

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 24 2021

BY Jessica Morales
JESSICA MORALES, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ELAINE MUNOZ, individually and on behalf
of all persons similarly situated

Plaintiffs,

vs.

AMTCR CALIFORNIA, LLC, a California
limited liability company, and Does 1 through
50, Inclusive,

Defendants.

Case No. CIV-DS2001914

~~[PROPOSED]~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT

Date: August 24, 2021

Time: 10:00 a.m.

Judge: Hon. David Cohn

Dept.: S-26

1 This matter came on for hearing on August 24, 2021 at 10:00 a.m., in front of the Hon. David
2 Cohn, presiding, Plaintiff's unopposed Motion for Order Granting Final Approval of Class Action
3 Settlement and Entering Judgment pursuant to California Rule of Court 3.769, with Jean-Claude
4 Lapuyade, Esq. of the JCL Law Firm and Shani O. Zakay, Esq. of Zakay Law Group, APC appearing
5 as counsel for plaintiff ELAINE MUNOZ, and Alicia Belock, Esq. and Michael O'Connor, Esq. of
6 Atkinson, Andelson, Loya, Ruud & Romo, appearing as counsel for defendant AMTCR
7 CALIFORNIA, LLC (hereinafter "Defendant").

8 The Court, having received and carefully considering the Settlement and Release of Class
9 Action and PAGA Claims ("Settlement Agreement"), the supporting papers filed by the Parties, the
10 evidence and argument received by the Court in conjunction with the unopposed Motion for
11 Preliminary Approval of Class Action Settlement heard on April 14, 2021, the instant Motion for
12 Order Granting Final Approval of Class Action Settlement, the Court grants final approval of the
13 Settlement and HEREBY ORDERS THE FOLLOWING:

14 1. All capitalized terms used herein shall have the same meaning as defined in the
15 Settlement Agreement which was attached to the Declaration of Shani O. Zakay, Esq. as Exhibit "A".

16 2. Pursuant to the Order Granting Preliminary Approval the Notice of Pendency of Class
17 Action Settlement and Hearing Date for Court Approval was sent to each Settlement Class Member by
18 first-class mail. These papers informed the Settlement Class Members of the terms of the Settlement,
19 and of (a) their right to receive an Individual Settlement Shares, (b) their right to comment on or object
20 to the Settlement, (c) their right to request exclusion from the Settlement and pursue their own
21 remedies, and (d) their right to appear in person or by counsel at the final approval hearing and to be
22 heard regarding approval of the Settlement. Adequate periods of time were provided by each of these
23 procedures.

24 3. Following the conclusion of the Notice Period, the Settlement Administrator reports that
25 it received *zero written objections* to the Settlement and *zero written Requests for Exclsuion* from the
26 Settlement.

27 4. The Court finds and determines that this notice procedure afforded adequate protections
28 to the Settlement Class Members and provides the basis for the Court to make an informed decision

1 regarding approval of the Settlement based on the responses of the Settlement Class. The Court finds
2 and determines that the notice provided in this case was the best notice practicable, which satisfied the
3 requirements of law and due process.

4 5. With respect to the Settlement Class Members and for purposes of approving this
5 Settlement only, this Court finds and concludes that: (a) the members of the Settlement Class are
6 ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of
7 law or fact common to the Settlement Class Members, and there is a well-defined community of
8 interest among the Settlement Class Members with respect to the subject matter of the Action; (c) the
9 claims of Class Representative ELAINE MUNOZ are typical of the claims of the Settlement Class
10 Members; (d) the Class Representative has fairly and adequately protected the interests of the
11 Settlement Class Members; (e) a class action is superior to other available methods for an efficient
12 adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e., Jean-
13 Claude Lapuyade, Esq. of the JCL LAW FIRM, APC and Shani O. Zakay, Esq. of ZAKAY LAW
14 GROUP, APC (hereinafter "Class Counsel"), are qualified to serve as counsel for the Class
15 Representative and the Settlement Class Members in their individual and representative capacity for
16 the Settlement Class Members.

17 6. The Court has certified the two classes, as defined in and by the terms of the Settlement
18 Agreement as follows:

19 (a) The "Non-Exempt Class" is "All non-exempt employees who are or
20 previously were employed by Defendant in California during the Class
21 Period.";

22 (b) The "Manager Class" is "All managers employed by Defendant in
23 California who were paid a monthly salary equivalent to less than two
24 times the State of California's minimum wages for full-time
25 employment during the Class Period"; and

26 (c) The Class Period is defined as the period between January 21, 2016 to
27 April 14, 2021.

28 7. The Court deems the definition of the two classes sufficient for purposes of California

1 Rule of Court 3.765(a).

2 8. The Court hereby confirms Jean-Claude Lapuyade, Esq., of the JCL LAW FIRM, APC
3 (“JCL”) and Shani O. Zakay, Esq. of ZAKAY LAW GROUP, APC (“ZLG”)

4 9. The Court hereby confirms plaintiff Elaine Munoz as the Class Representative in this
5 Action.

