

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
ARSINÉ GRIGORYAN (SBN 319517)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7502

MAYALL HURLEY P.C.
ROBERT J. WASSERMAN (SBN: 258538)
rwasserman@mayallaw.com
WILLIAM J. GORHAM (SBN: 151773)
wgorham@mayallaw.com
JENNY D. BAYSINGER (SBN: 251014)
jbaysinger@mayallaw.com
2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

JANET UGALE and JOBANY RODRIGUEZ,
individually, and on behalf of other members of
the general public similarly situated and on behalf
of aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA");

Plaintiffs,

v.

ALLEN DISTRIBUTION, LP, a Pennsylvania
limited partnership; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: STK-CV-UOE-2020-0005807

[PROPOSED] ORDER GRANTING
PLAINTIFFS' UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

Hearing Date: _____, 2021

Time: 9:00 a.m.

Dept.: 10D

Judge: Hon. Barbara A. Kronlund

1 This matter came on for hearing on [REDACTED] at 9:00 a.m., in Department 10D of the
2 Superior Court of California, County of San Joaquin, on the Plaintiffs' Unopposed Motion For
3 Preliminary Approval of Class Action Settlement. Justice Law Corporation and Mayall Hurley, P.C.
4 appeared as counsel for representative plaintiffs Janet Ugale and Jobany Rodriguez individually and
5 on behalf of the putative class, and Ballard, Rosenberg, Golper & Savitt, LLP appeared as counsel for
6 Allen Distribution, Inc.

7 The Court has fully and carefully reviewed: (i) Plaintiffs' Unopposed Motion For Preliminary
8 Approval of Class Action Settlement; (ii) the supporting Memorandum of Points and Authorities; (iii)
9 the Declaration of Jenny D. Baysinger filed in support thereof; and (iv) the Declaration of Douglas
10 Han, and (v) the Joint Stipulation of Class and Representative Action Settlement and Release
11 ("Settlement Agreement" or "SA"), attached as Exhibit 1 to the Declaration of Jenny D. Baysinger,
12 including the proposed Notice of Pendency of Class Action, Preliminary Approval of Settlement, and
13 Hearing for Final Approval ("Class Notice"), attached as Exhibit A to the Settlement Agreement. In
14 recognition of the Court's duty to make a preliminary determination as to the reasonableness of a
15 proposed class action settlement, and, if preliminarily determined to be reasonable, to ensure proper
16 notice is provided to all class members in accordance with due process requirements and to set a final
17 approval hearing to consider the fairness, adequacy and reasonableness of the proposed settlement—
18 the Court hereby GRANTS Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

19 **IT IS HEREBY ORDERED THAT:**

20 1. The Court preliminarily approves the Joint Stipulation of Class and Representative
21 Action Settlement Release ("Settlement Agreement" or "SA") attached as Exhibit 1 to the
22 Declaration of Jenny D. Baysinger in Support of Plaintiffs' Unopposed Motion for Preliminary
23 Approval of Class Action Settlement. This is based on the Court's determination that the Settlement
24 Agreement is within the range of possible final approval.

25 2. The Court conditionally certifies, for settlement purposes only, the following Class
26 and Sub-Class, defined as follows:

27 ///

28 ///

1 **Class**

2 All current and former non-exempt California employees employed directly by
3 Defendant at any time between June 16, 2016 and May 4, 2021.

4
5 **Former Employee Sub-Class**

6 All members of the Class whose employment with Defendant ended at any time
7 between June 16, 2017 and May 4, 2021.

8 3. For purposes of approving this Settlement Agreement only, the Court conditionally
9 and preliminarily finds that the proposed Class, and Former Employee Sub-Class each meets the
10 requirements for certification under California Code of Civil Procedure section 382, in that: (a) the
11 proposed Class, and Former Employee Sub-Class is each ascertainable and so numerous that joinder
12 of all members is impracticable; (b) common questions of law and fact predominate, and there is a
13 well-defined community of interest among members of the proposed Class, and Former Employee
14 Sub-Class with respect to the subject matter of the litigation; (c) the claims of the proposed class
15 representatives are typical of the claims of the members of the proposed Class, and Former Employee
16 Sub-Class; (d) the proposed class representatives have and will fairly and adequately protect the
17 interests of the proposed Class, and Former Employee Sub-Class; (e) a class action is superior to
18 other available methods for an efficient adjudication of this controversy in the context of settlement;
19 and (f) Class Counsel is qualified to serve as counsel for the proposed class representatives and
20 proposed Class, and Former Employee Sub-Class and will adequately protect their collective best
21 interests.

22 4. If this Settlement Agreement does not become final for any reason, the fact that the
23 Parties were willing to stipulate to class certification as part of the Settlement Agreement shall have
24 no bearing on, and will not be admissible in connection with, the issue of whether any Class in this
25 Action should be certified in a non-settlement context. The Court's findings are for purposes of
26 conditionally certifying the Class in the context of this Settlement Agreement and will not have any
27 claim or issue or evidentiary preclusion or estoppel effect in any other action against the Released
28 Parties or in this litigation if the Settlement Agreement is not finally approved.

