

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile: (213) 488-6554

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KERRY CONNELLY, as an individual and as a
private attorney general,

Plaintiff,

vs.

STARBUCKS CORPORATION, a Washington
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 1:21-cv-00746-ADA-SAB

**DECLARATION OF SIMON L. YANG IN
SUPPORT OF PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Date: August 28, 2023
Time: 1:30 p.m.
Courtroom: 1

Complaint Filed: January 21, 2021

1 I, Simon L. Yang, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and, with the law firm
3 Diversity Law Group, P.C., am counsel of record for Plaintiff. I make this declaration on the basis of my
4 own personal knowledge, except as to those matters stated on information and belief and, as to those
5 matters, I believe them to be true. If called as a witness, I could testify competently as to the facts stated
6 in this declaration.

7 2. On March 19, 2021, Plaintiff filed the original putative class action complaint in this
8 matter. On April 2, 2021, Plaintiff file a first amended complaint to also allege claims pursuant to the
9 Labor Code Private Attorneys General Act of 2004 (“PAGA”). Plaintiff ultimately elected not to pursue
10 class action claims, and on April 5, 2022, Plaintiff filed the operative second amended complaint that
11 limits the alleged claims to Plaintiff’s individual claim for violations of Section 226(a) and Plaintiff’s
12 PAGA claim for the same violations.¹ Specifically, Plaintiff alleges that Defendant, Starbucks
13 Corporation, fails to furnish accurate itemized wage statements that show (i) the name of the legal entity
14 that is the employer or (ii) the total hours worked.

15 3. The Parties met and conferred about Plaintiff’s allegations and claims as well as
16 Defendant’s defenses. The Parties also engaged in formal discovery, including the exchange of
17 document requests and interrogatories, the deposition of Plaintiff, and the deposition of Defendant’s
18 corporate designee. Plaintiff also requested (and Defendant provided) additional informal discovery to
19 enable the Parties to explore the possibility of an informal resolution. Defendant’s willingness to
20 produce this information enabled Plaintiff to evaluate the full scope of Defendant’s potential liability.

21 4. Based on Plaintiff’s thorough investigation of the allegations and claims alleged in the
22 operative complaint, Plaintiff determined that the allegation that Defendant’s wage statements generally
23 fail to show the employer name lack merit, since the employer name is omitted in certain circumstances
24 only (i.e., on reprinted copies of Defendant’s wage statements). Plaintiff, however, was able to confirm
25 that on approximately 16,800 occasions, Defendant furnished employees with wage statements that
26 Plaintiff contends do not show the total hours worked. Based on discovery, these wage statements
27

28

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

1 resulted from a system glitch that impacted certain wage statements only. Based on discovery and
2 investigation, 3,963 employees were impacted by the system glitch during the relevant period. Also
3 based on discovery, the system glitch was corrected in April 2021 shortly after Plaintiff initiated the
4 lawsuit in January 2021. Defendant disagrees and believes that its wage statements show the total hours
5 worked, even for the 16,800 wage statements that Plaintiff contends are unlawful. Over the course of
6 several months of negotiations, the Parties were able to agree to the terms of a settlement memorialized
7 in the Joint Stipulation of PAGA Settlement (the “Agreement”), a true and correct copy of which is
8 attached as **Exhibit 1**.

9 5. The Agreement requires Defendant to pay \$252,000.00—or approximately \$15.00 per
10 pay period. This amounts to approximately 15.0% of Defendant’s potential liability and is an excellent
11 result for the State. Plaintiff contended that Defendant’s alleged wage statement failures resulted in a
12 \$100 per pay period penalty under Section 2699(f) for each of approximately 16,800 wage statements
13 that Plaintiff contended did not show the total hours worked. In other words, Plaintiff argued that the
14 potential total recovery amounted to approximately \$1,680,000.00. Defendant contested the merits and
15 denied it was liable at all. Moreover, even if Plaintiff prevailed on the merits, Defendant contested the
16 extent of liability. Specifically, Defendant contended that PAGA penalties would be subject to
17 discretionary reductions. For example, Defendant continued to rely on its experience in prior PAGA
18 litigation, in which it defended PAGA claims alleging different Labor Code violations through a bench
19 trial. In that PAGA litigation, the trial court reduced PAGA penalties by 90%—even though the
20 employee prevailed on the PAGA claims. *See Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529
21 (2018) (affirming “significant reduction of the \$50 maximum penalty (per initial violation) to the
22 penalty imposed—only \$5 per initial violation”). While the Parties disagree on the application of the law
23 to the facts, each Party recognized in negotiations that, if taken to trial, the other Party would at least
24 have reasonable arguments, such that the Settlement Amount to which the Parties ultimately agreed was
25 reasonable.

26 6. Because Plaintiff’s Counsel seeks reimbursement of \$4,794.16 in costs only (and the
27 Administration Costs are \$16,000.00, requested attorneys’ fees are \$84,000.00, and requested General
28 Release Payment is \$10,000.00), it is expected that the PAGA Penalty Fund will be \$137,205.84. The

1 LWDA will receive \$102,904.38 as its share of PAGA Penalties and employees will receive \$34,301.46
2 as their share of PAGA Penalties.

3 7. Although I am confident that litigation of the claims would result in a classwide judgment
4 against Defendant, I recognize the inherent risks in litigation, including the specific risks that liability
5 could not be established at trial or that the applicable law could change. I believe the settlement for the
6 State is fair, reasonable, and adequate, given the inherent risks of litigation, as well as the potential for
7 appeals and the costs of pursuing litigation. The settlement is the result of extensive arms' length
8 negotiations between the Parties and their counsel.

9 8. I am one of the primary attorneys on this matter. My qualifications are as follows: After
10 completing my undergraduate education at The Wharton School at the University of Pennsylvania in
11 2004 with concentrations in Management and Human Resources, I continued studying labor and
12 employment issues by enrolling in post-graduate education at the School of Labor and Employment
13 Relations at the University of Illinois. I determined before enrolling in law school that I wanted to
14 practice labor and employment law in California. I thus received my J.D. from UCLA School of Law in
15 2008. During law school, I spent the summer of 2006 with the National Labor Relations Board, Region
16 21, and the summer of 2007 with the law firm of Seyfarth Shaw LLP in 2007.

17 9. Upon graduating from law school in 2008, I practiced labor and employment law at
18 Seyfarth Shaw LLP, a well-regarded labor and employment firm. I was elevated to partner in 2019. My
19 practice focused on wage and hour class, collective, and representative actions, with a particular
20 emphasis on matters involving the Labor Code Private Attorneys General Act of 2004 ("PAGA").
21 During my time with Seyfarth Shaw LLP, I was a primary attorney on numerous wage and hour class,
22 collective, and representative actions that resulted in published opinions, including for example, *Ehret v.*
23 *WinCo Foods, LLC*, 26 Cal. App. 6th 1 (2018) (affirming summary judgment in PAGA action based on
24 absence of meal period violations in light of collectively bargained waiver of meal periods on shifts of
25 not more than six hours), and *Ruelas v. Costco Wholesale Corp.*, 67 F. Supp. 3d 1137 (C.D. Cal. Sept. 8,
26 2014) (obtaining dismissal of wage statement allegations in PAGA representative action). I was also
27 able to obtain experience litigating representative claims or wage and hour matters through trial and
28 appeal. *E.g., Velazquez v. Costco Wholesale Corp.*, 603 Fed. App'x 584 (9th Cir. Mar. 25, 2015)

(reversing award of waiting-time penalties based on lack of evidence supporting any willful failure to pay wages); *Ward v. Costco Wholesale Corp.*, 552 Fed. App'x 631 (9th Cir. Jan. 9, 2014) (affirming bench-trial judgment in favor of defendant against named plaintiff and 18 opt-in plaintiffs in collective action with involving deductions from final paychecks). I also litigated class certification on numerous matters. *E.g.*, *Martinez v. Guess?, Inc.*, Los Angeles Superior Court Case No. BC 498326 (obtaining denial of class certification on behalf of retail employees alleging bag check claims).

10. Based on my experience in wage and hour class, collective, and representative actions, I have been interviewed and quoted in articles published in the Northern California Record about legislative efforts to reform PAGA. I also have published articles on myriad topics relevant to wage and hour class and representative action litigation, including for example articles on California kin care requirements in *Employee Relations Law Journal* (Vol. 36, No. 2), the extraterritorial application of California employment laws in *The Recorder* (134RD Year No. 28), and California meal and rest break laws in *California Transportation News*, a publication of the California Construction Trucking Association.

11. In 2020 I left Seyfarth Shaw LLP and joined my current firm, Diversity Law Group, P.C., which also focuses on employment law. I have handled a number of wage and hour class and representative actions and continue litigating such matters in numerous Superior Courts and District Courts. From matters with both Seyfarth Shaw LLP and Diversity Law Group, P.C., I have successfully mediated the resolution of dozens of wage and hour class, collective, and representative actions. I have obtained class certification, and no court has ever found me to be inadequate class counsel.

12. I have incurred a total of 141.3 hours to date in litigating this matter. Attached as **Exhibit 2** is a summary of my hours and tasks on this matter. I also anticipate spending at least 10.0 additional hours in connection with (i) obtaining approval of the settlement in district court, (ii) responding to correspondence and phone calls from the administrator, defense counsel, or aggrieved employees, and (iii) preparing status reports, attending case management conferences, and otherwise disposing of the case from the docket in Stanislaus County Superior Court (from whose jurisdiction this case was removed).