6 10. The Court finds and determines that the terms set forth in the Settlement Agreement and
7 the Amendment are fair, reasonable, and adequate and directs the Parties to effectuate the Settlement
8 according to its terms having found that the Settlement was reached as a result of informed and non-
9 collusive arms’ length negotiations facilitated by a neutral mediator. The Court further finds that the
10 Parties conducted extensive investigation, research, and discovery and that their attorneys were able to
11 reasonably evaluate their respective positions. The Court also finds that Settlement will enable the
12 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the
13 Parties were to continue to litigate the case. The Court has reviewed the monetary recovery provided
14 as part of the Settlement and recognizes the significant value accorded to the Settlement Class.

15 11. The Court further finds and determines that the terms of the Settlement are fair,
16 reasonable and adequate to the Settlement Class and to each Settlement Class Member and that the
17 Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be
18 and hereby are ordered to be consummated.

19 12. The Court further finds and determines that Class Counsel satisfied California Labor
20 Code § 2699(1)(2) by giving the LWDA notice of the proposed Settlement of claims arising under the
21 Private Attorney General Act (“PAGA”) on March 17, 2021 and again on August 2, 2021.

22 13. The Court orders Class Counsel to to comply with California Labor Code § 2699(1)(3)
23 by providing the LWDA a copy of this order within ten (10) calendar days of the Court’s entry of this
24 Order.

25 14. The Court finds and determines that the Individual Settlement Shares to be paid to
26 participating Class Members as provided for by the Settlement are fair and reasonable. The Court
27 hereby gives final approval to and orders the payment of those amounts be made to the participating
28 Settlement Class Members in accordance with the Settlement Agreement.

1 15. The Court finds and determines that payment to the California Labor and Workforce
2 Development Agency, the PAGA Payment, of \$37,500.00, as its share of the settlement of civil
3 penalties in this case is fair, reasonable, and appropriate. The Court hereby gives final approval to and
4 orders that the payment of that amount be paid in accordance with the Settlement Agreement.

5 16. The Court finds and determines that the fees and expenses in administering the
6 Settlement incurred by ILYM, Inc., in the amount of \$23,000.00, are fair and reasonable. The Court
7 hereby gives final approval to and orders that the payment of that amount in accordance with the
8 Settlement.

9 17. The Court finds and determines the Enhancement Award in the sum of \$10,000 to the
10 Class Representative is fair and reasonable. The Court hereby orders the Administrator to make this
11 payment to the Class Representative in accordance with the terms of the Settlement Agreement.

12 18. Pursuant to the terms of the Settlement, and the authorities, evidence and arguments
13 submitted by Class Counsel, the Court hereby awards Class Counsel Attorneys' Fees and Costs in the
14 total sum of \$641,666.66. The Attorneys' Fees and Costs are comprised of two components. First,
15 \$616,666.66 in attorneys' fees which represents thirty-three and one-third percent (33.3%) one-third of
16 the Gross Settlement Fund. Second, an amount up to \$25,000.00 for actually incurred litigation costs
17 as evidenced by Class Counsels' billing records. The Court finds such amounts to be fair and
18 reasonable. The Court hereby orders the Settlement Administrator to make these payments in
19 accordance with the terms of the Settlement Agreement.

20 19. The Court further orders that the attorneys' fee portion of the awarded Attorneys' Fees
21 and Costs be allocated among Class Counsel in the following percentages:

- 22 a. 50% to JCL; and
23 b. 50% to ZLG.

24 20. The Court further orders that the costs portion of the awarded Attorneys' Fees and Costs
25 be allocated as follows: \$9,696.01 to JCL and \$6,918.00 to ZLG.

26 21. Without affecting the finality of this order or the entry of judgment in any way, the
27 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
28 effectuation, and enforcement of this order and the Settlement.

22. Neither Defendants nor any related persons or entities shall have any further liability for costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided for by the Settlement Agreement.

23. Neither the making of the Settlement Agreement nor the entry into the Settlement Agreement constitutes an admission by Defendant, nor is this Order a finding of the validity of any claims in the Action or of any other wrongdoing. Further, the Settlement Agreement is not a concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any entity or persons; nor may any action taken to carry out the terms of the Settlement Agreement be construed as an admission or concession by or against Defendant or any related person or entity.

24. Nothing in this order shall preclude any action to enforce the Parties' obligations under the Settlement or under this order, including the requirement that Defendants make payments to the participating Settlement Class Members in accordance with the Settlement, and including use of the Settlement, Judgment, or Order as a bar or affirmative defense, in whole or in part, to any future or other claims.

25. Upon completion of administration of the Settlement, the Settlement Administrator will provide written certification of such completion to the Court and counsel for the Parties which shall be filed with the Court five (5) court days before the non-appearance compliance hearing set for August. 24, 2022 at 9:00 a.m., in Dept. S-26.

26. The Court hereby enters final judgment in accordance with the terms of the Settlement Agreement, the Order Granting Preliminary Approval of Class Action Settlement granted on April 14, 2021, and this order.

27. The Parties will bear their own costs and attorneys' fees except as otherwise provided by this Court's Order awarding Class Counsels' Attorneys' Fees and Costs.

///

1 28. Accordingly, the motions for Final Approval of Class Action Settlement and, Class
2 Counsels' Attorneys' Fees and Costs, and Enhancement Award are GRANTED and the
3 corresponding Judgment filed with the motion shall be ENTERED.

4
5 IT IS SO ORDERED.

6
7 Date: 8.24, 2021

David Cohn

JUDGE OF THE SUPERIOR COURT

DAVID COHN