



JUN 14 2023

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Attorneys for Plaintiff Sindy Aviles

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SINDY AVILES and BRYAN KELLY,
individually, and on behalf of Aggrieved
Employees pursuant to the California Private
Attorneys General Act;

Plaintiff,

vs.

FREEWAY INSURANCE SERVICES
AMERICA, LLC, a Delaware limited liability
company; and DOES 1 through 25, inclusive,

Defendants.

Case No. 21STCV34864

Honorable Kristin S. Escalante
Department 24

~~PROPOSED~~ AMENDED ORDER AND
JUDGMENT GRANTING PLAINTIFFS'
MOTION FOR APPROVAL OF PAGA
SETTLEMENT

Date: June 2, 2023
Time: 8:30 a.m.
Dept.: 24

Complaint Filed: September 22, 2021
Trial Date: None set

~~PROPOSED~~ AMENDED ORDER AND JUDGMENT GRANTING PLAINTIFFS'
MOTION FOR APPROVAL OF PAGA SETTLEMENT

Electronically Received 05/30/2023 12:23 PM

06/15/2023

~~PROPOSED~~ AMENDED ORDER AND JUDGMENT

On June 14, 2023 at 8:30 a.m. in Department 24 of the above-entitled Court, located at 111 North Hill Street, Los Angeles, California, 90012, Plaintiffs Sindy Aviles' and Bryan Kelly's ("Plaintiffs") Motion for Approval of PAGA Settlement and Award of Attorneys' Fees and Costs, and Settlement Administration Costs ("Motion") came on for hearing before the Honorable Kristin S. Escalante. Blackstone Law, APC appeared on behalf of Plaintiffs, and Rutan & Tucker, LLP appeared on behalf of Defendant Freeway Insurance Services America, LLC ("Defendant").

Plaintiffs and Defendant (the "Parties") have executed a Stipulation and Agreement for PAGA Representative Action Settlement (the "Settlement Agreement") and an Amendment to Stipulation and Agreement for PAGA Representative Action Settlement (the "Amendment"), (collectively, the "Amended Settlement Agreement" or "Settlement").

The Court, having carefully considered the papers, argument of counsel, and all matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiffs' Motion.

IT IS HEREBY ORDERED THAT:

1. Plaintiffs' Motion for Approval of PAGA Settlement and Award of Attorneys' Fees and Costs, and Settlement Administration Costs is granted in its entirety.

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

3. The Court finds that Plaintiffs have satisfied the prerequisites under the California Private Attorneys General Act (Cal. Labor Code § 2698, et seq.) ("PAGA"), including, but not limited to, providing the California Labor and Workforce Development Agency ("LWDA") and Defendant with notice of the specific provisions of the California Labor Code alleged to have been violated, including, but not limited to, the facts and theories to support the alleged violations, in conformity with California Labor Code § 2699.3(a).

4. The Court also finds that the Settlement Agreement and Amendment have been submitted to the LWDA in conformity with California Labor Code § 2699(1)(2) and that the LWDA has not sought to intervene or appear in the above-captioned action ("Action").

1 5. The individuals covered under the Settlement consist of the following individuals: "all
2 employees who were employed by Defendant as a non-exempt employee in California during the
3 PAGA Period (the "**Aggrieved Employees**"). The PAGA Period is defined as the period commencing
4 on December 16, 2020 through September 30, 2022.

5 6. The Court finds that the Parties reached the Settlement as a result of arm's-length
6 negotiations.

7 7. Pursuant to California Labor Code section 2699(1)(2), the Court has reviewed the sum
8 allocated for payment of penalties under PAGA (the "**PAGA Payment Fund**"), and determines that
9 it is fair, just, reasonable, and adequate. The Court hereby approves the PAGA Payment Fund, which
10 shall be the Gross Settlement Amount (\$320,000.00) less the approved Attorneys' Fees and Costs to
11 Plaintiff's Counsel, and Settlement Administration Costs to CPT Group (the "**Settlement**
12 **Administrator**"). Seventy-five percent (75%) of the PAGA Payment Fund shall be distributed to the
13 LWDA ("**LWDA Payment**") and twenty-five percent (25%) of the PAGA Payment Fund shall be
14 distributed to the Aggrieved Employees in accordance with this Order and Judgment and the Amended
15 Settlement Agreement.

16 8. The Court has considered the Settlement, and the monetary allocations provided
17 thereby, and finds that they are fair, just, reasonable, and adequate. The Court hereby directs the
18 Settlement Administrator to administer the Settlement and to make the payments as provided for by,
19 and consistent with, this Order and Judgment and the Amended Settlement Agreement.

20 9. The Court approves the payment of \$106,666.66 to Plaintiffs' Counsel, Blackstone
21 Law, APC, JCL Law Firm, APC and Zakay Law Group, APLC, for attorneys' fees. This amount shall
22 be paid from the Gross Settlement Amount and shall be disbursed in accordance with this Order and
23 Judgment and the Amended Settlement Agreement.

24 10. The Court approves the payment of \$3,828.90 to Plaintiffs' Counsel for reimbursement
25 of actual litigation costs and expenses incurred in the Action. This amount shall be paid from the
26 Gross Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the
27 Amended Settlement Agreement.

28 11. The Court approves payment in the amount of up to \$9,750.00 to the Settlement

1 Administrator for the Settlement Administration Costs. This amount shall be paid from the Gross
2 Settlement Amount and shall be disbursed in accordance with this Order and Judgment and the
3 Amended Settlement Agreement.

4 12. The Court approves the Notice of Representative PAGA Action Settlement, attached
5 hereto as Exhibit 1, and the Settlement Administrator shall distribute the Notice of Representative
6 PAGA Action Settlement to Aggrieved Employees at the same time that it distributes Individual
7 PAGA Payment checks to the Aggrieved Employees.

8 13. Upon the Court entering the Final Order and Judgment, and within 7 days after the
9 Effective Date, the Settlement Administrator shall send Defendant's counsel electronic wiring
10 instructions to fund the Gross Settlement Amount.

11 14. Within 21 days after the Effective Date, Defendant shall wire to the Settlement
12 Administrator the Gross Settlement Amount (the "**Funding Date**"). Within 45 days after the Effective
13 Date, the Settlement Administrator shall issue all payments required by the Settlement (the "**Payment**
14 **Date**"). Within 10 days after the Effective Date, Defendant will provide a PAGA List to the Settlement
15 Administrator which will identify all Aggrieved Employees by name, social security number, and last
16 known home address ("**PAGA List**"). The PAGA List will also contain the number of pay periods
17 credited to each Aggrieved Employee during the PAGA Period. Within 10 days after the Settlement
18 Administrator receives the PAGA List, the Settlement Administrator will provide to PAGA Counsel
19 and Defendant's counsel a Proceeds List reflecting the Individual PAGA Payment for each Aggrieved
20 Employee ("**Proceeds List**"). The Proceeds List provided to PAGA Counsel will not include the
21 Aggrieved Employees' names, social security numbers or contact information but will include pay
22 period information.

23 15. On the Payment Date, the Settlement Administrator will mail to each Aggrieved
24 Employee, via first-class United States Mail, the following: (a) the PAGA Settlement Notice attached
25 as Exhibit 1 hereto and (b) their Individual PAGA Payment (collectively, the "**PAGA Packet**"). Prior
26 to mailing the PAGA Packet, the Settlement Administrator will update all addresses using the National
27 Change of Address System (NCOA). In the event that a PAGA Packet is returned to the Settlement
28 Administrator with a forwarding address, the Settlement Administrator will re-send the PAGA Packet

