

FILED
Clerk of the Superior Court

FEB 27 2023

Clerk of the Superior Court
By: S. Goodrich, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

LUIS A. M. AVILA, an individual, for the real
party in interest, the State of California,

Plaintiff,

v.

STAPLES CONTRACT & COMMERCIAL
INC.; STAPLES INC.; and DOES 1 through 50,

Defendants.

Case No. 37-2020-00026210-CU-OE-CTL
(Lead Case)

Consolidated with Case No. 37-2022-
00001040-CU-OE-CTL

(Assigned for All Purposes to the Honorable
Eddie C. Sturgeon, Dept. 67)

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT
THEREON**

Date Action Filed: July 27, 2020
Trial Date: Not Yet Set

1 This matter has come before the Court on the Motion of Plaintiff Luis A. M. Avila for
2 Final Approval of Class Action Settlement ("Motion"). A Fairness Hearing was held on
3 **February 27, 2023**, following the Court's order granting Plaintiff's motion for preliminary
4 approval of the Settlement and notice of the Settlement to the Class with an opportunity for Class
5 Members to request exclusion or object to the Settlement. The Court, having duly considered the
6 Motion, good cause appearing, hereby orders, adjudges, and decrees as follows:

7 1. Capitalized terms in this Order and Judgment have the same meaning they are
8 given in the Class and PAGA Action Settlement Agreement and Release ("Agreement") attached
9 as **Exhibit 1** to the Declaration of Alex Asil Mashiri in Support of Plaintiff's Unopposed Motion
10 for Preliminary Approval of Class Action Settlement, filed September 20, 2022.

11 2. This Court has jurisdiction over the subject matter of this Action, all claims
12 alleged herein, and all Parties hereto, including Plaintiff, all Class Members, and Defendants
13 Staples Contract & Commercial LLC (named Staples Contract & Commercial Inc. until
14 approximately February 28, 2018) and Staples, Inc.

15 3. The Court finds that the Class Members have been provided proper and adequate
16 notice, meeting the requirements of due process. The Court finds, based on the evidence
17 submitted, that the Class Notice and related documents, as well as the methodology used to
18 implement the Settlement, including providing notice to Class Members, (a) complied with this
19 Court's Preliminary Approval Order, (b) constituted the best practicable notice under the
20 circumstances, (c) constituted notice that was reasonably calculated, under the circumstances, to
21 apprise Class Members of the pendency of the Action and the proposed Settlement, their right to
22 participate in the Settlement, to opt out of the Settlement, to object to the Settlement and to appear
23 at the Fairness Hearing, and (d) met all applicable requirements of due process, the Code of Civil
24 Procedure and other applicable authorities.

25 4. The Court finds that adequate time has been provided for Class Members to
26 respond to the Class Notice, including by opting out of the Settlement or objecting to the
27 Settlement or to Plaintiff's Motion for Approval of Attorneys' Fees and Costs.
28

1 5. The Court finds that the Settlement, the terms of which are set forth in the
2 Agreement attached as **Exhibit 1** to the Declaration of Alex Asil Mashiri in Support of Plaintiff's
3 Unopposed Motion for Preliminary Approval of Class Action Settlement, filed September 20,
4 2022, is fair, reasonable, and adequate as to the settling Parties, including the Settlement Class
5 Members, and is in the best interests of all those affected by the Settlement. The Court finds that
6 the Settlement was the result of vigorously contested litigation and good-faith arm's-length
7 negotiations, and is reasonable based on the risks, expense, and complexity of the Action and the
8 likelihood of success in it. The Court hereby grants final approval of the Parties' Settlement, as
9 set forth in the Agreement, and enters Judgment accordingly. The Parties are directed to perform
10 the terms of the Agreement and to report to the Court when that performance has been completed.

11 6. The Court has already determined solely for purposes of this Settlement, by way of
12 its Preliminary Approval Order, that the Settlement Class satisfies the applicable standards for
13 certification under the Code of Civil Procedure. The Settlement Class, which will be bound by
14 this Final Approval Order and Judgment, include all Class Members, given that none of them
15 submitted a timely and valid Request for Exclusion. For purposes of the Settlement and this Final
16 Approval Order and Judgment, the Settlement Class shall be represented by Plaintiff and shall
17 include Plaintiff and all individuals employed by Staples Contract & Commercial LLC (named
18 Staples Contract & Commercial Inc. until approximately February 28, 2018) as hourly
19 employees in California between and including January 1, 2018 and October 3, 2022 who fall
20 within the scope of the claims alleged in the Complaints filed in this Action as well as the related
21 and consolidated Later-Filed Action.

