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Filed
August 10, 2026
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV424955
By: afloresca

8/10/2026 2:40:17 PM

Attorneys for Plaintiff ORGIL KHATANBAATAR
on behalf of herself and other similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

ORGIL KHATANBAATAR, on behalf of
herself and all others similarly situated, and
the general public,

Plaintiff,

v.

INFOGAIN TECHNOLOGIES, INC., a
California corporation; ADVANCED
RESOURCE STAFFING, a business entity of
unknown form; and DOES 1 through 50,
inclusive,

Defendants.

CLASS ACTION:

Case No. 23CV424955

Assigned for all purposes to:

Hon.: Theodore C. Zayner

Dept.: 19

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT
AGREEMENT**

Date: August 5, 2026

Time: 2:30 p.m.

Dept.: 19

Original Complaint Filed: October 27, 2023

First Amended Complaint: December 21, 2023

Second Amended Complaint: May 7, 2026

Trial: None set

1 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL**

2 Plaintiff Orgil Khatanbaatar (“Plaintiff”), on behalf of himself and other similarly
3 situated employees of Defendant Infogain Technologies, Inc. (“Defendant”) (collectively, “the
4 Parties”), filed the Motion for Preliminary Approval of the Class Action and PAGA Settlement
5 (“Settlement”). The Motion was set for hearing on August 5, 2026, at 2:30 p.m. in Department
6 19 of the Santa Clara County Superior Court located at 191 N First Street, San Jose, CA, 95113,
7 and Defendant does not oppose it.

8 The Court has considered the Settlement Agreement, which is attached as Exhibit 1 to the
9 Declaration of Marta Manus in Support of the Motion and incorporated herein by reference, the
10 proposed Court Approved Notice of Class Action Settlement and Hearing Date for Final Court
11 Approval (“Class Notice”), which is attached as Exhibit A to the Parties’ Settlement Agreement,
12 the submissions of counsel, and all other papers filed in this litigation.

13 NOW THEREFORE, having read and considered the foregoing, the Court **HEREBY**
14 **MAKES THE FOLLOWING FINDINGS:**

15 This is a putative class and representative action arising from alleged wage and hour
16 violations. In the operative Second Amended Complaint against defendant Infogain
17 Technologies, Inc. (“Defendant”), plaintiff Orgil Khatanbaatar alleges failures to provide meal
18 and rest periods, pay hourly wages and overtime, pay proper sick pay, provide accurate wage
19 statements, timely pay final wages, and reimburse business expenses, as well as related unfair
20 competition and PAGA penalties. Plaintiff moves for preliminary approval of the settlement
21 reached by the parties, and the motion is unopposed. As discussed below, the Court GRANTS
22 the motion for preliminary approval and sets a final approval hearing for March 3, 2027, at 1:30
23 p.m. in Department 5.

24 **I. Legal Standard**

25 “In general, questions whether a settlement was fair and reasonable, whether notice to the
26 class was adequate, whether certification of the class was proper, and whether the attorney fee
27 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
28 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, disapproved of on other grounds by

1 *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.) The most important factor is
2 the strength of the plaintiff’s case on the merits, balanced against the amount offered in
3 settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130.)

4 Similar to its review of class action settlements, a trial court must also “review and approve”
5 any settlement of an action filed under the Private Attorneys General Act (“PAGA”). (Lab.
6 Code, § 2699, subd. (s)(2).) The trial court must “determine independently whether a PAGA
7 settlement is fair and reasonable,” to protect “the interests of the public and the LWDA in the
8 enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77.)
9 A PAGA settlement may be substantially discounted, and courts often exercise their discretion
10 to award PAGA penalties below the statutory maximum. (*Carrington v. Starbucks Corp.* (2018)
11 30 Cal.App.5th 504, 529; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1213.)

12 **II. Discussion**

13 **A. Provisions of the Settlement**

14 This case has been settled on behalf of the following class:

15 All current and former non-exempt employees of Defendant who worked in California
16 during the Class Period [October 27, 2019, through May 30, 2025].

17 (Declaration of Marta Manus (“Manus Decl.”), ¶ 14, Ex. 1 (“Agreement”), § 1.12.) The
18 settlement includes a subset PAGA group of Aggrieved Employees, defined as “all current and
19 former non-exempt employees of Defendant who worked in California” during the PAGA
20 Period [October 27, 2022, through May 30, 2025]. (Id. at §§ 1.4, 1.34.)

21 Defendant will pay a non-reversionary gross settlement amount of \$307,500. The gross
22 settlement amount includes attorney fees of up to one-third of the gross settlement amount
23 (\$102,500); litigation costs of up to \$25,000; a PAGA allocation of \$15,000 (75 percent of
24 which, or \$11,250, will be paid to the LWDA and 25 percent of which, or \$3,750, will be paid
25 to Aggrieved Employees as individual PAGA payments); a service payment of up to \$10,000;
26 and settlement administration costs estimated at up to \$8,000. (Motion, pp. 3:14–4:12; Manus
27 Decl., ¶ 8.) The estimated net settlement amount of approximately \$147,000 will be distributed
28 to approximately 122 class members on a pro rata basis according to workweeks worked,

yielding an estimated average individual settlement payment of approximately \$1,204.92.
(Manus Decl., ¶ 8.)

The Agreement provides that Apex Class Action, LLC (“Apex”) will serve as the neutral entity that will administer the settlement. (Agreement, § 7.1.) The Court appoints Apex as the settlement administrator.

