

ORIGINAL

Brian J. Mankin, Esq. [CSB No. 216228]
brian@lmlfirm.com

Peter J. Carlson, Esq. [CSB No. 295611]
peter@lmlfirm.com

LAUBY, MANKIN & LAUBY LLP

4590 Allstate Drive

Riverside, CA 92501

Tel: (951) 320-1444

Fax: (951) 320-1445

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

NOV 22 2021

BY


JESSICA MORALES, DEPUTY

Attorneys for Plaintiffs and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

RUDOLPH OLLARSABA and AGUSTIN
SELVA, individually, on a representative
basis, and on behalf of all others similarly
situated;

Plaintiffs,

vs.

PUMPMAN, LLC, a California Limited
Liability Company; PUMPMAN
INTERMEDIATE HOLDINGS, LLC, a
Delaware Limited Liability Company; and
DOES 1 through 20, inclusive;

Defendants.

Case No.: CIVDS2008889

*[Assigned to Hon. Judge David Cohn, Dept
S26, for all purposes]*

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT;
AND ENTRY OF FINAL JUDGMENT**

Complaint filed: May 29, 2020

The Motion for Final Approval of the Settlement (the "Final Approval Motion") as set forth in the Class Action Settlement Agreement (the "Settlement Agreement") came for hearing in Department S26 of the above entitled court. The Final Approval Motion was unopposed by Defendants Pumpman, LLC and Pumpman Intermediate Holdings, LLC (collectively, "Defendants"). Having considered the Final Approval Motion, the Settlement Agreement, the Declarations, and all other materials properly before the Court and having conducted an inquiry pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement

1 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
2 Due and adequate notice having been given to the Class, and the Court having considered the
3 Settlement Agreement, all papers filed and proceedings had herein and all oral and written
4 comments received regarding the proposed settlement, and having reviewed the record in this
5 Litigation, and good cause appearing,

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

7 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
8 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

9 2. The Court has jurisdiction over the subject matter over this Action, the Class
10 Representatives, the Class Members, and Defendants.

11 3. The Court finds that the distribution of the Class Notice, as provided for in the
12 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
13 under the circumstances to all Class Members and fully met the requirements of California law
14 and due process under the California and United States Constitution. Based on evidence and
15 other material submitted, the actual notice to the class was adequate.

16 4. The Court finds that the instant Action presented a good faith dispute of the
17 claims alleged, and the Court finds in favor of settlement approval.

18 a. Specifically, the claims on behalf of the Class Members included (1)
19 failure to pay minimum wages, (2) failure to pay overtime wages, (3)
20 failure to provide compliant meal periods, (4) failure to provide compliant
21 rest breaks, (5) failure to reimburse business expenses, (6) failure to timely
22 pay wages each period and upon separation of employment, and (7) failure
23 to provide accurate itemized wage statements, and (8) unfair and unlawful
24 competition.

25 b. The claims on behalf of the Aggrieved Employees included any and all
26 PAGA claims that Plaintiff alleged against the Released Parties, on behalf
27 of Aggrieved Employees and State of California, based on the facts stated
28 in Plaintiff’s Complaint and in Plaintiff’s LWDA notice letter, including

all PAGA claims seeking civil penalties that is premised upon (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse business expenses, (6) failure to failure to timely pay wages each period and upon separation of employment, (7) failure to provide accurate itemized wage statements, and (8) all other claims for civil penalties recoverable under the Private Attorneys General Act, Labor Code § 2698 *et seq.* based on the facts or claims alleged in the Complaint.

5. There were no Objections and no Requests for Exclusion to the Settlement. As such, all Participating Class Members are entitled to payment pursuant to the Settlement and this Judgment.

6. The Court approves the Settlement, as set forth in the Settlement Agreement and each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

7. The Settling Parties are to bear their own costs, except as otherwise provided in the Settlement Agreement.

8. For purposes of effectuating this Order and Judgment, this Court has certified the following class: “all current and former non-exempt employees of Defendants and who worked at the Baldwin Park location in California at any time during the Class Period of May 29, 2016, through August 4, 2021,” as defined in the Settlement Agreement. The Court deems this definition sufficient for purposes of California Rules of Court, rule 3.765(a).

9. With respect to the Settlement Class and for purposes of approving this Settlement, this Court finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class Members, and there is a well-defined community of interest among the Settlement Class Members with respect to the subject matter of the Action; (c) the claims of the Class Representatives are typical of the claims of the Class Members; (d) the Class

1 Representatives have fairly and adequately protected the interests of the Class Members; (e) a
2 class action is superior to other available methods for an efficient adjudication of this
3 controversy; and (f) the counsel of record for the Class Representatives, i.e., Class Counsel, are
4 qualified to serve as counsel for the Plaintiffs in their individual and representative capacity and
5 for the Settlement Class.

6 10. By this Judgment, the Class Representatives shall release, relinquish, and
7 discharge, and each of the Participating Class Members shall be deemed to have, and by
8 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
9 discharged all Released Claims, as defined in the Settlement Agreement.

10 11. For purposes of effectuating this Order and Judgment, the PAGA Released
11 Claims, as defined in the Settlement Agreement, shall apply to all Aggrieved Employees which
12 consists of "all current and former non-exempt employees of Defendants and who worked at the
13 Baldwin Park location in California at any time during the PAGA Period of May 29, 2019,
14 through August 4, 2021."

