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YESENIA MURILLO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

YESENIA MURILLO, individually, and in a
representative capacity on behalf of members
of the public similarly situated,

Plaintiff(s),

vs.

COSTCO WHOLESALE CORPORATION,
a Washington Corporation; REAL TIME
STAFFING SERVICES LLC dba SELECT
STAFFING, a California Limited Liability
Company; EMPLOYBRIDGE HOLDING
COMPANY dba SELECT STAFFING a
Delaware Corporation; and DOES 1 through
10, inclusive

Defendant(s).

Case No. 37-2023-00055902-CU-OE-CTL

**DECLARATION OF SAMUEL F.
ROTSHTAIN IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION
FOR PAGA SETTLEMENT APPROVAL**

Action Filed: October 21, 2022

Hearing Date: December 27, 2024

Hearing Time: 8:30 a.m.

Dept.: C-74

Judge: Hon. Blaine K. Bowman

- 1 1. I am an attorney licensed to practice law before all the courts of the State of California, and am
2 employed with the law firm of Gruenberg Law, attorneys of record for Plaintiff Yesenia
3 Murillo, individually and in a representative capacity on behalf of other members of the public
4 similarly situated in this matter.
- 5 2. I make this declaration in support of Plaintiff's Unopposed Motion for PAGA Settlement
6 Approval. I am personally familiar with the facts set forth in this declaration and, if called to
7 testify, could and would do so.
- 8 3. This case involves PAGA and individual claims. The PAGA Period begins on August 11, 2022.
9 There are approximately **13,965** pay periods and **549** aggrieved employees.
- 10 4. Following a successful mediation with JAMS facilitated by the Honorable Peter J. Wilson
11 (Ret.), the parties were able to reach a settlement and agreed to the terms of the proposed PAGA
12 settlement and thereafter drafted and executed a Joint Stipulation of Settlement and Release of
13 PAGA Action. Attached hereto as **Exhibit A** is a true and correct copy of the Settlement
14 Agreement.
- 15 5. On October 15, 2024, Plaintiff's counsel uploaded via the LWDA's electronic filing portal the
16 parties' PAGA Settlement Agreement. Attached hereto as **Exhibit B** is a true and correct copy
17 of the "auto-generated" e-mail received from the LWDA.
- 18 6. On October 15, 2024, Plaintiff's counsel uploaded via the LWDA's electronic filing portal
19 copies of this entire Motion, including the Notice, this supporting Memorandum, Declaration,
20 Proposed Order & Judgment, and PAGA Settlement Agreement. Attached hereto as **Exhibit B**
21 is a true and correct copy of the "auto-generated" e-mail received from the LWDA. To date,
22 Plaintiff's counsel has not received any opposition from the LWDA.
- 23 7. If the LWDA contacts Plaintiff's counsel at any time prior to the December 27, 2024, hearing,
24 Plaintiff's counsel will provide an updated declaration to the Court.
- 25 8. The proposed terms of the settlement are as follows:
- | | |
|-----------------------------|--|
| 26 PAGA Members: | 549 |
| 27 Settlement Fund ("GSA"): | \$70,000.00 |
| 28 Claims Period: | August 11, 2022 until the date of approval |

LWDA Payment:	\$29,862.50
Attorney's Fees:	\$23,333.33
Litigations Costs:	\$1,200.00
Settlement Administrator Fees:	\$5,650.00
Resultant Net Settlement Fund:	\$9,954.17

An "average" PAGA employee will receive a payment of approximately **\$18.13**.

9. The PAGA Settlement Agreement only covers PAGA claims.

10. The Parties reached the terms of their proposed PAGA Settlement Agreement, following their successful mediation efforts. The parties submit the proposed settlement of PAGA penalties is fair, adequate, and reasonable. The Parties are unaware of any other cases that may be impacted by the PAGA Settlement.

11. After deducting the proposed amounts for Plaintiff's counsel's Attorneys' Fees and Costs and the Settlement Administration Costs from the Gross Settlement Amount, the amount remaining is defined as the "PAGA Payment." One hundred percent (100%) of the PAGA Payment shall be allocated to the payment of civil penalties under the PAGA (the "PAGA Payment"). Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Payment, or Twenty-Nine Thousand Eight Hundred and Sixty-Two Dollars and Fifty Cents (\$29,862.50) shall be allocated to the State of California Labor and Workforce Development Agency (the "LWDA PAGA Payment"), with the remaining twenty-five percent (25%) or Nine Thousand Nine Hundred and Fifty-Four Dollars and Seventeen Cents (\$9,954.17), allocated to the PAGA Employees ("Aggrieved Employees PAGA Payments").

12. Attached as **Exhibit C** is a true and correct copy of the proposed notice of the PAGA Settlement to be sent to the allegedly aggrieved employees. Due to the nature of the workforce, the Parties agree the Notice will be provided in both Spanish and English.

13. The Settlement Administrator shall be responsible for: (a) processing the data provided by Defendant to be used in calculating PAGA Employees' Individual PAGA Payments; (b) preparing, printing and mailing the Notice to PAGA Employees, as well as following up with reasonable skip tracing; (c) calculating and mailing Individual PAGA Payments to PAGA

1 Employees; (d) calculating and paying the employer’s share of the applicable federal and state
2 withholding tax; (e) filing any required federal and state tax forms and related agency reporting;
3 (f) filing any required reports with the Court; and (g) any and all such tasks to which the Parties
4 mutually agree, or which the Court orders the Settlement Administrator to perform.

5 14. The instant request is based on the fact that (1) the PAGA Period “cutoff date” is contingent on
6 Court approval, any delay diminishes the amounts received by the impacted employees; (2)
7 Notice to certain ex-employees may be adversely impacted by further delay (i.e. ex-employees
8 may change their mailing address without filing a proper “forwarding address”).

9 15. An expedient approval of this settlement will provide a direct benefit to the impacted employees
10 at issue. The “fixes” provide a guarantee of future Labor Code compliance, and an immediate
11 monetary benefit. It also allows Defendants (who admirably “stepped up” to address these
12 issues) the opportunity to move on, and focus on future business.

13 16. One of the main issues of this litigation concerned allegations that Plaintiff was denied legally
14 compliant meal and rest periods and was not paid for all overtime hours worked. Defendants
15 argued employees received compliant rest and meal breaks, and were properly paid overtime.

16 17. Plaintiff’s counsel is aware of the Court’s discretion to mitigate penalties pursuant to California
17 Labor Code section 2699(e)(2).

18 18. Plaintiff’s counsel agrees with the provision of the Labor Code, that penalties should be
19 mitigated where violations are minimal (or rare), or where the employer makes significant
20 efforts to comply with the Labor Code. Given Defendants’ arguments that they provided legally
21 compliant meal and rest periods, and paid employees for all hours worked, including overtime,
22 the Parties believe the settlement represents a fair and adequate payment.

23 19. Defendants, and their counsel, deserve credit for their willingness to consider—and address—
24 the allegations. Specifically, Defense Counsel, (who have extensive experience and knowledge
25 in “Wage and Hour” litigation) engaged Plaintiff’s counsel in good faith arms-length
26 negotiation to resolve the matter prior to protracted litigation commencing. Following
27 successful settlement efforts, the parties have reached a proposed settlement. That includes a
28 payment of penalties under PAGA.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing is
2 true and correct. Executed October 15, 2024, in San Diego California.
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5 By: 
6 Samuel F. Rotshtein, Esq.
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