13. My current billing rate is \$725.00 per hour, which is less than my billing rate would have been had I remained at my prior firm. In January of 2019, clients were billed and paid my rate of \$630 per hour. In January of 2020, clients were billed and paid my rate of \$670 per hour. Had I remained at my prior firm, I am informed and believe that my billing rate would have increased in January of 2021 to approximately \$710 per hour and in January of 2022 to approximately \$750 per hour. Numerous California courts in the Eastern District of California's jurisdiction have approved my hourly rate of \$725. Attached as **Exhibit 3** is a Notice of Entry and Order and Judgment in *Tellez v. Sun Valley Raisins, Inc.*, in which the Superior Court of the State of California for the County of Tulare finds requested attorneys' fees at my hourly rate of \$725 to be reasonable. Attached as **Exhibits 4 and 5** are a Tentative Ruling and Order Granting Motion for Final Approval of Class Action Settlement and Final Judgment in *Smith et al. v. Clean Harbors Environmental Services, Inc.*, in which the Superior Court of the State of California for the County of Sacramento finds requested attorneys' fees at my hourly rate of \$725 to be reasonable.

14. The total lodestar for my hours will be approximately \$109,692.50 based on an hourly rate of \$725.00 per hour for 151.3 total hours. The retainer agreement in this matter provide for 40% of Plaintiff's recovery to be awarded as attorneys' fees.

15. Along with the filing of the motion for preliminary approval of the settlement in this matter, a copy of the motion papers have also been uploaded to the Labor and Workforce Development Agency (“LWDA”) in compliance with Section 2699(1)(2) and (4). Attached as **Exhibit 6** is a copy of the LWDA confirmation. Similarly, upon approval of a settlement in this matter, my regular practice would be to direct my office staff to upload a copy of the Court’s judgment, papers, or other orders awarding civil penalties under PAGA.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed this 20th day of July 2023, at Hillsborough, California.

/s/ Simon L. Yang
Simon L. Yang

EXHIBIT 1

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

POLARIS LAW GROUP
William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: (831) 531-4214
Facsimile (831) 634-0333

Attorneys for Plaintiff

PROSKAUER ROSE LLP
GREGORY W. KNOPP (SBN 237615)
JONATHAN P. SLOWIK (SBN 287635)
LAURA L. VAUGHN (SBN 329470)
gknopp@proskauer.com
jslowik@proskauer.com
lvaughn@proskauer.com
2029 Century Park East, Suite 2400
Los Angeles, CA 90067
Telephone: 310-557-2900
Facsimile: 310-557-2193

Attorneys for Defendant

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

KERRY CONNELLY, as an individual and as a
private attorney general,

Plaintiff,

vs.

STARBUCKS CORPORATION, a Washington
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 1:21-cv-00746-ADA-SAB

**JOINT STIPULATION OF PAGA
SETTLEMENT**

Complaint Filed:	March 29, 2021
FAC Filed:	April 2, 2021
SAC Filed:	April 5, 2022

JOINT STIPULATION OF PAGA SETTLEMENT

This Joint Stipulation of PAGA Settlement is entered into by and between Plaintiff, Kerry Connelly, on the one hand, and Defendant, Starbucks Corporation, on the other hand.

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings. Definitions contained elsewhere in this Agreement will also be effective.

1.1. Action. "Action" means the civil lawsuit originally entitled *Kerry Connelly v. Starbucks Corporation*, filed on March 29, 2021, in the Superior Court of the State of California for the County of Stanislaus as Case No. CV-21-001661, and subsequently removed to United States District Court for the Eastern District of California as Case No. 1:21-cv-00746-DAD-SAB.

1.2. Administrator. "Administrator" means the third-party settlement administrator designated to distribute settlement payments.

1.3. Administration Costs. "Administration Costs" means the payment from the Settlement Amount to the Administrator for administering the settlement, which includes but is not limited to printing, distributing, or tracking payments pursuant to this Agreement, and providing necessary reports or declarations, as requested by the Court or Plaintiff's Counsel and Defendant's Counsel.

1.4. Aggrieved Employee. During the relevant period, Defendant generated wage statements for its California employees in batches of 2,800. "Aggrieved Employee" means any person employed by Defendant in California who received a wage statement generated in the first batch of 2,800 during any pay period from September 29, 2019, through April 30, 2021. Defendant represents that there are approximately 4,000 Aggrieved Employees.

1.5. Agreement. "Agreement" means this Joint Stipulation of PAGA Settlement.

1.6. Approval Order. "Approval Order" means an order approving this settlement.

1.7. Attorneys' Fees and Costs. "Attorneys' Fees and Costs" means the attorneys' fees and costs payment from the Settlement Amount for Plaintiff's Counsel's attorneys' fees and costs associated with the litigation and resolution of the Action (excluding third-party Administration Costs).

1.8. Court. "Court" means the United States District Court for the Eastern District of California.

1 **1.9. Effective Date.** “Effective Date” means (i) if no appeals or motions for reconsideration
2 or review are filed, the 61st calendar day after the Court enters the Approval Order (i.e., the first date
3 after the time to appeal the approval order has expired); or (ii) if any timely appeals or motions for
4 reconsideration or review are filed, the date of final resolution of that appeal or motion (including any
5 requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the
6 settlement. In this regard, it is the intention of the Parties that the Effective Date of the settlement shall
7 not be a date before the Approval Order has become completely final and there is no timely recourse by
8 any person who seeks to object to or otherwise contest the settlement.

9 **1.10. General Release Payment.** “General Release Payment” means the consideration to
10 Plaintiff for her additional general release and waiver of Civil Code section 1542 as well as in
11 recognition of her efforts and work in prosecuting the Action on behalf of the State.

12 **1.11. PAGA Penalty Fund.** “PAGA Penalty Fund” means the Settlement Amount allocated
13 to PAGA penalties.

14 **1.11.1. LWDA Payment.** “LWDA Payment” means a payment of 75% of the PAGA
15 Penalty Fund to the Labor & Workforce Development Agency (“LWDA”).

16 **1.11.2. Employee Payment.** “Employee Payment” means each Aggrieved Employee’s
17 payment and share of 25% of the PAGA Penalty Fund.

18 **1.12. Parties.** “Parties” means Plaintiff and Defendant.

19 **1.12.1. Plaintiff.** “Plaintiff” means Kerry Connelly.

20 **1.12.2. Defendant.** “Defendant” means Starbucks Corporation.

21 **1.13. Released Parties.** “Released Parties” means Defendant and any of its parents or
22 subsidiaries and any of their officers, directors, employees, managing agents, and successors and
23 assigns.

24 **1.14. Settlement Amount.** “Settlement Amount” means the maximum potential settlement
25 amount—inclusive of the PAGA Penalty Fund (and LWDA Payment and Employee Payments) and any
26 Administration Costs, Attorneys’ Fees and Costs, and General Release Payment—that Defendant may
27 be required to pay in connection with an Approval Order.
28

1 **2. RECITALS**

2 **2.1. Initiation of Action.** On March 29, 2021, Plaintiff filed the original complaint initiating
3 this representative action under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) for
4 Defendant’s alleged failures to furnish accurate itemized wage statements that show (i) the name of the
5 legal entity that is the employer or (ii) the total hours worked. Although the original complaint alleged
6 putative class claims, Plaintiff elected not to pursue class claims and filed a Second Amended
7 Complaint removing the class claims on April 5, 2022.

8 **2.2. Plaintiff’s Counsel’s Investigation.** The Parties met and conferred about Plaintiff’s
9 allegations and claims and Defendant’s defenses. The Parties engaged in formal discovery (including
10 written discovery, document productions, and depositions) and also exchanged informal discovery that
11 enabled the Parties to explore the possibility of an informal resolution. Based on Plaintiff’s Counsel’s
12 investigation, the claims focused on a systems error that affected the first batch of approximately 2,800
13 wage statements each pay period from September 29, 2019 to April 30, 2021.

14 **2.3. Plaintiff’s Counsel’s Evaluation.** As a result of formal and informal discovery, and in
15 light of all known facts and circumstances—including the uncertainty associated with litigation, the
16 risks of delay, potential changes to the law, and potential appellate issues—the Parties were able to
17 agree to the terms of this Agreement. After arm’s-length negotiations and based on Plaintiff’s
18 Counsel’s ongoing investigation and evaluation, Plaintiff and her Counsel are of the opinion that the
19 terms of this Agreement are fair, reasonable, and adequate, and in the best interests of the State.

20 **2.4. No Admission of Liability.** The Parties enter into this Settlement to resolve the dispute
21 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
22 entering into this settlement, Defendant does not admit, and specifically denies, that it violated any
23 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
24 any other applicable laws, regulations or legal requirements; breached any contract; violated or
25 breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful
26 conduct with respect to the Aggrieved Employees. Neither this settlement, nor any of its terms or
27 provisions, nor any of the negotiations connected with it, will be construed as an admission or
28 concession by Defendant of any such violations or failures to comply with any applicable law, or as a

finding that Defendant has violated any provision of the California Labor Code or IWC Wage Orders. Except as necessary in a proceeding to enforce the terms of this settlement, this Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

3. SETTLEMENT PROCEEDS

3.1. Settlement Amount. Defendant agrees to pay a non-reversionary Settlement Amount of \$252,000.00, which was negotiated based on Defendant's representation that there are approximately 4,000 Aggrieved Employees who Plaintiff contends received approximately 16,800 wage statements that fail to show the total hours worked. To the extent that there are more than 4,000 Aggrieved Employees, and the number of Aggrieved Employees increases by more than 10.0% (i.e., by more than 400), the Settlement Amount shall increase on a pro rata basis equal to the percentage increase in the number of Aggrieved Employees exceeding 10.0%. The Parties agree that following payments will be made from the Settlement Amount. All amounts and procedures described herein will be subject to Court approval.

3.1.1. Attorneys' Fees and Costs. Plaintiff's Counsel will seek an award of Attorneys' Fees of 33⅓% of the Settlement Amount (or \$84,000.00) and litigation costs of up to \$10,000.00, and Defendant agrees not to oppose such request. These amounts include, without limitation, all time expended by Plaintiff's Counsel in defending and preparing this Agreement and securing Court approval (including any appeals therein), and there will be no additional charge of any kind to either the Aggrieved Employees or Defendant for such work.

3.1.2. General Release Payment. \$10,000.00 of the Settlement Amount is designated as the General Release Payment. Plaintiff will be issued IRS Form 1099 in connection with this payment, will be solely and legally responsible to pay any and all applicable taxes on the payments made pursuant to this paragraph, and will hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

3.1.3. Administration Costs. Based on quotes received from third-party administrators, Administration Costs shall be no more than \$16,000.00. These costs, which will be paid

1 from the Gross Settlement Amount, will include, inter alia, the required tax reporting on the Aggrieved
2 Employee Payments, the issuing of 1099 Forms, confirming/auditing claims for payments for
3 compliance with the Settlement, calculating and distributing all payments to be made pursuant to the
4 Settlement, providing reports and declarations, and providing any required notices of the proposed
5 settlement to the appropriate federal and state officials as required by applicable law. The Parties agree
6 to cooperate in the settlement administration process and to make all reasonable efforts to minimize
7 Administration Costs. To the extent that there are more than 4,400 Aggrieved Employees and
8 Administration Costs exceed \$16,000.00 due to the higher-than-expected number of Aggrieved
9 Employees, Defendant agrees to separately fund Administration Costs exceeding \$16,000.00.

10 **3.1.4. PAGA Penalty Fund.** Any amounts for Attorneys' Fees and Costs, General
11 Release Payment, and Administration Costs not approved shall be added to the PAGA Penalty Fund.
12 Otherwise, \$132,000.00 of the Settlement Amount shall be the PAGA Penalty Fund. The PAGA
13 Penalty Fund shall be distributed pursuant to statute with 75% of the PAGA Penalty Fund payable as an
14 LWDA Payment. The remaining 25% of the PAGA Penalty Fund payable as Employee Payments shall
15 be allocated and distributed to Aggrieved Employees in equal shares. Employee Payments shall be
16 distributed to Aggrieved Employees in separate checks, without the need to submit a claim form.

17 **3.2. Payment Considerations.**

18 **3.2.1.** All payments shall be characterized as IRS Form 1099 payments. The Parties
19 have had an opportunity to consult with independent tax counsel. In the event the Court is not willing to
20 approve the settlement with the tax allocation proposed by the Parties, this shall not be a basis for any
21 Party to cancel or withdraw from the Settlement; rather, the Parties will work in good faith to propose
22 another tax allocation acceptable to the Court. The Parties are not giving any tax advice in connection
23 with the settlement or any payments to be made pursuant to this Agreement. The Parties do not intend
24 anything contained in this Agreement to constitute legal advice regarding the taxability of any amount
25 paid hereunder, nor shall anything in this Agreement be relied upon as such. All recipients of settlement
26 payments shall be solely responsible for paying any applicable taxes on their respective payments and
27 shall indemnify and hold harmless the Parties from any claim or liability for taxes, penalties, or interest
28 arising as a result of the payments.

1 **3.2.2.** The Employee Payments under this settlement, as well as any other payments
2 made pursuant to this settlement, will not be utilized to calculate any additional benefits under any
3 benefit plans for which any Aggrieved Employees may be eligible, including, but not limited to: (i)
4 profit-sharing plans, (ii) bonus plans, (iii) 401(k) plans, (iv) stock purchase plans, (v) vacation plans,
5 (vi) sick leave plans, (vii) PTO plans, and (viii) any other benefit plan. Rather, it is the Parties'
6 intention that this Agreement will not affect any rights, contributions, or amounts to which any
7 Aggrieved Employees may be entitled under any benefit plans.

8 **3.3. Funding and Distribution.** By ten business days after the Effective Date ("Funding
9 Date"), Defendant shall deposit the Settlement Amount with the Administrator. By seven days after
10 receipt of the Settlement Amount, the Administrator shall distribute all amounts to be paid pursuant to
11 this Agreement and Approval Order.

12 **4. SETTLEMENT ADMINISTRATION**

13 **4.1. Administrator.** For purposes of distributing payments and administering the settlement,
14 the Administrator shall be Phoenix Settlement Administrators.

15 **4.2. Delivery of Aggrieved Employee List.** "Aggrieved Employee List" means a complete
16 list of all Aggrieved Employees that Defendants will diligently and in good faith compile from its
17 records. The Aggrieved Employee List will include the following information from Defendant's
18 records: each Aggrieved Employee's full name; most recent mailing address and telephone number;
19 Social Security number; and data sufficient for the Administrator to perform all necessary
20 responsibilities pursuant to this Agreement. The Administrator is required to follow all reasonable data
21 security protocols and best practices to safeguard this sensitive data against unauthorized access or
22 disclosure. No later than 20 business days after the Court issues an order approving the Settlement,
23 Defendants will provide the Aggrieved Employee List to the Administrator. Plaintiff's Counsel will not
24 receive a copy of the Aggrieved Employee List. The Administrator shall not use the Aggrieved
25 Employee List or any information contained therein for any purpose other than to administer the
26 settlement in accordance with this Agreement. Upon completion of the administration of the
27 settlement, the Administrator shall destroy the Aggrieved Employee List and any information contained
28 therein or return it and all copies to Defendant.

1 **4.3. Mailing of Settlement Payments.** The Administrator shall send payments to all payees
2 via First Class U.S. Mail. For Aggrieved Employees, the Administrator shall use the last known
3 mailing address for each Aggrieved Employee, as reflected in the Aggrieved Employee List. Any
4 mailings returned to the Administrator as undeliverable shall be promptly resent via First Class U.S.
5 Mail to the forwarding address on the returned mailing. If no forwarding address is provided, the
6 Administrator shall promptly attempt to determine the correct address using a single skip-trace search
7 and shall then promptly send a single re-mailing.

8 **4.4. Undeliverable or Uncashed Checks.** All uncashed or undeliverable settlement checks
9 will expire after 180 calendar days after the postmarked date of their mailing. After 180 calendar days,
10 the sum value of all expired checks will be tallied by the Administrator. The Administrator shall direct
11 the principal for any expired checks in accordance with the Approval Order. The Parties shall request
12 that the Court order that the principal for any expired checks be distributed to the State Controller
13 Unclaimed Property Fund in the name of the Aggrieved Employee.

14 **4.5. Certification of Completion.** Upon completion of administration of the settlement, the
15 Administrator shall provide written certification of such completion to the Court and the Parties'
16 Counsel.

17 **5. RELEASES**

18 **5.1. Release of PAGA Claims.** In consideration of the terms and conditions set forth herein,
19 Plaintiff, as a proxy for the State of California, shall for the period September 29, 2019, through April
20 30, 2021, fully and finally waive, release, and forever discharge the Released Parties from any and all
21 claims, rights, or causes of action for civil penalties (and for all resulting penalties, attorneys' fees,
22 litigation costs, interest, and any other relief) under California Labor Code Sections 2698 *et seq.*,
23 predicated on alleged violations of California Labor Code § 226, to the extent any such claims are
24 either (i) asserted in the PAGA Action or in any letter to the LWDA relating to this Action, including
25 any claims alleging that wage statements failed to provide the total hours worked, or (ii) arising from,
26 or derivative of, the claims or factual allegations asserted in this Action ("Released PAGA Claims").
27 This waiver and release will be final and binding on the Funding Date and will have every preclusive
28 effect permitted by law. Plaintiff will not file and will not request any other party or entity to file on her

1 behalf, any claim, complaint, charge or request for damages or any other relief released above,
2 including with any local, state, or federal governmental or quasi-governmental agency or any state,
3 administrative, or federal court, or any licensing or accreditation organization, against the Released
4 Parties.

5 **5.2. Additional Release by Plaintiff.** As of the Funding Date, and as a condition of
6 receiving any portion of her General Release Payment, Plaintiff agrees to the additional following
7 General Release: In consideration of Defendant's promises and agreements as set forth herein, Plaintiff
8 hereby fully releases the Released Parties from any and all Released PAGA Claims and also generally
9 releases and discharges the Released Parties, and all of their present and former parents, subsidiaries,
10 affiliates, and joint ventures, shareholders, members, managers, officers, officials, directors, employees,
11 agents, servants, registered representatives, attorneys, insurers, successors, and assigns, from any and
12 all claims, demands, obligations, causes of action, rights, or liabilities of any kind which have been or
13 could have been asserted against them through the date that this Agreement is fully executed. This
14 general release includes, but is not limited to, claims arising out of or relating to Plaintiff's employment
15 by Defendant and/or the termination of her employment with Defendant, including but not limited to
16 any and all claims for violation of any section of the California Labor Code and/or Wage Orders;
17 violation of the Fair Labor Standards Act ("FLSA"); failure to pay wages, benefits, vacation pay,
18 severance pay, final pay, or other compensation of any sort; fraud; intentional or negligent
19 misrepresentation; breach of contract; promissory estoppel; wrongful termination; retaliation; violation
20 of public policy; breach of implied covenant of good faith and fair dealing; defamation; unlawful effort
21 to prevent employment; sexual harassment; discrimination on the basis of race, color, sex, national
22 origin, ancestry, religion, age, disability, handicap, medical condition, marital status or any other
23 protected class; any claim under the Fair Credit Reporting Act, California Consumer Credit Reporting
24 Agencies Act, California Investigative Consumer Reporting Agencies Act, or other laws regarding
25 background checks; any claim under Title VII of the Civil Rights Act of 1964 (Title VII, as amended),
26 42 U.S.C. §§ 2000, *et seq.*; the Americans with Disabilities Act ("ADA"), the Age Discrimination in
27 Employment Act ("ADEA"), the California Fair Employment and Housing Act ("FEHA"), or
28 California Government Code §§ 12940 *et seq.*; violation of the Consolidated Omnibus Budget

1 Reconciliation Act of 1985 ("COBRA"); violation of the Occupational Safety and Health Act
2 ("OSHA") or any other health and/or safety laws, statutes or regulations; violation of the Employment
3 Retirement Income Security Act of 1974 ("ERISA"); violation of the Internal Revenue Code; any other
4 claim arising from employment or termination of employment; or other common law or tort matters
5 and all other claims under federal, state or local law. This release specifically includes any and all
6 claims, demands, obligations and/or causes of action for damages, restitution, penalties, injunctive or
7 equitable relief, interest, and attorneys' fees and costs (except provided by this Agreement) relating to
8 or in any way connected with the matters referred to in this paragraph, whether or not known or
9 suspected to exist, and whether or not specifically or particularly described herein. Specifically,
10 Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

11 **A general release does not extend to claims that the creditor or releasing party does**
12 **not know or suspect to exist in his or her favor at the time of executing the release**
13 **and that, if known by him or her, would have materially affected his or her**
14 **settlement with the debtor or released party.**

15 Plaintiff acknowledges that she has read the entirety of the Agreement, including the above language
16 from the Civil Code, and that she fully understands both the Agreement and Civil Code section 1542.
17 By executing this Agreement, Plaintiff expressly waives any benefits and rights granted pursuant to
18 Civil Code section 1542.