15 12. Neither the Settlement Agreement nor the Settlement contained therein, nor any
16 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
17 or the Settlement (i) is or may be deemed to be or may be used by the plaintiff or Participating
18 Class Members as an admission of, or evidence of, the validity of any of the Class Members'
19 Released Claims, or of any wrongdoing or liability of Defendants or any of the other Released
20 Parties; or (ii) is or may be deemed to be or may be used by any of the plaintiffs or Participating
21 Class Members as an admission of, or evidence of, any fault or omission of Defendants or any of
22 the other Released Parties in any civil, criminal, or administrative proceeding in any court,
23 administrative agency, or other tribunal. Defendants or any of the other Released Parties may
24 file the Settlement Agreement and/or the Judgment from this Action in any other action that may
25 be brought against it or them in order to support a defense or counterclaim based on principles of
26 *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any
27 theory of claim preclusion or issue preclusion or similar defense or counterclaim.

28 ///

1 13. The Maximum Settlement Amount to be paid under the Settlement Agreement is
2 \$395,000. From this amount, Class Counsel sought an award of attorney's fees of \$131,666.66,
3 litigation expenses of \$7,420.46, a Service Award of \$10,000 each for Class Representatives
4 Rudolph Ollarsaba and Agustin Selva, \$3,000 to the Settlement Administrator, ILYM Group,
5 \$15,000 to the LWDA for PAGA penalties and \$5,000 to the Aggrieved Employees for PAGA
6 penalties. Defendants do not oppose these requests. The Court finds that the Settlement Amount
7 is fair, reasonable and adequate, and awards the payments set forth below from the Settlement
8 Amount:

- 9 A. \$131,666.66 to Class Counsel for attorneys' fees;
10 B. \$7,420.46 to Class Counsel for costs/expenses;
11 C. \$10,000 each to Rudolph Ollarsaba and Agustin Selva as a Service Award;
12 D. \$3,000 to the Settlement Administrator, ILYM Group;
13 E. \$15,000 to the LWDA;
14 F. \$5,000 to the Aggrieved Employees on a pro rata basis;
15 G. After deducting the foregoing payments from the Settlement Amount, the
16 remainder shall form the Net Settlement Amount payable to the
17 Participating Class Members as set forth in the Settlement Agreement and
18 as calculated by the Settlement Administrator.

19 14. Defendants are directed to fund the Maximum Settlement Amount within 15 days
20 of the Effective Date. The Settlement Administrator is directed to calculate the Participating
21 Class Members' Individual Settlement Amounts from the Net Settlement Amount, as well as the
22 payments due to the Aggrieved Employees, and issue all payments within 10 days of receipt of
23 the payment in accordance with the Settlement Agreement. Concurrently with mailing the
24 settlement checks to the Class Members and Aggrieved Employees, the Settlement Administrator
25 include a Notice of Entry of Judgment to all Class Members either on a postcard or as a
26 detachable portion of the check, noting the following: "Please be advised that on [date] the
27 Superior Court of California for the County of San Bernardino entered Judgment in the case
28 entitled *Ollarsaba v. Pumpman LLC., et al.*, Case No. CIVDS2008889, on behalf of all current

1 and former non-exempt employees of Defendants and who worked at the Baldwin Park location
2 in California at any time during the Class Period of May 29, 2016, through August 4, 2021.”

3 15. Participating Class Members shall have 180 days to negotiate the settlement
4 check from the date of issuance by the Settlement Administrator. In the event that a
5 Participating Class Member does not negotiate his/her check within this time period, the check
6 will be canceled. The value of the unclaimed funds in the Settlement Administrator’s account as
7 a result of a failure to timely cash a settlement check shall be issued to the State Controller’s
8 Office in the name of the Class Member.

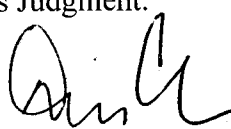
9 16. The following dates shall govern for purposes of this implementing this
10 Order/Judgment:

11 November 22, 2021	Final Approval is entered and the Effective Date occurs
12 December 7, 2021	Defendants are directed to fund the Maximum Settlement 13 Amount and separately pay their share of the employer’s 14 tax, as calculated and directed by the Settlement Administrator.
15 December 17, 2021	Settlement Administrator to issue checks to participating Class Members, Class Representatives, Class Counsel, 16 Aggrieved Employees and LWDA.
17 June 15, 2022	Deadline for Class Members to cash settlement checks.
18 October 9, 2023	Deadline to file Declaration by Settlement Administrator describing: (i) the date the checks were mailed, (ii) the 19 total number of checks mailed to class members, (iii) the 20 number of checks that were uncashed, (iv) the total value of those uncashed checks, and (v) the date payment was issued to the State Controller.

21 17. This document shall constitute a Judgment for purposes of California Rule of
22 Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the
23 Class Representatives, the Class Members, Aggrieved Employees, and Defendants for the
24 purposes of supervising the implementation, enforcement, construction, administration, and
25 interpretation of the Settlement Agreement and this Judgment.

26 IT IS SO ORDERED.

27 Dated: 11/22/21

28 
Hon. David Cohn