

1 David Mara, Esq. (SBN 230498)
2 Tony Roberts, Esq. (SBN 315595)
3 **MARA LAW FIRM, PC**
4 2650 Camino Del Rio North, Suite 205
5 San Diego, California 92108
6 Tel: (619) 234-2833; Fax: (619) 234-4048
7 Attorneys for Plaintiffs Amanda Gonzalez
8 and Audriana Gonzalez and the Class
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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
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13 AMANDA GONZALEZ and
14 AUDRIANA GONZALEZ on behalf
15 of themselves, all others similarly
16 situated and on behalf of the general
17 public,

18 Plaintiffs,

19 v.
20 BURLINGTON COAT FACTORY
21 WAREHOUSE CORPORATION
22 and DOES 1-10,
23 Defendants.
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CASE NO. 5:18-cv-00666-JGB-SP
Honorable Jesus G. Bernal

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
ENTERING JUDGMENT**

Date: March 1, 2021
Time: 9:00 a.m.
Courtroom: 1

Filed: February 27, 2018
FAC Filed: October 31, 2018
Trial Date: None

1 **I. RECITALS**

2 This matter came on for hearing on March 1, 2021 at 9:00 a.m., in
3 Department 1 of the above-captioned Court on Plaintiffs’ Motion for Final
4 Approval of Class Action Settlement and Entering Judgment in the class action
5 (the “Action”) currently pending before this Court. Having received and
6 considered the Joint Stipulation of Class Action and PAGA Representative Action
7 Settlement and Release (“Settlement Agreement”), which together with the
8 exhibits annexed thereto, sets forth the terms and conditions for a proposed
9 settlement and entry of judgment upon the terms and conditions set forth therein,
10 the supporting papers filed by the Parties, and the evidence and argument received
11 by the Court in conjunction with the Motion for Preliminary Approval of Class
12 Action Settlement, and the instant Motion for Final Approval of Class Action
13 Settlement, the Court grants final approval of the Settlement Agreement and
14 HEREBY ORDERS AND MAKES THE FOLLOWING DETERMINATIONS:

15 **II. FINDINGS**

16 For purposes of this Order, the Court adopts all defined terms as set forth in
17 the Settlement Agreement. After review and consideration of the Settlement
18 Agreement and Plaintiffs’ Motion for Final Approval of Class Action Settlement
19 and the papers in support thereof, the Court hereby finds and orders as follows:

20 1. Pursuant to the Preliminary Approval Order, the Notice of Class
21 Action Settlement (“Notice”) was mailed to all members of the Class by first-class
22 U.S. mail. The Notice informed the Class of the terms of the Settlement, of their
23 right to receive their proportional Settlement Payment, of their right to request
24 exclusion from the Class and the Settlement, of their right to comment upon or
25 object to the Settlement and to appear in person or by counsel at the final approval
26 hearing and of the date set for the Final Approval hearing. Adequate periods of
27 time were provided by each of these procedures.

1 2. In response to the Notice, no Class Members object to the Settlement
2 and no Class Members request to be excluded from the settlement. As a result,
3 there is a 100% participation rate in this Settlement. All Class Members are
4 Participating Class Members.

5 3. The Court finds that distribution of the Class Notice in the manner set
6 forth in the preliminary approval order and the Settlement Agreement constitutes
7 the best notice practicable under the circumstances, and constituted valid, due and
8 sufficient notice to all Class Members, complying fully with the requirements of
9 Rule 23 of the Federal Rules of Civil Procedure, the Constitution of the United
10 States, and any other applicable laws. The Class Notice procedure set forth in the
11 Settlement Agreement provides a means of notice reasonably calculated to apprise
12 the Class Members of the pendency of the action and the proposed settlement, and
13 thereby meets the requirements of Rule 23(c)(2) of the Federal Rules of Civil
14 Procedure, as well as due process under the United States Constitution, and any
15 other applicable law, and constitutes due and sufficient notice to all Class
16 Members.

17 4. The Class Notice informed the Class Members of the terms of the
18 Settlement Agreement, of their right to submit objections, if any, and to appear in
19 person or by counsel at the final approval hearing and to be heard regarding
20 approval of the settlement. The Class Notice informed the Class Members of their
21 right to request exclusion from the Class and the settlement. The Class Notice also
22 informed Class Members of the date set for the final approval hearing. Adequate
23 periods of time were provided by each of these procedures. No member of the
24 Class filed a written objection to the proposed settlement as part of this notice
25 process or stated an intention to appear at the final approval hearing, and no Class
26 Member requested exclusion from the Class and the settlement.

1 5. The Court finds and determines that the notice procedure afforded
2 adequate protections to Class Members and provides the basis for the Court to
3 make an informed decision regarding approval of the settlement based on the
4 responses of Class Members. The Court finds and determines that the Class Notice
5 was the best notice practicable, which satisfied the requirements of law and due
6 process.