22 7. The Court appoints Plaintiff as class representative for the Settlement Class.

23 8. The Court appoints Class Counsel identified in the Agreement as class counsel for
24 the Settlement Class, finding that Class Counsel is adequate and qualified, and has, and can
25 continue to, fully and faithfully represent the interests of Plaintiff and the Settlement Class
26 Members.

27 9. Settlement Class Members shall be paid their respective shares of the Net
28 Settlement Sum as provided in the Agreement.

1 10. The portion of the PAGA Settlement Amount to be paid to the California Labor &
2 Workforce Development Agency ("LWDA") and the portion of the PAGA Settlement Amount to
3 be paid to PAGA Group Members shall be paid as provided in the Agreement. The LWDA and
4 all PAGA Group Members will be bound by this Final Approval Order and Judgment.

5 11. All Withholdings and Taxes owed on the Settlement Awards, as calculated by the
6 Settlement Administrator, shall be paid and reported to the appropriate taxing authorities as set
7 forth in the Agreement.

8 12. The unopposed application of Class Counsel for attorneys' fees and costs is hereby
9 granted. The sum of \$100,000 in attorneys' fees, and costs not to exceed the sum of \$5,885.79
10 shall be paid to Class Counsel, with payment to be made as provided for in the Agreement. A
11 General Release Payment of \$25,000 shall be paid to Plaintiff, with payment to be made as
12 provided for in the Agreement. Phoenix Class Action Administration Solutions shall be paid
13 Settlement Administration Costs of \$19,250, in accordance with the terms of the Agreement.
14 Except as expressly set forth in this Final Approval Order and Judgment, the Parties shall bear
15 their own attorneys' fees and costs.

16 13. Any portion of the Settlement Fund remaining after administration of the
17 Settlement has been completed shall be transmitted to the California Controller's Office
18 Unclaimed Property Division for further handling, as provided in the Agreement.

19 14. The Settlement Administrator is directed to make the payments set forth herein, in
20 accordance with the terms and conditions of the Agreement.

21 15. By no later than 10/30/23 @ 8:30am, the Settlement Administrator shall file a
22 report setting forth (1) the total amount of money actually paid to Settlement Class Members and
23 PAGA Group Members, (2) the portion of the PAGA Settlement Amount paid to the LWDA, and
24 (3) the portion of the LWDA Payment paid to the LWDA. (Code Civ. Proc., § 384, subd. (b).)

25 16. All Class Members are bound by this Final Approval Order and Judgment, and by
26 the previously approved Agreement. Each Settlement Class Member is hereby deemed to have
27 fully, finally, and forever released, relinquished, and discharged each of the Defendants and all
28

Released Parties, as defined in the Agreement, from the Released Claims described in the Agreement.

17. All PAGA Group Members and the LWDA are bound by this Final Approval Order and Judgment, and by the previously approved Agreement. Each PAGA Group Member and the State of California are hereby deemed to have expressly released, waived, and relinquished the Released PAGA Claims. All PAGA Group Members are hereby barred from bringing, joining, or otherwise participating in a PAGA representative action or otherwise making, joining, or otherwise participating in a claim against any of the Released Parties for any of the Released PAGA Claims. The State of California shall be barred from pursuing recovery of any civil penalties from any of the Released Parties for any of the Released PAGA Claims.

18. This Final Approval Order and Judgment, the Agreement, the Settlement it reflects, and any and all acts, statements, documents or proceedings relating to the Settlement are not, and shall not be construed as, or used as an admission by Defendants, or either of them, or a finding by this Court of any fault, wrongdoing, or liability on the part of Defendants, or either of them, or of the validity of any Released Claim or of the existence or amount of any damages.

19. In the event the Effective Date does not occur, this Final Approval Order and Judgment shall be null and void and shall be vacated, *nunc pro tunc*, except insofar as expressly provided to the contrary in the Agreement, and without prejudice to the status quo ante rights of the Plaintiff, Settlement Class Members, and Defendants.

20. Judgment is hereby entered in accordance with the Agreement and the Settlement. Without affecting the finality of this Final Approval Order and Judgment in any way, the Court shall retain jurisdiction over the implementation of the Settlement, including enforcement and administration of the Agreement and the releases given in connection therewith, and any other matters related or ancillary to the foregoing.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: **FEB 27 2023**

Eddie C. Sturgeon, Judge

Honorable Eddie C. Sturgeon
Judge of the Superior Court