19 **5.3. Limited Right of Termination.** Except as set forth herein, if the Court or, in the event
20 of an appeal, any appellate court modifies the scope of the release or Defendant's financial obligations,
21 or any judicial findings set forth in the Approval Order and Judgment, Defendant may terminate this
22 settlement within five days of such modification by providing written notice of termination to
23 Plaintiff's Counsel and the Administrator. Within fifteen (15) days of the Administrator receiving
24 notice from Defendant of such termination, the Administrator shall provide the Parties with a report of
25 all Administration Costs incurred, and Defendant will be responsible for paying any Administration
26 Costs already incurred, as well as further costs, if any, for providing notice to the Aggrieved Employees
27 of Defendant's election to withdraw from or cancel the settlement.
28

1 **6. COURT APPROVAL**

2 **6.1. Approval Order.** Plaintiff shall submit a motion seeking an Approval Order, which
3 would: (i) approve the terms of the settlement in this Agreement, (ii) deem the terms to be fair,
4 reasonable, and adequate, (iii) approve the release, (iv) direct that the settlement's terms and provisions
5 be carried out; and (v) enter final judgment. Plaintiff's Counsel will be responsible for drafting all
6 documents necessary to obtain the Court's approval and for drafting the attorneys' fees and costs
7 application. Plaintiff's Counsel will provide Defendants the opportunity to review and comment on any
8 motion to be filed prior to its filing. In conjunction with Plaintiff's motion, Plaintiff will also submit
9 this Agreement, which sets forth the terms of this settlement. Plaintiff's Counsel will also be
10 responsible for notifying the LWDA of the settlement, pursuant to Labor Code Section 2699(1)(2).

11 **6.2. Judgment and Continued Jurisdiction.** Contemporaneous with Plaintiff filing the
12 motion for approval of the settlement, the Parties will present an agreed form of the Proposed Judgment
13 to the Court for its consideration. The Court, in its discretion, may enter a Judgment approved by it.
14 After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
15 addressing: (i) the interpretation and enforcement of the terms of the settlement, (ii) settlement
16 administration matters, and (iii) such post-Judgment matters as may be appropriate under Court rules or
17 as set forth in this Agreement.

18 **6.3. Revocation.** Neither Party will have the right to revoke the settlement agreement for any
19 reason not expressly provided for herein. In particular, Plaintiff and Plaintiff's Counsel will not have
20 the right to revoke this Agreement in the event that the Court does not approve the amount of
21 Attorneys' Fees and Costs or General Release Payment sought by Plaintiff and Plaintiff's Counsel.
22 However, if the Court does not approve the amount of Attorneys' Fees and Costs or General Release
23 Payment sought by Plaintiff and Plaintiff's Counsel, Plaintiff will have the right to appeal the order
24 reducing the Attorneys' Fees and Costs or General Release Payment .

25 **6.4. Nullification of Settlement Agreement.** In the event that: (i) the Court does not
26 approve the settlement as provided herein; or (ii) the settlement does not become final for any other
27 reason, then this Agreement, and any documents generated to bring it into effect, will be null and void.
28 Any order or judgment entered by the Court in furtherance of this Agreement will likewise be treated as

void from the beginning. In the event that the settlement is terminated or cancelled or fails to become effective, the Parties shall be deemed to have reverted *nunc pro tunc* to their respective status as of the date and time immediately before the execution of this Agreement and they shall proceed in all respects as if this Agreement had not been executed, and without prejudice in any way from the negotiation, fact, or terms of this settlement.

7. MISCELLANEOUS

7.1. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement. The signatories represent that they are fully authorized to enter into this Agreement and are fully authorized to bind the Parties to all terms stated herein.

7.1.1. Counterparts and Signatures. This Agreement may be executed in counterparts, and when all signatories have signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one signed Agreement, which shall be binding upon and effective as to all Parties. Any party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via e-mail to counsel for the other party. Any signature transmitted via e-mail or DocuSign shall be deemed an original signature and shall be binding upon the party who transmits the signature page.

7.1.2. Waivers, Modifications, Etc. to Be in Writing. No waiver, modification, or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject to any required Court approval. Any failure by any Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

1 **7.1.3. Construction.** The determination of the terms and conditions of this Agreement
2 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
3 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
4 construed against any party by virtue of draftsmanship. The captions of paragraphs of this Agreement
5 have been inserted for convenience of reference only and shall have no effect upon the construction or
6 interpretation of any part of this Agreement.

7 **7.1.4. Invalidity of Any Provision.** Before declaring any provision of this Agreement
8 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible so as
9 to render all provisions of this Agreement valid and enforceable.

10 **7.2. Further Acts and Cooperation Between the Parties.** The Parties shall cooperate and
11 use their best efforts to obtain the Court's approval of this Agreement and its terms. Each of the Parties,
12 upon the request of another, agrees to perform such further acts and to execute and deliver such other
13 documents as are reasonably necessary to carry out the provisions of this Agreement. If the Parties are
14 unable to reach agreement on the form or content of any document needed to implement the settlement,
15 or on any supplemental provisions that may become necessary to effectuate the terms of this settlement,
16 the Parties may seek the assistance of the Court to resolve such disagreement.

17 **7.3. Governing Law.** All terms of this Agreement shall be governed by and interpreted
18 according to the laws of the State of California.

19 **7.4. Confidentiality.** The Parties and their respective counsel will maintain this Agreement
20 as confidential and not publicly disclose the same (including electronically, by way of any web page,
21 blog, tweet, social media, or other electronic means) except for the specific exceptions stated herein.
22 This shall not apply to or limit the public filing of motions or other case materials in this Action related
23 to seeking and obtaining Court approval of the settlement, Attorneys' Fees and Costs of Plaintiff's
24 Counsel, Plaintiff's General Release Payment, and the other relief set forth in this Agreement. The
25 Parties understand and agree that there may be media coverage of the settlement not initiated by
26 Plaintiff or Defendant, directly or indirectly, as a result of the public filings. Notwithstanding the
27 foregoing, both before and following the execution of this Agreement by the Parties and their
28 respective counsel, Plaintiff, Defendant, and their respective counsel agree that no Party shall issue any

1 press release to the news media, nor shall any Party post, tweet, or otherwise disseminate any media
2 coverage of the settlement, nor shall any Party communicate in any way with news media concerning
3 the settlement or this Action except in response to specific questions, which responses shall be limited
4 to a statement that “this litigation has been resolved to the satisfaction of all parties” and then refer
5 media to court filings. If Plaintiff’s Counsel describes or lists this settlement on their website or other
6 online media, they may not mention Defendant by name, but may refer to Defendant only as a “major
7 retailer.” Plaintiff’s Counsel may also refer to this settlement, after the filing of the motion for
8 approval, in other court filings where prior experience is discussed. Nothing in this paragraph shall
9 prevent Defendant from disclosing and discussing information concerning the settlement, the settlement
10 amount, or the circumstances surrounding or giving rise to the settlement, either internally among
11 company management or to the extent otherwise required by law. Nothing in this paragraph shall
12 restrict Defendant from communicating with its current employees about its pay practices or any
13 changes thereto. Nothing in this paragraph shall restrict Plaintiff’s Counsel from communicating with
14 Aggrieved Employees about the settlement in their role as Plaintiff’s Counsel after Court approval, or
15 limit the right of Defendant to disclose the terms and circumstances of the settlement to employees who
16 have responsibility for overseeing or managing Defendant’s litigation, law firms, accounting firms,
17 and/or insurers that represent Defendant, or persons who have an obligation to be informed about
18 Defendant’s litigation. For purposes of this section, media includes all print and digital media,
19 including but not limited to newspapers, newsletters, magazines, articles, radio, blogs, websites, and
20 social media sites.

21 **7.5. Confidential Documents.** Within 60 days of the Effective Date, each Party shall return,
22 or confirm the destruction of, any documents or information that another Party designated as
23 confidential pursuant to an applicable agreement or protective order.

24 **7.6. No Prior Assignments.** The Parties and their counsel represent, covenant, and warrant
25 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
26 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
27 of action or right herein released and discharged.
28

1 **7.7. Warranties and Representations.** Plaintiff and Plaintiff's Counsel warrant and
2 represent that (a) they are not currently aware of any: (i) unalleged claims at any business location of
3 Defendant, in addition to, or different from, those which are finally and forever settled and released by
4 this settlement; or (ii) unalleged facts or legal theories upon which any claims or causes of action could
5 be brought against Defendant, except such facts and theories encompassed within the Released PAGA
6 Claims; (b) they have no current intention of asserting any other claims against Defendant in any
7 judicial or administrative forum (other than this Action); (c) they do not currently know of or represent
8 any persons who have expressed any interest in pursuing litigation or seeking any recovery against
9 Defendant; (d) they will not solicit the representation of any other current or former employees of
10 Defendant to bring an action against Defendant; and (e) they will not disclose or use any confidential
11 information obtained in this Action for any purpose other than the representation of Plaintiff in this
12 Action. The Parties acknowledge, understand, and agree that the representations and warranties
13 described in this paragraph are essential to the Agreement and that Defendant would not enter into this
14 settlement were it not for these representations and warranties. This paragraph does not prohibit
15 discussions between Plaintiff's Counsel and Plaintiff regarding this Action, this settlement, or the
16 claims. Further, nothing in this provision is intended to violate California Rule of Professional Conduct
17 5.6(a)(2).

18 **7.8. Binding on Successors and Assigns.** This Agreement will be binding upon, and inure
19 to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

20 **7.9. Waiver of Certain Appeals.** The Parties agree to waive appeals; except, however, that
21 either Party may appeal any court order that materially alters the Agreement's terms, including appeals
22 contemplated by Paragraph 6.3.

23 **7.10. Waiver.** No waiver of any condition or covenant contained in this settlement or failure
24 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a
25 further waiver by such Party of the same or any other condition, covenant, right or remedy.

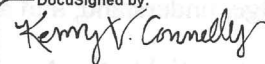
26 **7.11. Representation by Counsel.** The Parties acknowledge that they have been represented
27 by counsel throughout all negotiations that preceded the execution of this settlement, and that this
28 settlement has been executed with the consent and advice of counsel.

1 **7.12. Binding Agreement.** The Parties warrant that they understand and have full authority to
 2 enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding
 3 on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce
 4 its terms, notwithstanding any mediation or settlement confidentiality protections that otherwise might
 5 apply under federal or state law.

6 **7.13. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties warrant
 7 and represent they are expressly authorized by the Parties whom they represent to negotiate this
 8 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
 9 to this Agreement to effectuate its terms and to execute any other documents required to effectuate the
 10 terms of this Agreement.

PLAINTIFF

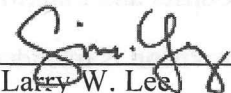
DocuSigned by:



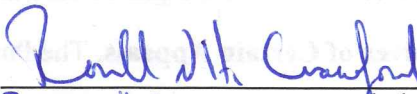
A2D764CF155B409

Dated: July 14, 2023

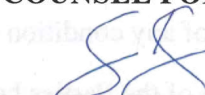
Kerry Connelly

COUNSEL FOR PLAINTIFFDated: July 7, 2023


Larry W. Lee
 Simon L. Yang
 DIVERSITY LAW GROUP, P.C.

DEFENDANTDated: July 18, 2023


Ronald W. Crawford, on behalf of
 Starbucks Corporation

COUNSEL FOR DEFENDANTDated: July 19, 2023


Gregory W. Knopp
 Jonathan P. Slowik
 Laura L. Vaughn
 PROSKAUER ROSE LLP

EXHIBIT 2

**Time and Task Summary
for Connelly v. Starbucks Corporation
Simon L. Yang**

Description of Work	Hours
Review plaintiff's wage statements and other documents	0.8
Draft and revise complaint; confer with co-counsel on claims to allege and litigation strategy	4.8
Review court's notice of assignment, case management orders, procedures, and standing orders	1.4
Draft first amended complaint	0.7
Review answer to first amended complaint	0.4
Review notice of removal	0.9
Analyze arguments for remand	1.6
Review district court rules, procedures, magistrate judge consents, and standing orders and orders setting mandatory scheduling conference	1.2
Confer with defendant and draft, review, and revise joint scheduling report	2.8
Prepare for and attend scheduling conference	1.2
Confer with plaintiff and prepare initial disclosures	3.2
Review defendant's initial disclosures	1.4
Research on additional relevant legal issues, including application of Emergency Rule 9 to statutes of limitation	2.1
Research on recent decisions addressing PAGA remedies for 226(a) violations	3.4
Prepare Stanislaus county case management reports and review same from defendant	1.2
Draft and revise written discovery requests	4.2
Prepare strategy for evidence and admissions needed to support class certification	6.2
Draft Rule 30(b)(6) deposition outline	8.2
Confer with defendant and prepare response to Court's order to show cause	2.4
Draft second amended complaint	0.8
Confer with defendant and prepare joint stipulation for leave to amend complaint	1.4
Review answer to second amended complaint	0.4
Review defendant's responses to discovery and document production; analyze issues for meet and confer correspondences	7.2
Confer with defendant and prepare stipulation to continue discovery cutoff	1.2
Prepare plaintiff for deposition	8.0
Prepare for and defend plaintiff's deposition	5.2
Prepare for Rule 30(b)(6) deposition	9.5
Prepare for and conduct Rule 30(b)(6) deposition	5.5
Analyze additional information from defendant and calculate total potential exposure	4.8
Prepare and respond to various correspondence with defendant, co-counsel, and plaintiff regarding potential for settlement	10.5
Review defendant's summary judgment papers	3.2
Draft opposition to summary judgment	11.8
Obtain settlement administrator bids regarding administration process	0.6
Draft and revise joint stipulation of PAGA settlement and confer with defendant regarding same	8.9
Draft and revise settlement approval documents, including motion, declarations, and proposed order	14.2
TOTAL	141.3

EXHIBIT 3

DIVERSITY LAW GROUP, P.C.
Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Simon L. Yang (State Bar No. 260286)
sly@diversitylaw.com
515 South Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555
Facsimile (213) 488-6554

Attorneys for Plaintiff and the Class

ELECTRONICALLY FILED
Superior Court of California,
County of Tulare
03/27/2023
By: Nalor Renteria,
Deputy Clerk

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

RODOLFO TELLEZ, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

SUN VALLEY RAISINS, INC., a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. VCU284414

[Assigned to Hon. Nathan Ide]

**NOTICE OF ENTRY OF ORDER AND
JUDGMENT**

Complaint Filed: September 23, 2020

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

2 YOU ARE HEREBY NOTIFIED THAT the Court has granted Plaintiff's Motion for Final
3 Approval of Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and Final
4 Judgment on March 20, 2023. A true and correct copy of the Court's signed Plaintiff's Motion for
5 Final Approval of Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and
6 Final Judgment is attached hereto as Exhibit A.

7
8 DATED: March 27, 2023

DIVERSITY LAW GROUP, P.C.

9 By 

Larry W. Lee

10 Simon L. Yang

11 Attorneys for Plaintiff
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE	
Tellez, Rodolfo Plaintiff/Petitioner, vs. Sun Valley Raisins, Inc. Defendant/Respondent.	Jud. Officer: Nathan Ide Clerk: Martha Gomez Bailiff: CSR: Naomi Johnson Interpreter: Language:
Minutes: Motion for Final Approval Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and Claims Administration Hearing Date: March 20, 2023	Case No. VCU284414 Department 02 Related Cases:

Appearances: ☒ No Appearances

Motion: Motion for Final Approval Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and Claims Administration

No requests for oral argument presented.

ORDER: The Court adopts the Tentative Ruling as the Order of the Court as follows:

To grant the motion, approve the final class action settlement including fees, costs and service awards. Final Compliance Hearing is set for September 18, 2023, 8:30 am in Department 2.

Plaintiff's motion for final approval of class action and PAGA settlement, attorneys' fees, costs, enhancement award, LWDA payment and class certification for settlement purposes came on for hearing on March 13, 2023. The Court finds and rules as follows:

On February 17, 2023, the settlement administrator Phoenix Settlement Administrators, through its Case Manager, filed a declaration detailing the following events.

On September 27, 2022 the administrator received a mailing list of 54 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information.

On October 3, 2022, after the administrator processed the names through the National Change of Address Database and updated the list with any updated addresses located, the administrator sent Notice by mail. Some 5 notices were returned undeliverable and only 4 notices were updated. The administrator remailed the Notices to those updated addresses.

Class members had sixty (60) days, until December 2, 2022, to submit objections, disputes and/or requests for exclusions. Zero (0) requests for exclusion and zero (0) valid objections have been received from class members. There are no outstanding disputes according to the administrator. A total of 54, or 100% of the class members will participate in the settlement, with zero objections and zero requests for exclusion.

The court presumes the settlement is fair and reasonable given (a) that it was reached through arms-length bargaining at mediation, (b) that there was sufficient time for investigation and discovery since commencement of litigation on September 23, 2020 (c) class counsel have particularized experience with the claims at issue in the

case, and (d) there appear to be no objections by any party or class members. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

The Court believes basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise under the circumstances, in accordance with *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133. This case involved extensive informal discovery and investigation of disputed claims, including review and analysis by Plaintiff's expert. The settlement avoids significant risks and delay that would result from further litigation of the case, which would include, amongst other matters, certification proceedings, trial, and the possibility of further delay and cost resulting from appeals.

Class counsel has provided a declaration in support of the requests for attorney fees representing 33 1/3% of the gross settlement fund of \$92,110.00 or \$30,703.33. Adequate information has been provided for a lodestar analysis of the attorneys' fees request, and class counsel represents the requested fee award is justified under that analysis with a multiplier of .68. Counsel has provided a total number of hours in support of the fee request and explained why the fee request is reasonable given the time spent and value of the legal work performed.

Counsel Yang indicates that he has spent 61.9 hours on this case, at a rate of \$725 per hour totaling a lodestar of \$44,877 resulting in negative multiplier of .68. (Declaration of Yang ¶7.) Therefore, the Court approves fees of \$30,703.33 as requested and previously preliminarily approved.

Counsel has additionally provided sufficient cost information indicating actual costs incurred by in the amount of \$5,909.03 (Declaration of Yang ¶9.) The Court previously approved costs not to exceed \$8,000.00.

The Court believes the requested attorney fees and costs appear reasonable under the circumstances. Additionally, counsel has provided a sufficient declaration to demonstrate adequate previous experience with class actions to further support the reasonableness of the award.