7 6. Solely for the purpose of settlement in accordance with the Settlement
8 Agreement, the Court finds that the requirements of Rule 23 of the Federal Rules
9 of Civil Procedure and other laws and rules applicable to settlement approval of
10 class actions have been satisfied, and the Court hereby certifies the following
11 Class: All current and/or former non-exempt, non-union, hourly employees
12 provided as temporary workers by Lyneer Staffing Solutions who worked one or
13 more shifts in a workweek at Burlington Coat Factory Warehouse Corporation's
14 distribution centers located in California at any time between February 27, 2014
15 and August 21, 2020.

16 7. Pursuant to the Settlement Agreement, and for settlement purposes
17 only, the Court further finds as to the Class that:

- 18 a. The Class is so numerous that joinder of all members is impracticable;
- 19 b. There are questions of law or fact common to the Class which
20 predominate over the questions affecting only individual members;
- 21 c. The claims of the Class Representatives are typical of the claims of
22 the Class that the Class Representatives seek to certify;
- 23 d. The Class Representatives, Plaintiffs Amanda Gonzalez and Audriana
24 Gonzalez, will fairly and adequately protect the interests of the Class
25 and are, therefore, appointed as the representatives of the Class;
- 26 e. Class Counsel, David Mara and Tony Roberts of Mara Law Firm, PC,
27 will fairly and adequately protect the interests of the Class and are
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1 qualified to represent the Class and are, therefore, appointed as
2 attorneys for the Class for purposes of settlement; and

3 f. Certification of the Class is superior to other available methods for
4 fair and efficient adjudication of the controversy.

5 8. The Court finds that the settlement is fair when compared to the
6 strength of Plaintiffs' case, Burlington Coat Factory Warehouse Corporation's
7 ("Burlington") defenses, the risks involved in further litigation and maintaining
8 class status throughout the litigation, and the amount offered in settlement.

9 9. The Court finds that the Parties conducted adequate investigation and
10 research, and that their attorneys were able to reasonably evaluate their respective
11 positions. The Court finds that the settlement was reached as a result of informed
12 and non-collusive arm's-length negotiation.

13 10. The Court finds that Class Counsel has extensive experience acting as
14 class counsel in complex class action cases and their view on the reasonableness of
15 the settlement was therefore given its due weight. The Court further finds that the
16 Class' reaction to the settlement – with no objections or requests for exclusion –
17 weighs in favor of granting final approval of the settlement.

18 11. The Settlement Agreement is not an admission by Burlington, nor is
19 this Order a finding of the validity of any allegations or of any wrongdoing by
20 Burlington. Neither this Order, the Settlement Agreement, nor any document
21 referred to herein, nor any action taken to carry out the settlement, shall be
22 construed or deemed an admission of liability, culpability, negligence, or
23 wrongdoing on the part of Burlington.

24 12. The Court finds and determines that the Individual Settlement
25 Payments to be paid to each Participating Class Member as provided for in the
26 Settlement Agreement are fair and reasonable.

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1 13. The Court finds and determines that the California Labor &
2 Workforce Development Agency (“LWDA”) PAGA Payments to the LWDA and
3 the PAGA Group Payments paid to each PAGA Group Member as provided for in
4 the Settlement Agreement are fair and reasonable.

5 **III. ORDER**

6 IT IS HEREBY ORDERED as follows:

7 1. As defined in the Settlement Agreement, the Court directs the
8 Settlement Administrator to disburse the following out of the Maximum Settlement
9 Amount (“MSA”):

10 a. Individual Settlement Shares. The Court finds and determines that the
11 Settlement Payments provided for by the terms of the Settlement Agreement to be
12 paid to Participating Class Members are fair and reasonable. The Court hereby
13 grants final approval to and orders the payment of those amounts be made to the
14 Participating Class Members in accordance with the terms of the Settlement
15 Agreement.

16 b. Class Counsel’s Fees and Cost Award. Pursuant to the terms of the
17 Settlement Agreement, and the authorities, evidence, and argument submitted by
18 Class Counsel, the Court finds and determines Class Counsel have conferred a
19 benefit on absent Participating Class Members and PAGA Group Members and,
20 having expended efforts to secure a benefit to the Class, are entitled to a fee.
21 Accordingly, the Court hereby orders an award of \$750,000 for attorneys’ fees and
22 \$25,826.97 for litigation costs, to be paid out of the Maximum Settlement Amount
23 to Class Counsel, which is fair and reasonable. The Court finds that the attorney
24 fee award of \$750,000 and costs of \$25,826.97 are not disproportionate
25 distribution of the Settlement under *In Re Bluetooth Product Liability Case*
26 (“*Bluetooth*”) 654 F.3d 935 (9th Cir. 2011). The Court also finds the attorney fee
27 award here is not unreasonable under *Bluetooth* because the Parties did not arrange
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1 for fees to revert to Burlington in the event the Court awarded less than requested.
2 Therefore, the attorneys' fees and litigation costs are approved and ordered paid in
3 accordance with the terms of the Settlement Agreement.