1 to the forwarding address identified. If no forwarding address is provided, then the Settlement
2 Administrator will promptly conduct a “standard search,” sometimes called, “Skip Trace” or “Credit
3 Header” searches, to locate a better address. If a better address is found, the Settlement Administrator
4 will promptly re-send the PAGA Packet. If a better address is not found or the PAGA Packet is
5 ultimately returned without a forwarding address, neither the Settlement Administrator, Defendant,
6 Defendant’s counsel, or PAGA Counsel shall be required to take further action. Aggrieved Employees
7 shall have 180 calendar days after the date the PAGA Packet is mailed to them to cash their settlement
8 payment checks. If any Aggrieved Employee’s check is not cashed within that period, the settlement
9 payment check will be voided and a stop-payment will be issued. Neither Defendant, Defendant’s
10 counsel, Plaintiffs, nor PAGA Counsel will have any liability for lost or stolen settlement payment
11 checks, forged signatures on settlement payment checks, unauthorized negotiation of settlement
12 payment checks, or failure to timely cash a settlement payment check within the 180-day period. Any
13 unpaid cash residue or unclaimed Aggrieved Employee funds, plus any accrued interest that has not
14 otherwise been distributed pursuant to order of the Court, shall be distributed to the State Controller’s
15 Unclaimed Property Fund in the name(s) of the employee(s) who did not claim the funds.

16 16. If the total aggregate number of Pay Periods during the PAGA Period is more than 10%
17 higher than 16,000, i.e., there are more than 17,600 Pay Periods for the PAGA Period (“**Pay Periods**
18 **Threshold**”), the Gross Settlement Amount will increase on a pro rata basis to the extent the Pay
19 Periods Threshold is exceeded. For example, if the pay periods for the PAGA Period exceed the Pay
20 Periods Threshold by 1%, then the Gross Settlement Amount will be increased by 1%.

21 17. Aggrieved Employees shall not have the right to opt out of or object to the Settlement.
22 By way of and upon the entry of this Order and Judgment, Plaintiffs and each Aggrieved Employee is
23 deemed to fully release and forever discharge the Released Parties from the Released Claims.

24 18. As of the Effective Date and upon the Settlement Administrator’s receipt of the Gross
25 Settlement Payment from Defendant, Plaintiffs, the Aggrieved Employees, and the State of California
26 will be deemed to have discharged Defendant and the Released Parties from all PAGA claims during
27 the PAGA Period (December 16, 2020 through September 30, 2022) that were or reasonably could
28 have been alleged against Defendant in the Action on behalf of the Aggrieved Employees based on

1 the facts or claims alleged in the Action and/or in the Plaintiffs' LWDA Notices. Without limiting the
2 foregoing, and in addition to the foregoing, the release includes all claims and civil penalties under
3 California Labor Code Sections 2699 et seq., attorneys' fees and costs, and interest arising out of the
4 claims at issue, for Defendant's alleged failure to: provide meal periods; provide rest breaks; pay
5 minimum wages; pay and properly calculate overtime wages; properly calculate the regular rate of
6 pay including with respect to meal period and rest break premiums and sick time; furnish accurate
7 itemized wage statements; properly calculate and pay wages for all hours worked; pay all wages due
8 at separation of employment; separately compensate for rest breaks at the correct rate of pay; properly
9 compensate employees for all non-productive time including rest breaks; timely pay all wages due
10 during employment and upon separation; maintain accurate payroll records; and reimburse for all
11 necessary business-related expenses, pursuant to the corresponding alleged violations of California
12 Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1,
13 1174, 1174.5, 1194 et seq., 1197 et seq., 1197.1, 1198, 1198.5, 1199, 2800, 2802, 2804, 2698-2699,
14 2699.3, 2699.5, and the applicable IWC Wage Order provisions (the "**Released Claims**").

