

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 DENSON M. SALES; ANDRE
11 CLEMONS; ROBERT BEJAR; and
12 MARTIN CHAVEZ on behalf of
themselves, all others similarly situated,
and on behalf of the general public,

13 Plaintiff,

14 v.

15 UNITED ROAD SERVICES, INC.;
16 URS MIDWEST, INC. and DOES 1-
17 100, inclusive,

18 Defendants.
19
20
21
22
23
24
25
26
27
28

Case No. 4:19-cv-08404-JST

*[Assigned to the Honorable Jon S. Tigar;
Department 6]*

**[PROPOSED] ORDER GRANTING
PLAINTIFFS ROBERT BEJAR AND
MARTIN CHAVEZ'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: October 5, 2023

Time: 2:00 p.m.

Complaint Filed: November 18, 2019

SAC Filed: May 18, 2023

Trial Date: May 20, 2024

1 **I. RECITALS**

2 This matter came on for hearing on October 5, 2023, in Courtroom 6 of the above-captioned
3 Court on Plaintiffs Robert Bejar and Martin Chavez’s Motion for Preliminary Approval of Class
4 Action Settlement. This action is currently pending before this Court as a putative class action (the
5 “Action”). Plaintiffs have applied to this Court for an order preliminarily approving the settlement
6 of the Action in accordance with the Joint Stipulation of Settlement and Release of Class Action
7 Claims (the “Joint Stipulation”), which together with the exhibits annexed thereto, sets forth the terms
8 and conditions for a proposed settlement and entry of judgment upon the terms and conditions set
9 forth therein.

10 The Court has reviewed the Plaintiffs Robert Bejar and Martin Chavez’s Motion for
11 Preliminary Approval of Class Action Settlement filed by Plaintiffs Robert Bejar and Martin Chavez.
12 The Court has considered the Memorandum of Points and Authorities in support of Plaintiffs Robert
13 Bejar and Martin Chavez’s Motion for Preliminary Approval of Class Action Settlement; the
14 Declaration of David Mara, Esq., along with the attached exhibits including the Joint Stipulation; the
15 Declaration of Hunter Pyle, Esq., along with the attached exhibits; and the Declaration of Kevin
16 Taylor. For purposes of this Order, the Court adopts all defined terms as set forth in the Joint
17 Stipulation.

18 **II. FINDINGS**

19 After review and consideration of the Joint Stipulation and Plaintiffs Robert Bejar and Martin
20 Chavez’s Motion for Preliminary Approval and the papers in support thereof, the Court hereby finds
21 and orders as follows:

22 1. The Joint Stipulation falls within the range of reasonableness meriting possible final
23 approval.

24 2. The Joint Stipulation, and the obligations of the Parties as set forth therein, is fair,
25 reasonable, and is an adequate settlement of this case and is in the best interests of the Class in light
26 of the factual, legal, practical, and procedural considerations raised by this case.

27 3. The Class Notice attached as Exhibit 1 to the Joint Stipulation complies with due
28

process because the Class Notice is reasonably calculated to adequately apprise Class Members of: (i) the pending lawsuit; (ii) the terms of the proposed Joint Stipulation; and (iii) their rights, including the right to either participate in the settlement, exclude themselves from the settlement, or object to the settlement. Plaintiffs Robert Bejar and Martin Chavez’s proposed plan for class notice and settlement administration is the best notice practicable under the circumstances and is in full compliance with the Federal Rules of Civil Procedure and the requirements of due process, and the Class Notice complies with the Federal Rules of Civil Procedure and the requirements of due process, and is appropriate as part of the proposed plan for notice to Class Members.

III. ORDER

IT IS HEREBY ORDERED as follows:

1. The Court finds on a preliminary basis that the provisions of the Joint Stipulation, filed with the Court as Exhibit 1 to the Declaration of David Mara, Esq., are fair, just, reasonable, and adequate and, therefore, meet the requirements for preliminary approval. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998); *Joel A. v. Giuliani*, 218 F.3d 132, 138 (2nd Cir. 2000).

2. The Joint Stipulation provides for the following release as to Class Participants,¹ which is hereby approved conditionally: All claims that were plead in the Second Amended Complaint, including claims for unpaid minimum wages under Cal. Lab. Code §§ 558, 1182.1-1182.3, 1194, 1194.2, 1197, and 1198; unpaid meal and rest breaks under Cal. Lab. Code §§ 558, 226.7, and 512, Cal. Code Regs., tit. 8 § 11090, and IWC Wage Order No. 9-2011; failure to reimburse/illegal deductions under Cal. Lab. Code §§ 221 and 2802, and Cal. Regs., tit. 8 § 11090; related claims under California Labor Code §§ 201-3, 226, 204, 210; and claims for unlawful business practices under the California Business and Professions Code §§ 17200, *et seq.*, as alleged in the Second Amended Complaint. The Released Class Claims shall be for the Class Period.

3. Phoenix Settlement Administrators is appointed as Settlement Administrator.

¹ Class Participants are “[a]ny and all Class Member(s) who do not submit a timely and valid Opt-Out Request.” On March 29, 2022, the Court granted certification of the following Class: “All individuals who signed Independent Contractor Service Agreements with URS, who were assigned to a business unit in California, and who drove in California at any time from November 18, 2015, to March 29, 2022.”

1 4. The proposed payment of up to \$20,000 in costs to Phoenix Settlement Administrators
2 for its services as the Settlement Administrator is conditionally approved.

3 5. The Class Notice, in the form attached to the Joint Stipulation as Exhibit 1, is
4 approved.

5 6. The Settlement Administrator is ordered to mail the Class Notice to the Class
6 Members as provided in the Joint Stipulation and to email the Class Notice to Class Members for
7 whom Defendant has email addresses.

8 7. Each Class Member will have sixty (60) days after the date on which the Settlement
9 Administrator mails the Class Notice to object to the settlement by following the procedure set forth
10 in the Class Notice.

11 8. Any Class Member who has submitted such written objections may, but is not
12 required to, appear himself or herself, or through counsel, at the Final Approval and Fairness Hearing
13 and object to the approval of the Joint Stipulation or the award of attorneys' fees and reimbursement
14 of expenses to Class Counsel. No Class Member, or any other person, shall be heard or entitled to
15 contest the approval of the proposed Joint Stipulation, the judgment to be entered approving the same,
16 or the award of attorneys' fees and reimbursement of expenses to Class Counsel, unless that Class
17 Member has submitted written objections in the manner set forth herein. The Parties may file any
18 response to the objections submitted by objecting Class Members, if any, no later than seven (7) days
19 before the Final Approval/Fairness Hearing.

20 9. Any Class Member who does not make his or her objection(s) in the manner so
21 provided herein and in the Class Notice shall be deemed to have waived such objection(s) and shall
22 forever be foreclosed from making any objection(s) to the fairness or adequacy of the proposed
23 settlement as incorporated in the Joint Stipulation and the award of attorneys' fees and reimbursement
24 of expenses to counsel and the right to appeal any orders that are entered relating thereto, unless
25 otherwise ordered by the Court.

26 10. Each Class Member who wishes to be excluded from the class portion of the
27 settlement shall mail a written request for exclusion to the Settlement Administrator. The request for
28

1 exclusion must set forth the Class Member's name, information needed to be properly identified, and
2 the Class Member's desire to request to be excluded from the Class portion of the settlement.
3 Requests for exclusion must be submitted no later than sixty (60) days after the mailing of the Class
4 Notice.

5 11. The Joint Stipulation also releases claims under the Private Attorneys General Act of
6 2004 ("PAGA"). These claims are asserted on behalf of PAGA Aggrieved Individuals defined as:
7 "Class Members that worked at any time during the PAGA Period." PAGA Aggrieved Individuals
8 may not request to be excluded from the PAGA portion of the settlement, including the Released
9 PAGA Claims. All PAGA Aggrieved Individuals will receive a portion of the PAGA Payment.