4 c. Class Representative Enhancement Payments. The Court finds and
5 determines the Class Representative Enhancement Payments in the amount of
6 \$7,500 to Plaintiff Amanda Gonzalez and Plaintiff Audriana Gonzalez each are
7 fair and reasonable. The Court hereby orders the Class Representative
8 Enhancement Payments are finally approved and ordered paid in accordance with
9 the terms of the Settlement Agreement.

10 d. Administration Costs. The Court finds and determines that the
11 payment of the settlement Administration Costs in the amount of \$45,000, to be
12 paid to CPT Group, Inc. out of the Maximum Settlement Amount, is fair and
13 reasonable. The Court hereby orders the Settlement Administrator to make this
14 payment to itself in accordance with the terms of the Settlement Agreement.

15 e. PAGA Payment. The Court finds that the PAGA Payment of
16 \$300,000, of which \$225,000 is to be paid to the LWDA out of the Maximum
17 Settlement Amount, to be reasonable and appropriate. The Court finds the
18 remaining \$75,000 to be allocated among PAGA Group Members (the PAGA
19 Group Payment) based on the number of pay periods each PAGA Group Member
20 worked that qualify them for membership in the PAGA Group to be reasonable and
21 adequate. The Court hereby grants final approval to and orders that the LWDA
22 PAGA Payment and PAGA Group Payment to PAGA Group Members be paid
23 pursuant to the terms and provisions set forth in the Settlement Agreement.

24 2. Neither Burlington nor any of the Releasees shall have any further
25 liability for costs, expenses, interest, attorneys' fees, or for any other charge,
26 expense, or liability, except as provided for in the Settlement Agreement.

1 3. If any checks remain uncashed or not deposited by the expiration of
2 the 90-day period after mailing the reminder notice, the Settlement Administrator
3 shall, within one hundred eighty (180) calendar days after the checks are mailed,
4 cancel the checks. All funds associated with the individual settlement share checks
5 returned as undeliverable and funds associated with those individual settlement
6 share checks remaining un-cashed, shall be transmitted by the Settlement
7 Administrator to the Cy Pres Beneficiary.

8 4. Nothing in this Order shall preclude any action to enforce the Parties'
9 obligations pursuant to the Settlement Agreement or pursuant to this Order,
10 including the requirement that Defendants make payments to Class Members in
11 accordance with the Settlement Agreement.

12 5. The Court hereby enters final judgment in this case in accordance
13 with the terms of the Settlement Agreement, Preliminary Approval Order, and this
14 Order.

15 6. The Parties shall bear their own costs and attorneys' fees except as
16 otherwise provided for by the Settlement Agreement and this Court's Order
17 Granting Final Approval.

18 7. Without affecting the finality of this Order in any way, the Court
19 retains jurisdiction of all matters relating to the interpretation, administration,
20 implementation, effectuation, and enforcement of this order and the Settlement.

21 **JUDGMENT**

22 1. The Court hereby enters final judgment in this Action in accordance
23 with terms of the Settlement Agreement of Class Action and PAGA Representative
24 Action Settlement and Release ("Settlement"), Order Granting Plaintiffs' Motion
25 for Preliminary Approval of Class Action Settlement ("Order Preliminarily
26 Approving Settlement"), and the Order Granting Motion for Final Approval

1 (“Final Order”). All terms used herein shall have the same meaning as defined in
2 the Settlement.

3 2. Upon the Effective Final Settlement Date, as defined in the Settlement
4 Agreement, Plaintiffs/Class Representatives, Participating Class Members, and
5 PAGA Group Members, shall have by operation of the Final Order and this
6 Judgment, fully, finally and forever released, relinquished, and discharged the
7 Releasees from the Settlement Class Released Claims as those terms are
8 respectively defined in the Settlement, and are hereby forever barred and enjoined
9 from prosecuting such released claims against the Releasees.

10 3. Without affecting the finality of the Final Order and/or this Judgment,
11 the Court reserves exclusive and continuing jurisdiction over this Action, the
12 Plaintiffs, Participating Class Members, PAGA Group Members, and Defendant
13 for the purposes of supervising the implementation, enforcement, construction, and
14 interpretation of the Settlement, the Preliminary Approval Order, the Final Order,
15 and the Judgment.

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18 Date: _____

By: _____

HON. JESUS G. BERNAL
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA