff will be paid a confidential sum, separate from the
19 Gross Settlement Amount and will not receive any payment from the Gross Settlement.¹ Plaintiff’s
20 Counsel is not recovering any attorney’s fees from Plaintiff’s individual settlement. Gaines Decl. at
21 ¶ 13.

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

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26
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.

1 10. Plaintiff has submitted a copy of the Settlement Agreement, together with this
2 Stipulation and Order and Judgement, and the Declaration of Evan S. Gaines, to the LWDA as
3 required by PAGA. Gaines Decl. at ¶ 14; **Exhibit D**.

4 11. The Parties request that the Court enter the below order approving the Settlement,
5 as permitted by Labor Code § 2699(1), and entering Judgment in accordance with the terms and
6 conditions of the Settlement Agreement. Gaines Decl. at ¶ 15.

7 **IT IS SO STIPULATED.**

8 Dated: December 23, 2024

GAINES LAW CORPORATION

9
10 By: 
11 _____

EVAN S. GAINES, ESQ.

Attorney for Plaintiff Kelvin Coenen

12 Dated: December 23, 2024

HENDERSON HATFIELD,
A Professional Corporation

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14
15 By: /s/ Stacy L. Henderson

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STACY L. HENDERSON, ESQ.
Attorneys for Defendant eContactlive, Inc.

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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: _____

JUDGE OF THE SUPERIOR COURT

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.

On December 23, 2024, I served the foregoing document described as **STIPULATION AND 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:

STACY L. HENDERSON, ESQ.
HENDERSON HATFIELD, A Professional Corporation
1101 15th Street
Modesto, California 95354
stacy@hendersonhatfield.com

____ (BY ☒ 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 that 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.

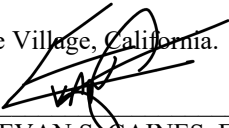
 X (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic transmission via email pursuant to an agreement between counsel on the counsel of record listed above.

 X (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

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 December 23, 2024, at Westlake Village, California.



EVAN S. GAINES, ESQ.