10 12. The Joint Stipulation provides for the following release as to PAGA Aggrieved
11 Individuals, which is hereby approved conditionally: all claims asserted in the Operative PAGA letter
12 and/or the Second Amended Complaint, including claims for unpaid minimum wages under Cal. Lab.
13 Code §§ 558, 1182.1-1182.3, 1194, 1194.2, 1197, and 1198; failure to pay wages due for missed
14 meal and rest breaks under Cal. Lab. Code §§ 226.7, and 512; failure to reimburse/illegal deductions
15 under Cal. Lab. Code § 2802; and related claims under California Labor Code §§ 201-203, 204, 210,
16 and 226, 226.3, and 226.8. The Released PAGA Claims shall be for the PAGA Period.

17 13. The Court also hereby conditionally approves and orders payment from the Gross
18 Settlement Fund of the PAGA Payment of \$126,325 (75% of which shall be paid to the Labor and
19 Workforce Development Agency, and 25% of which shall be distributable to PAGA Aggrieved
20 Employees).

21 14. The proposed awards of up to \$1,875,000 in attorneys' fees and up to \$50,000 in
22 actual costs payable to Class Counsel are conditionally approved.

23 15. If the Agreement is not finally approved by the Court or for any reason is terminated
24 or the final date of the settlement does not occur for any reason whatsoever, the Joint Stipulation and
25 the proposed settlement that is the subject of this Order, and all evidence and proceedings had in
26 connections therewith, shall be without prejudice to the *status quo ante* rights of the Parties to the
27 litigation, as more specifically set forth in the Joint Stipulation.

1 16. A hearing (the “Final Approval and Fairness Hearing”) shall be held before the
2 Honorable Jon S. Tigar, in Courtroom 6 of the United States District Court for the Northern District
3 of California, located at 1301 Clay Street, Oakland, CA 94612. At that time, the Court shall determine:
4 (a) whether the proposed settlement of the Action on the terms and conditions provided for in the
5 Joint Stipulation is fair, just, reasonable and adequate and should be finally approved; (b) whether
6 judgment as provided in the Joint Stipulation should be entered herein; (c) whether to approve Class
7 Counsel’s application for an award of attorneys’ fees and costs; (d) whether to approve of the
8 payment to the Labor and Workforce Development Agency in accordance with the Private Attorneys
9 General Act of 2004; and (e) whether to approve of the payment of expenses to the Settlement
10 Administrator. The Court may continue or adjourn the Final Approval and Fairness Hearing without
11 further notice to members of the Class, and retains jurisdiction to consider all further applications
12 arising out of or connected with the settlement. The Court may approve the settlement, with such
13 modifications as may be agreed to by the parties to the settlement, if appropriate, without further
14 notice to the Class.

15 17. During the Court’s consideration of the settlement and pending further order of the
16 Court, all proceedings in this case, other than proceedings necessary to carry out the terms and
17 provisions of the Joint Stipulation, or as otherwise directed by the Court, are hereby stayed and
18 suspended.

19 18. The Parties may depart from the dates and procedures if mutually agreed upon and
20 such departures are not materially different from the terms of this Order.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

IV. TIMELINE

The Court adopts the following administration timeline:

Preliminary Approval Hearing	October 5, 2023, at 2:00 p.m.
Class Data due to the Settlement Administrator	October 19, 2023 [14 calendar days after the entry of this Order]
Settlement Administrator's Deadline to Mail and Email Class Notices	November 2, 2023 [14 calendar days after receipt of the Class Data]
Settlement Administrator's Deadline to Set Up Settlement Website	November 2, 2023 [14 calendar days after receipt of the Class Data]
Deadline to File Motion for Attorneys' Fees	November 27, 2023 [35 calendar days before the end of the Response Deadline]
Deadline for Class Members to Object to the Settlement	January 1, 2024 [60 calendar days after the Class Notices are mailed and emailed]
Deadline for Class Members to Request to be Excluded from the Settlement	January 1, 2024 [60 calendar days after the Class Notices are mailed and emailed]
Deadline for Class Members with Rемаiled Notices to Request to be Excluded from or Object to the Settlement	January 15, 2024 [14 calendar days after Response Deadline]
Deadline to File Final Approval Motion	35 calendar days prior to the Final Approval and Fairness Hearing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Final Approval/Fairness Hearing	_____, 2024 at __:_____
---------------------------------	----------------------------

IT IS SO ORDERED.

Date: _____
Honorable Jon S. Tigar
United States District Judge