The Agreement further provides that funds from uncashed and cancelled settlement checks will be transmitted to the California State Controller’s Unclaimed Property Fund in the name of the Class Member. (Agreement, § 4.4.3.) Code of Civil Procedure section 384 mandates that unclaimed or abandoned class members’ funds be given to “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent.” In the Court’s view, the Agreement’s unclaimed-funds provision at paragraph 4.4.3 does not comply with Code of Civil Procedure section 384. Therefore, prior to mailing of the Class Notice, the parties shall meet and confer to designate a *cy pres* beneficiary and amend the Class Notice accordingly.

In exchange for the settlement, the Participating Class Members agree to release Defendant and related persons and entities from “all claims arising during the Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint.” (Agreement, § 5.2.) Aggrieved Employees will be deemed to release Defendant and related persons and entities from “all claims for civil penalties under PAGA arising during the PAGA Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and PAGA Notice” (dated October 27, 2023). (Id. at § 5.3.) The release provisions are appropriately tailored to the factual allegations of the operative pleading. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538.)

B. Fairness of the Settlement

Plaintiff contends that the Agreement meets the standards for preliminary approval. (Motion, pp. 8:16–11:3.) Plaintiff’s counsel states that the parties participated in mediation with

1 Brandon McKelvey, Esq., on March 31, 2025. (Manus Decl., ¶ 6.) Prior to mediation, Defendant
2 produced a representative sample of class-member time and pay data, along with its wage and
3 hour policy documents and other relevant information, which Plaintiff’s counsel analyzed. (Id.
4 at ¶¶ 18, 20.) According to the analysis by Plaintiff’s counsel, the estimated maximum potential
5 value of the class and PAGA claims is approximately \$3,215,158.35, and the estimated realistic
6 value of these claims is approximately \$559,180.92. (Id. at ¶¶ 23–33; Motion, pp. 10:12–11:3.)

7 The gross settlement amount of \$307,500 represents approximately 9.6 percent of the
8 maximum value of the claims and approximately 59 percent of the estimated realistic value of
9 the claims, which is within the general range of percentage recoveries that California courts
10 have found to be reasonable. In addition, Plaintiff’s counsel has adequately explained the
11 settlement process and the rationale supporting the gross settlement amount.

12 The Court has reviewed Plaintiff’s written submissions and is satisfied that the
13 settlement is fair and may be approved.

14 **C. Service Award, Fees and Costs**

15 Plaintiff seeks a service award of \$10,000 and has provided a declaration describing her
16 participation in this action, including approximately 40 hours devoted to the litigation.
17 (Declaration of Orgil Khatanbaatar, ¶¶ 6–9.) The Court is inclined to approve the service award
18 in the amount requested and will issue its determination at the final approval hearing. Class
19 counsel will seek attorney fees of up to one-third of the gross settlement amount (\$102,500).
20 Prior to the final approval hearing, class counsel shall submit lodestar information (including
21 hourly rate and hours worked) as well as evidence of actual litigation costs incurred and
22 settlement administration costs.

23 **D. Conditional Certification of Class**

24 Plaintiff requests that the class be conditionally certified for purposes of the settlement.
25 California Code of Civil Procedure section 382 authorizes certification of a class “when the
26 question is one of a common or general interest, of many persons, or when the parties are
27 numerous, and it is impracticable to bring them all before the court ...”

28 Plaintiff states that there are approximately 122 class members who can be identified

1 from a review of Defendant’s employment and payroll records. (Manus Decl., ¶ 14.) The Court
2 finds that there are common questions regarding whether class members were subjected to
3 Defendant’s allegedly unlawful wage and hour policies and practices, and that the proposed
4 class may be conditionally certified for settlement purposes.

5 **E. Class Notice**

6 California Rules of Court, rule 3.769, subdivision (f), provides, “If the court has certified
7 the action as a class action, notice of the final approval hearing must be given to the class
8 members in the manner specified by the court. The notice must contain an explanation of the
9 proposed settlement and procedures for class members to follow in filing written objections to it
10 and in arranging to appear at the settlement hearing and state any objections to the proposed
11 settlement.”

12 Here, the form of the notice is generally adequate subject to the modifications set forth
13 below. It describes the lawsuit, explains the settlement, and states the settlement amounts,
14 including attorney fees and the payment to the named plaintiff, and it will be translated into
15 Spanish. The notice informs class members that they may appear at the final approval hearing to
16 object to the settlement.

17 As discussed above, the Court instructs the parties to meet and confer to designate a *cy*
18 *pres* beneficiary in accordance with Code of Civil Procedure section 384 – and to amend the
19 Class Notice accordingly – prior to its mailing. In addition, the following language regarding the
20 final approval hearing shall be added to the notice:

21 Class members may appear at the final approval hearing in person or remotely using the
22 link for Department 19, and should review the remote appearance instructions
23 beforehand:

24 <https://santaclara.courts.ca.gov/online-services/remote-hearings>

25 Class members who wish to appear remotely are encouraged to contact class counsel at
26 least three days before the hearing, if possible, so that potential technology or audibility
27 issues can be avoided or minimized.

28 On the condition that the parties make the above modifications to the notice prior to its

mailing, the notice is approved.

II. Conclusion

The Court GRANTS the motion for preliminary approval and sets a final approval hearing for March 3, 2027, at 1:30 p.m. in Department 5.

IT IS SO ORDERED.

Dated: August 10, 2026



Honorable Theodore C. Zayner
Judge of the Superior Court