15 19. No individualized notice of this Order and Judgment is required to be provided to the
16 Aggrieved Employees. This Order and Judgment shall be submitted to the LWDA through the online
17 system established for the filing of notices and documents, in conformity with California Labor Code
18 § 2699(1)(3).

19
20 **IT IS SO ORDERED.**

21
22 Dated: _____

6-14-23

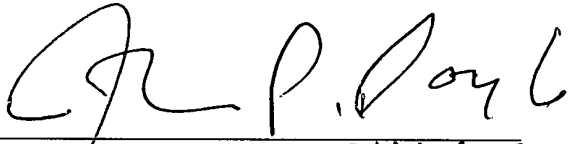
23 
24 The Kristin S. Escalante **JOHN P. DOYLE**
25 Judge of the Superior Court
26
27
28

EXHIBIT 1

[Date], 2023

[Claims Administrator Contact Information]

[Employee Name]

[Employee Street Address]

[City, State Zip]

Re: PAGA Settlement Payment

Dear Current or Former Freeway Insurance Services America, LLC Employee:

You have received this notice because Freeway Insurance Services America, LLC's ("FISA") records indicate that you have worked for FISA as an hourly, non-exempt employee in California at some time between December 16, 2020 through September 30, 2022. This notice relates to the settlement of the following lawsuit: *Sindy Aviles, et al. v. Freeway Insurance Services America, LLC*, Los Angeles Superior Court, Case No. 21STCV34864 (the "Action").

In the Action, plaintiffs Sindy Aviles and Bryan Kelly ("Plaintiffs") seek civil penalties against FISA pursuant to the California Private Attorneys General Act ("PAGA"), a law which allows Plaintiffs to attempt to recover penalties on behalf of the State of California and on behalf of employees who Plaintiffs claim were "aggrieved" by alleged wage and hour violations on the part of FISA, including its alleged failure to: provide meal periods and rest breaks; properly pay and calculate wages for all hours worked, overtime, minimum wages and paid sick time; reimburse for all necessary business-related expenses; furnish accurate itemized wage statements and maintain accurate payroll records; and timely pay all wages due during employment and upon separation.

FISA strongly disputes Plaintiffs' allegations and maintains that it has fully complied with all applicable wage and hour laws. The Court has not issued any ruling regarding the merits of the Action. Nonetheless, to avoid the cost and distraction of litigation, FISA has made a business decision to settle the Action, which settlement has been approved by the Court.

The enclosed settlement check represents your portion of the Court-approved PAGA settlement. You will not be retaliated against for cashing your check. Checks that are not cashed within 180 days of issuance will be voided and the funds will be distributed to the State Controller's Unclaimed Property Fund in the name of the employee who did not cash the check.

Regardless of what you do with the settlement check, you will have released claims for penalties arising under PAGA as asserted in the Action.

If you have any questions about this notice, please contact the Settlement Administrator, CPT Group at (____) ____-____.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THE ACTION. PLEASE DO NOT CONTACT THE COURT REGARDING THE CASE.

PROOF OF SERVICE

I, Stephany Sinaguinan, certify and declare as follows:

I am over eighteen years of age and not a party to the within action; my business address is 8383 Wilshire Blvd, Suite 745, Beverly Hills, California 90211. On May 30, 2023, I served a copy of the following document(s):

[PROPOSED] AMENDED ORDER AND JUDGMENT GRANTING PLAINTIFFS' MOTION FOR APPROVAL OF PAGA SETTLEMENT

on the interested parties as follows:

SEE ATTACHED SERVICE LIST

☒ **BY ELECTRONIC MAIL (E-MAIL):** I caused said document(s) to be delivered electronically to be delivered to the above referenced addressee(s) via email from email address ssina@blackstonepc.com pursuant to California Code of Civil Procedure section 1010.6(e)(1). I did not receive any electronic message or other indication that the transmission was unsuccessful.

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

Executed on May 30, 2023 at Beverly Hills, California.



Stephany Sinaguinan

SERVICE LIST

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