The settlement administrator has provided, in the declaration describing the work it has performed on the case a value of services of \$4,000, which is the amount that was estimated in the motion for preliminary approval. The court believes the amount requested as compensation for the administrator appears reasonable.

The settlement agreement designates California Controller's Office as recipient of unclaimed settlement proceeds. (Code Civ. Proc. § 384.)

In support of the request for enhancement award to the class representative, Plaintiff has provided a declaration describing his participation. The class representative engaged in efforts in connection with this case, including gathering documents, providing guidance regarding work performed by other employees, communicating with other employees, answering questions, reviewing documents, attending mediation and discussing potential settlement. The Court previously approved a representative payment of \$5,000 and believes that the requested class representative payment of \$5,000 is appropriate under the circumstances.

Finally, the Court confirms its conditional certification of the settlement class. The Court finds no significant events have occurred that would cause it to change its prior determination that the settlement class met all requirements under Code of Civil Procedure section 382 for certification for settlement purposes at the time it granted Plaintiff's motion for preliminary approval.

On review of the declarations and pleadings submitted, the Court finds, given the established presumption that the settlement is fair and reasonable under the circumstances of this case, and, particularly, given the absence of any objection or opposition following the class notice, that the settlement is fair and reasonable and that the motion for final approval should be, and is hereby, granted.

The Court therefore approves the following deductions from the gross settlement of \$92,110.00 as follows:

Court Approved Attorney Fees (33.3%):	\$ 30,703.33
Attorney Costs (up to):	\$ 5,909.03
Enhancement Payment to Plaintiff:	\$ 5,000.00
Settlement Administrator Costs	\$ 4,000.00

PAGA Payment to the LWDA	\$ 7,620.00
PAGA Payment to Aggrieved Employees	\$ 2,540.00
Net Settlement Amount	\$ 36,337.64

The Court shall enter its order of final approval and judgment in this case on the proposed form submitted by plaintiff on February 17, 2023, and orders that notice of entry of judgment be given as provided in the judgment following entry thereof. Final Compliance Hearing is set for September 18, 2023, 8:30 am in Department 2.

If no one requests oral argument, under Code of Civil Procedure section 1019.5(a) and California Rules of Court, rule 3.1312(a), no further written order is necessary. The minute order adopting this tentative ruling will become the order of the court and service by the clerk will constitute notice of the order.

Clerk to provide notice to parties by mail.

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On March 27, 2023, I served the following document(s) described as: **NOTICE OF
ENTRY OF ORDER AND JUDGMENT** on the interested parties in this action as follows:

11 Justin T. Campagne
12 jcampagne@campagnelaw.com
13 Campagne & Campagne
14 1685 North Helm Avenue
Fresno, California 93727
Attorneys for Defendant Sun Valley Raisins, Inc.

15 X BY ELECTRONIC MAIL: by personally sending a true and correct copy
16 of the above-described document(s) to the party(ies) listed above or on the attached mailing list
17 from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s)
18 indicated above or on the attached mailing list. I certify that said electronic transmission was
completed and that all pages were received by the party(ies) identified herein or on the attached
mailing list.

19 I declare under penalty of perjury under the laws of the State of California that the
20 above is true and correct. Executed on March 27, 2023, at Los Angeles, California.

21 
22 _____
23 Olympia Pena
24
25
26
27
28

EXHIBIT 4

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SACRAMENTO

CIVIL

TENTATIVE RULINGS - March 09, 2023

EVENT DATE: 03/10/2023

EVENT TIME: 09:00:00 AM

DEPT.: 28

JUDICIAL OFFICER:

CASE NO.: 34-2021-00292526-CU-OE-GDS

CASE TITLE: SMITH VS. CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Other employment

EVENT TYPE: Motion for Final Approval of Class Action Settlement - Complex

CAUSAL DOCUMENT/DATE FILED:

Plaintiffs Alonzo Smith, Dawn Williams, and Romero Reyes' ("Plaintiffs") move for Final Approval of Class Action and PAGA Settlement. The Motion is UNOPPOSED and tentatively GRANTED. (Code of Civ. Proc. § 382; Cal. Rules of Court, Rule 3.769.)

Moving counsel's Notice of Motion indicates this matter will be heard in "Department 10C" and does not provide notice of the Court's tentative ruling system, as required by Local Rule 1.06. Moving counsel is directed to contact opposing counsel and advise them of the correct Department for this hearing, Local Rule 1.06, the Court's tentative ruling procedure, and the manner to request a hearing.

NOTICE:

The Court's ruling tentatively indicates that it will grant final approval of the class action settlement conditioned on further arguments to be made during the final fairness hearing. Although the Court anticipates that neither Plaintiff nor Defendants will request oral argument, and while no class member indicated any intent to appear at the hearing, this does not relieve the parties from appearing at the hearing or otherwise render the instant ruling final in the event oral argument is not requested. The Court will not render a final ruling until it holds the final fairness hearing.

The matter shall be held via Zoom with the links below:

To join by Zoom link - <https://saccourt-ca.gov.zoomgov.com/my/sscdept28>

To join by phone dial (833) 568-8864 ID 16039062174

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government Code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>

*If you are not using a reporter from the Court's Approved Official Reporter Pro Tempore list, a Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) must be signed by each party, the private court reporter, and the Judge. **The signed form must be filed with the clerk prior to the hearing.***

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211). The form must be filed with the clerk at least 10 days prior to the hearing or at the time the hearing is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.

Background

Plaintiff Alonzo Smith ("Smith") filed the original class action complaint in this case against Defendant Clean Harbors Environmental Services, Inc. ("Defendant") on January 14, 2021. The case was removed to federal court and Smith filed a first amended complaint adding a cause of action under the Private Attorneys General Act ("PAGA"). By stipulation of the parties, the case was remanded back to this Court and a second amended class action complaint ("SAC") was filed on July 29, 2022. The SAC added Dawn Williams and Romero Reyes as Plaintiffs and added the allegations pled in their separate matters that were pending in federal court and another superior court. In the SAC, Plaintiffs allege Defendant failed to pay minimum wages, overtime wages, prevailing wages, and reporting time pay; to provide compliant meal and rest breaks and pay related premiums; to timely pay either earned wages during employment or final wages upon separation of employment; to provide accurate wage statements; to reimburse expenses; to provide suitable seating; and to keep time and pay records or produce requested employment records. The SAC also alleged related violations of the Unfair Competition Law. Plaintiffs now seek preliminary approval of the parties' Joint Stipulation of Class and Representative Action Settlement Agreement ("Settlement Agreement").

The Court heard Plaintiffs' motion for preliminary approval on November 4, 2022 and granted preliminary approval on January 10, 2023. (ROA 59, 68.) Plaintiffs now move for final approval.

Legal Standard

Courts review class action settlements in a three-stage process: (1) an earlier conditional review by the court; (2) a period during which notice is distributed to class members for their comments or objections; and (3) a later detailed review after the notice period when the court decides whether to give "final approval." (Rubenstein, Newberg on Class Actions (6th Ed. 2022) § 13:1 (Newberg); see also Cal. R. Ct. Rule 3.769.) This procedure, which is commonly utilized by both federal and state courts, assures class members of the protection of procedural due process safeguards and enables a court to fulfill its role as the guardian of the interest of the settlement class.

As required by the applicable Rule of Court, the Court must conduct a final approval hearing to inquire into the fairness of the proposed settlement. (Cal. R. Ct., Rule 3.769(g).) The Court has broad discretion to determine whether a proposed settlement in a class action is fair. (*Mallick v. Superior Court* (1979) 89 Cal.App.3d 434, 438.) The law favors settlement, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, cost, and rigors of formal litigation. (See Newberg, *supra*, § 13:44 (and cases cited therein); *Class Plaintiffs v. City of Seattle* (9th Cir. 1992) 955 F.2d 1268, 1276; *Van Bronkhorst v. Safeco Corp.* (9th Cir. 1976) 529 F.2d 943, 950.) In approving a class action settlement, the Court must "satisfy itself that the class settlement is within the 'ballpark' of reasonableness." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133.) In making its fairness determination, the Court should consider the relevant factors, such as the strength of the plaintiffs' case, the risk, expenses, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, and the reaction of the class members to the proposed settlement. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) "The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement." (*Kullar, supra*, 168 Cal.App.4th at p. 130 [internal quotes omitted].) A presumption of fairness exists where (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. (*Dunk, supra*, 48

Cal.App.4th at p. 1802.) Ultimately, the court's determination is simply "an amalgam of delicate balancing, gross approximations and rough justice." (*Id.*, at p. 1801.)

Agreement and Class Response

Under the terms of the Settlement Agreement, Defendant denies liability but agrees to pay a non-reversionary Gross Settlement Amount ("GSA") of \$3,000,000. (Settlement Agreement, p. 8, ¶ 47.) Defendant will separately pay any amount necessary to satisfy their tax obligations on funds distributed to Class Members. (*Id.*, ¶¶ 17, 56.) The following amounts will be paid from the GSA:

- No more than \$10,000 for each Plaintiff as a Class Representative Service Payment, totaling no more than \$30,000;
- No more than \$1,000,000 for Class Counsel fees;
- No more than \$50,000 for reimbursement of Class Counsel's costs and litigation expenses;
- No more than \$75,000 as a PAGA Payment to the Labor Workforce and Development Agency ("LWDA");
- No more than \$25,000 in individual PAGA Payments;
- No more than \$17,500 for settlement administration expenses.

The remaining amount – the Net Settlement Amount ("NSA") – totals \$1,802,500. The parties agree the NSA will be distributed to all Participating Class Members based on the number of workweeks employed during the class period in relation to the number of all workweeks employed by all Participating Class Members. (Settlement Agreement, p. 9, ¶ 46.) Class Members are "all current and former non-exempt employees of Defendant in the State of California from April 6, 2017 to February 2, 2022." (*Id.*, ¶ 3.) PAGA Members are all current and former non-exempt employees of Defendant in the State of California during the PAGA Period, which is defined as the period from July 28, 2019 to February 2, 2022. (*Id.*, ¶¶ 26-27.) Participating Class Members do not need to take any action to receive benefits from the Settlement. (*Id.*, ¶ 50(c)(v).)

Taylor Mitzner, the Case Manager at Phoenix Settlement Administrators for this matter, declares that (1) the Notice was mailed to all 1,925 individuals contained on the class list on December 12, 2022; (2) 9 Notices remain undeliverable as updated addresses could not be obtained via skip trace; (3) Phoenix has received 4 requests for exclusion, no objections, and no disputes as to workweeks; and (4) a total of 1,921 Class Members are participating in the Settlement, representing 99.79% of the Class. (Mitzner Decl., ¶¶ 5-11.)

The average settlement payment is estimated at \$957.01; the highest individual settlement payment is approximately \$2,526.60 and the lowest individual settlement payment is approximately \$8.65 (the value of one workweek). (*Id.*, ¶¶ 11, 14.) The average individual PAGA payment is estimated at \$16.19; the highest individual PAGA payment is approximately \$35.22. (*Id.*, ¶ 15.)

The moving papers demonstrate that the settlement was reached after sufficient investigation and arms-length negotiations by the parties. (Lee Decl., ¶¶ 4-5; Nordrehaug Decl., ¶ 11, Huether Decl., ¶ 3.) Having provided sufficient information regarding damage analysis at preliminary approval, the Court finds, subject to the final fairness hearing, that the Settlement is within the ballpark of reasonableness and is entitled to a presumption of fairness, and all relevant factors presently support preliminary approval.

PAGA Payment

The Settlement Agreement provides for a \$100,000 PAGA Payment to resolve claims under PAGA, 75% (\$75,000) of which will be paid to the LWDA and 25% (\$25,000) of which will be paid to individual PAGA Members based on their number of pay periods employed during the PAGA Period, in relation to the aggregate number of pay periods employed during the PAGA Period. (Settlement Agreement, p. 8-9, ¶ 49(c).) PAGA Members release all claims and causes of action, arising during the PAGA Period, that

were or could have been alleged based on the allegations in the original and amended complaints in the action, and in all of the PAGA letters in the action. (*Id.*, ¶ 31.) The Settlement Agreement makes clear that the PAGA Members cannot opt out of the PAGA component of the settlement. (See *Id.*, p. 8-9, ¶ 49(c) and p. 10, ¶ 46(c).)

When moving for preliminary approval, Class Counsel valued the PAGA claims at \$6,085,250.00 in penalties under Section 558, and \$12,170,500.00 in penalties under either Section 210 or Section 2699(f), totaling \$18,255,750. The Settlement Agreement allocates \$100,000 to resolving the PAGA claims, which amounts to approximately 0.55% of the estimated penalties. In granting preliminary approval, the Court required Plaintiffs to provide additional justification for recovery of less than 1% of the estimated PAGA penalties since the PAGA claims make up a significant portion of the total damage estimate. In moving for final approval, Plaintiffs argue that the vast majority of PAGA penalties that Plaintiffs contended were at issue were Section 210 penalties, which may be recovered either as class claims or PAGA claims. (Mot., p. 10:11-13.) Plaintiffs argue considering these potential PAGA penalties as class recoveries was in the best interest of the Class because class recoveries are not subject to discretionary reductions that accompany PAGA recoveries. (*id.*, p. 10:15-17.) Plaintiffs also assert that "Defendant's probable arguments as to its 'good faith attempts to comply' with the law thus also warrant a substantial settlement discount." (*Id.*, p. 10, fn 1.) _

Class Counsel Fees and Costs

Courts generally recognize two methods for calculating fees in civil class actions: the lodestar/multiplier method and the percentage-of-recovery method. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 254.) "The percentage method calculates the fee as a percentage share of a recovered common fund or the monetary value of plaintiffs' recovery. The lodestar method, or more accurately the lodestar-multiplier method, calculates the fee 'by multiplying the number of hours reasonably expended by counsel by a reasonable hourly rate.'" (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 489.)

In determining fees and costs to be awarded to Class Counsel, the Court must exercise its judicial function and make a decision on the propriety of the fees requested; it should not, and does not, abdicate its charge to make a decision simply because the parties may have reached their own agreement in this regard. The choice of a fee calculation method is generally one within the discretion of the trial court, the goal "being the award of a reasonable fee to compensate counsel for their efforts." (*Id.* at p. 504.) "'The lodestar method better accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved.' Each has been championed and criticized for its respective advantages and disadvantages." (*Ibid.*, quoting *Rawlings v. Prudential-Bache Properties, Inc.* (6th Cir. 1993) 9 F.3d 513, 516.)

Class Counsel requests an award of attorney fees in the amount of one-third of the Gross Settlement Amount or \$1,000,000. (Settlement Agreement, p. 8, ¶ 49(b).) The award will be divided as follows: 72% to Diversity Law Group, APC; 18% Blumenthal Nordrehaug Bhowmik De Blouw, LLP; and 10% to Lavi & Ebrahimi, LLP. (*Id.*) Class Counsel asserts this amount is within established rates for fee awards in class settlements pursuant to the common fund.

In the aggregate, Class Counsel argues that the lodestar is \$358,874.50, based on 532.85 hours.

Simon Yang with Diversity Law Group, APC attests to expending a total of 161.2 hours litigating this matter at a rate of \$725 per hour. (Yang Decl., ¶¶ 7-8.) Mr. Yang anticipates expending an additional 15 hours on this matter. (*Id.*, ¶ 8.) Therefore, Mr. Yang's total lodestar is \$127,745 (176.2 x \$725 = \$127,745). (*Id.*) Larry Lee with Diversity Law Group, APC attests to expending approximately 100.8 hours litigating this matter at a rate of \$800 per hour. Mr. Lee also anticipates expending an additional 15 hours on this matter. (Lee Decl., ¶ 10.) Therefore, Mr. Lee's total lodestar is \$92,640 (115.8 x \$800 = \$92,640). (*Id.*) The total lodestar for the firm is \$220,385.

Counsel from Blumenthal Nordrehaug Bhowmik De Blouw, LLP attests that the firm worked more than

187 hours prosecuting this case with the attorneys' hourly fee rates ranging from \$475 to \$795, with a total lodestar of \$108,289.50. (Nordrehaug Decl., ¶ 14; Exh. 2, 3.)

Counsel from Lavi & Ebrahimi, LLP attests to expending 52.9 hours on this case for a total lodestar of approximately \$30,200. (Huether Decl., ¶ 10.) Ms. Huether attests that she spent approximately 23.3 hours on this case at an estimated rate of \$500 per hour. Therefore, her unadjusted lodestar amounts to approximately \$11,650 (23.3 x \$500 = \$11,650). (*Id.*, ¶ 12.) Ms. Huether further provides the lodestar information for three other attorneys at Lavi & Ebrahimi, LLP: (1) Joseph Lavi estimates he has spent at least 14 hours litigating this matter at an estimated rate of \$750 per hour, for a total unadjusted lodestar of \$10,500 (14 x \$750 = \$10,500); (2) Pooja V. Patel estimates she has spent at least 5 hours litigating this matter at an estimated rate of \$550 per hour, for a total unadjusted lodestar in this matter is \$2,750 (5 x \$550 = \$2,750); and (3) Kevin Farnan (a former attorney of Lavi & Ebrahimi, LLP), based on the files and billable records, spent approximately 10.6 hours litigating this matter at an estimated rate of \$500 per hour, for a total unadjusted lodestar of \$5,300.00 (10.6 x \$500 = \$5,300). (*Id.*, ¶ 14-16.)

In the aggregate, Class Counsel attests the requested award results in a multiplier of 2.81. On an individual firm basis, the requested award requires a multiplier of approximately 3.27 for Diversity Law Group, APC; 1.66 for Blumenthal Nordrehaug Bhowmik De Blouw, LLP; and 3.31 for Lavi & Ebrahimi, LLP. The Court finds the one-third award reasonable and appropriate in this instance.

Counsel from Diversity Law Group, P.C. attests that the firm incurred costs in the amount of \$9,993.11. (Lee Decl., ¶ 9, Exh. A.) Counsel from Blumenthal Nordrehaug Bhowmik De Blouw, LLP attests that the firm incurred litigation expenses totaling \$3,601.57. (Nordrehaug Decl., ¶ 16, Exh. 2, 4.) Counsel from Lavi & Ebrahimi, LLP attest that the firm incurred \$2,187.21 in litigation costs. (Huether Decl., ¶ 17, Exh. 1.) The Court tentatively approves Class Counsels' request for litigation costs in the amount of \$15,781.89. The Court finds this cost award reasonable and appropriate.

Settlement Administrator

The Court tentatively approves the settlement administrator's costs of \$15,795. (Mitzner Decl., ¶ 17, Exh. B.) The Court finds this cost award reasonable and appropriate.

Class Representative Service Payment

Plaintiffs each seek an award of \$10,000 for their role as Class Representatives. (*Id.*, ¶ 49(a).) The Court approves the maximum \$10,000 service payment to Plaintiffs Smith and Reyes. The Court finds these payments justified based on Plaintiff Smith's and Plaintiff Reyes' declarations submitted with the final approval motion and the absence of objections to these awards.

In granting preliminary approval, the Court noted that the declarations of Plaintiffs Williams and Reyes were conclusory. The Court made clear that it expected Plaintiffs Williams and Reyes, in moving for final approval, to file declarations attesting to the nature of their individual participation in this case, including a description of their specific actions and an estimate of time they committed to prosecution of the case. (See *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807.) Plaintiff Reyes complied with the Court's request. While Plaintiff Williams' declaration includes a more detailed description of her specific actions, it still fails to estimate the amount of time she committed to the prosecution of the case. Assuming Plaintiff Williams submits a supplemental declaration providing an estimate of the amount of time she committed to this case, the Court also tentatively approves the \$10,000 payment to Plaintiff Williams.

Disposition

In sum, and subject to the final fairness hearing, the Court tentatively concludes that the settlement is entitled to final approval. Provided that no objection is asserted by any Class Member at the hearing on this matter and Plaintiff Williams submits a supplemental declaration as directed, the Court will sign the

proposed order submitted with Plaintiffs' moving papers._

Any further Case Management Conferences and compliance hearings shall be handled by this Department. This Department shall monitor compliance with the settlement approval through and including the disbursement of any uncashed amount to the Unclaimed Property Fund.

The Court sets a compliance hearing for **November 9, 2023 at 1:30 p.m.** in this Department. At least 15 days prior that date, Class Counsel shall file a declaration regarding the status of the distribution of the settlement funds. If the Court is satisfied that the settlement funds have been fully distributed, no appearance will be required.

Counsel for Plaintiffs is directed to notice all parties of this order.

Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at <https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.

EXHIBIT 5

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

2 Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

3 Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara La Jolla, CA 92037

4 Telephone: (858)551-1223

Facsimile: (858) 551-1232

5 Website: www.bamlawca.com

6 Attorneys for Plaintiff Smith

7 *(Additional counsel on following page)*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF SACRAMENTO**

10 ALONZO SMITH, DAWN WILLIAMS, and
11 ROMERO REYES, as individuals and on behalf
of all others similarly situated, and as private
attorneys general,

12 Plaintiffs,

13 vs.

14 CLEAN HARBORS ENVIRONMENTAL
15 SERVICES, INC., a Massachusetts corporation;
and DOES 1 through 50, inclusive,

16 Defendants.
17

Case No. 34-2021-00292526

[Hon. Lauri A. Damrell, Department 28]

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: March 10, 2023
Time: 9:00 a.m.
Department: 28

Complaint Filed: January 14, 2021

FILED/ENDORSED

MAR 10 2023

By:

V. Aleman

Deputy Clerk

DIVERSITY LAW GROUP, P.C.

Larry W. Lee (State Bar No. 228175)

lwlee@diversitylaw.com

Simon L. Yang (State Bar No. 260286)

sly@diversitylaw.com

515 South Figueroa Street, Suite 1250

Los Angeles, California 90071

Telephone: (213) 488-6555

Facsimile: (213) 488-6554

Attorneys for Plaintiff Williams

Joseph Lavi, Esq. (SBN 209776)

Vincent C. Granberry, Esq. (SBN 276483)

Melissa A. Huether, Esq. (SBN 316604)

LAVI & EBRAHIMIAN, LLP

8889 W. Olympic Blvd., Suite 200

Beverly Hills, California 90211

Telephone: (310) 432-0000

Facsimile: (310) 432-0001

Email: jlavi@lelawfirm.com

vgranberry@lelawfirm.com

mhuether@lelawfirm.com

whteam@lelawfirm.com

Sahag Majarian II, Esq. (State Bar No. 146621)

Law Office of Sahag Majarian II

E-Mail: sahagii@aol.com

18250 Ventura Boulevard

Tarzana, California 91356

Telephone: (818) 609-0807

Facsimile: (818) 609-0892

Attorneys for Plaintiff Reyes

1 On or about February 15, 2023, Plaintiffs Alonzo Smith, Dawn Williams, and Romero Reyes
2 filed a motion for an Order Granting Final Approval of Class Action Settlement, and on March 10, 2023,
3 a hearing was held on this matter.

4 The Court has considered the papers and evidence, including the Joint Stipulation of Class and
5 Representative Action Settlement Agreement ("Agreement"), the arguments of counsel, and all other
6 matters presented to the Court regarding final approval of the settlement, approval of requested
7 allocations from the settlement fund, and entry of final judgment.

8 **I. Background**

9 On July 28, 2020, Plaintiff Alonzo Smith filed this class action against Defendant, Clean Harbors
10 Environmental Services, Inc. Meanwhile, Plaintiff Dawn Williams had separately filed a class and Labor
11 Code Private Attorneys General Act of 2004 ("PAGA") against Defendant, and Plaintiff Romero Reyes
12 subsequently also filed a class and PAGA action against Defendant. In the operative Second Amended
13 Complaint, Plaintiffs Smith, Williams, and Reyes collectively allege 12 causes of action for (i) unfair
14 competition, (ii) unpaid overtime, (iii) unpaid minimum wages, (iv) unpaid prevailing wages, (v) unpaid
15 reporting time pay, (vi) meal period violations, (vii) rest period violations, (viii) wage statement
16 violations, (ix) unreimbursed business expenses, (x) untimely payment of wages, (xi) failure to produce
17 employment records, and (xii) penalties under PAGA.

18 **A. Class Members**

19 The Class is defined to include: all current and former non-exempt employees of Defendant in
20 the State of California from April 6, 2017 to February 2, 2022 (the "Class Period").

21 **B. Operation of the Settlement**

22 Pursuant to the Court's Preliminary Approval Order, the Court conditionally certified the Class
23 and granted preliminary approval to the settlement. The Preliminary Approval Order also approved of
24 the proposed form of notice to the Class. The Court entered the Preliminary Approval Order after review
25 and consideration of all of the pleadings filed in connection herewith, and the oral presentations made by
26 counsel at the November 4, 2022 preliminary approval hearing. Pursuant to the Court's order granting
27 preliminary approval, the Notice of Proposed Class Action Settlement ("Class Notice") was sent to all
28 Class Members via first class mail. The notice process was timely completed.

1 This Court finds that the Agreement appears to be the product of serious, informed, non-
2 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
3 to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to
4 California Code of Civil Procedure section 877.6. The Court further finds that the Agreement is fair,
5 adequate, and reasonable and that Plaintiffs have satisfied the standards for final approval of a class
6 action settlement under California law. Under the provisions of California Code of Civil Procedure
7 section 382 and Rule 23 of the Federal Rules of Civil Procedure, as approved for use in *Vasquez v.*
8 *Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

9 [Q]uestions of law or fact common to the members of the class predominate over any questions
10 affecting only individual members, and that a class action is superior to the available methods for
the fair and efficient adjudication of the controversy

11 FED. R. CIV. PROC. 23.

12 Certification of a settlement class is the appropriate judicial device under these circumstances.

13 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

14 1. For purposes of this Order, the Court adopts all defined terms as set forth in the
15 Agreement.

16 2. The Court has jurisdiction over the subject matter of the litigation, the Class
17 Representative, Participating Class Members, and Defendant.

18 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
19 appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice
20 practicable under the circumstances to all Class Members, and fully met the requirements of California
21 law and due process under the State and Federal Constitutions.

22 4. The Court approves the settlement of the above-captioned action, as set forth in the
23 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
24 to perform in accordance with the terms set forth in the Agreement.

25 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
26 and attorneys' fees.

1 6. The Court hereby certifies the following Class for settlement purposes only: all current
2 and former non-exempt employees of Defendant in the State of California from April 6, 2017 to
3 February 2, 2022.

4 7. With respect to the Class and for purposes of approving the settlement only and for no
5 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
6 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
7 the Class, and there is a well-defined community of interest among members of the Class with respect to
8 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representative are
9 typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately
10 protected the interests of the members of the Class; (e) a class action is superior to other available
11 methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class
12 Representative, i.e., Class Counsel, are qualified to serve as counsel for Plaintiffs in their individual and
13 representative capacities and for the Class.

14 8. Within 30 days after the grant of Final Approval of the settlement, Defendant shall
15 deposit the Gross Settlement Amount of \$3,000,000.00 and the amount necessary to pay Defendant's
16 share of any payroll taxes with the Administrator, pursuant to the terms of the Agreement.

17 9. From the Gross Settlement Amount, the Administrator shall pay:

- 18 1. to Class Counsel attorneys' fees in the amount of \$1,000,000.00 and
19 reimbursement of costs in the amount of \$15,781.89;
- 20 2. to each Class Representative for their unique services to the Class, and as
21 consideration for the execution of general releases, the amount of \$10,000.00 per
22 Class Representative;
- 23 3. to the California Labor and Workforce Development Agency the amount of
24 \$75,000.00 for its 75% share of PAGA Penalties; and
- 25 4. to Phoenix Settlement Administrators the amount of \$15,795.00 for its fees and
26 costs in administering the settlement.

27 10. The Court finds that these amounts are fair and reasonable. The Administrator is directed
28 to make such payments in accordance with the terms of the Agreement.

1 11. The Court approves the Individual PAGA Payment amounts and Individual Class
2 Settlement Payment amounts, which shall be distributed by the Administrator pursuant to the terms of
3 the Agreement, after payment of those amounts set forth in Paragraph 9.

4 12. The Court hereby orders the parties to implement the terms of the Agreement, including
5 distributing any uncashed settlement checks to the State Unclaimed Property Fund in the name of the
6 recipient.

7 13. All Class Members who did not opt out of the Settlement shall be bound by the releases
8 provided in the Agreement. All PAGA Members shall be bound by the PAGA releases provided in the
9 Agreement. The Class Representatives shall be bound by the additional general releases provided in the
10 Agreement.

11 14. The Court hereby enters final judgment in this case in accordance with the terms of the
12 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement
13 or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the
14 Parties, including all Participating Class Members, for purposes of enforcing and interpreting this Order
15 and the Settlement.

16 15. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the
17 filing of this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or
18 other wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
19 judgment are an admission of any liability or finding of any violation of the Labor Code.

20 **IT IS SO ORDERED AND ADJUDGED.**

21 DATED: March 10, 2023


THE HONORABLE LAURI A. DAMRELL

LAURI A. DAMRELL

EXHIBIT 6