1 5. It further appears to the Court on a preliminary basis that: (a) the proposed Maximum
2 Settlement Amount of \$658,980 is fair, adequate, and reasonable when balanced against the probable
3 outcome of further litigation in relation to certification of the class, liability, damages issues, and
4 potential appeals, and that the allocations proposed between the Class, and Former Employee Sub-
5 Class are fair, adequate, and reasonable and do not provide an unreasonable benefit to any Class or
6 Sub-Class; (b) significant investigation, formal and informal discovery, research, and litigation have
7 been conducted such that counsel for the Parties at this time are able to reasonably evaluate their
8 respective positions; (c) settlement at this time will avoid substantial costs, delay and risks that would
9 be presented by the further prosecution of the litigation; and (d) the proposed Settlement Agreement
10 has been reached as the result of intensive, serious and non-collusive negotiations between the Parties
11 through experienced wage and hour and class action litigators and with the assistance of neutral,
12 experienced, and well-respected third-party mediator Marc Feder, Esq.

13 6. The Court provisionally appoints Phoenix Class Action Administration Solutions as
14 the independent third-party Settlement Administrator to administer the Settlement of this matter as
15 more specifically set forth in the Settlement Agreement. The Court provisionally approves the
16 administrator's costs of up to \$6,975.

17 7. The Court provisionally appoints and approves Plaintiffs Janet Ugale and Jobany
18 Rodriguez as representatives of the Class, and Former Employee Sub-Class ("Class
19 Representatives"). The Court provisionally approves Plaintiffs' requested enhancement payments of
20 \$7,500 each, \$15,000 total.

21 8. The Court provisionally appoints and approves the law firms of Justice Law
22 Corporation, by and through Douglas Han and Shunt Tatavos-Gharajeh, and Mayall Hurley P.C., by
23 and through Robert J. Wasserman and Jenny D. Baysinger, as Class Counsel. The Court
24 provisionally approves Class Counsel's attorneys' fee request of \$230,643, distributed 45% to Justice
25 Law Corporation and 55% to Mayall Hurley, P.C., and cost reimbursement request of no more than
26 \$20,000, subject to formal motion and review at the final approval stage.

27 9. The Court approves, as to form and content, the proposed Notice of Pendency of Class
28 Action, Preliminary Approval of Settlement, and Hearing for Final Approval ("Class Notice")

(attached as Exhibit A to the Settlement Agreement). The Court finds that the Class Notice fairly and adequately advises of: the pendency of the class action, the terms of the proposed settlement, including the potential benefits available to members of the Class, and Former Employee Sub-Class through the Settlement Agreement, the Court's preliminary approval of the proposed Settlement Agreement, the procedures and deadlines to submit a timely and valid Request for Exclusion and/or Notice of Objection, the Final Approval Hearing date, the requests Plaintiffs and Class Counsel will make for Enhancement Payments and Class Counsel fees and costs, and the right to file documentation in support of or in opposition to the Settlement and to appear in connection with the Final Approval Hearing. The Court further finds that the Class Notice comports with all constitutional requirements, including those of due process. The Court likewise finds that the mailing of the Class Notice to the last known address of Class Members as specifically described within the Settlement Agreement, with measures taken for address verification and skip tracing, constitutes an effective method of notifying Class Members of their rights with respect to this action and the Settlement Agreement.

10. The Final Approval Hearing shall be held on [REDACTED], 2021 in Department 10D of the Superior Court of California, County of San Joaquin, Stockton Courthouse, located at 180 E. Weber Avenue, Stockton, California 95202 at 9:00 a.m., to consider the fairness, adequacy and reasonableness of the proposed Settlement Agreement preliminarily approved by this Preliminary Approval Order and to consider Class Counsel's requests for a PAGA Payment, Service Payment to Plaintiff, Class Counsel Fees and Expenses and Administrative Expenses. All briefs and materials in support of the Final Approval Order shall be filed with this Court sixteen (16) court days before the scheduled Final Approval Hearing, or on or before [REDACTED] 2021.

11. The schedule for further proceedings shall be as follows:

Date/Triggering Event	Deadline
Fifteen (15) calendar days after entry of Preliminary Approval Order	Defendant to provide Class Data List to Settlement Administrator.
Fifteen (15) calendar days after provision of the Class Data List	Settlement Administrator to mail Class Notice ("Notice Date").

Forty-five (45) days after the Notice Date	Class Members to submit: (1) Requests for Exclusion, and/or (2) submit <i>and file with the Court</i> objections to the Settlement, and/or (3) submit <i>and file with the Court</i> notice of intention to appear at Final Approval Hearing.
Sixteen (16) court days prior to Final Approval Hearing	Class Counsel to submit Motion for Final Approval and Motion for Attorneys' Fees, and any supporting documentation.
Five (5) calendar days prior to Final Approval Hearing	Settlement Administrator to provide Class Counsel and Defense Counsel with declaration of due diligence.

12. If for any reason the Court does not execute and file a Final Approval Order, or if the Effective Date, as defined in the Settlement Agreement, does not occur for any reason whatsoever, the Settlement Agreement and the proposed settlement that is the subject of this Preliminary Approval Order, and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement Agreement, and this Preliminary Approval Order shall be rendered null and void and shall be vacated.

13. Any member of the Settlement Class may choose to opt out of and be excluded from the Settlement Class as provided in the Class Notice by following the instructions for requesting exclusion from the settlement that are set forth in the Class Notice. Any such person who chooses to opt out of and be excluded from the Settlement Class will not be entitled to any recovery under the Settlement Agreement or have any right to object, appeal or comment thereon. Members of the Settlement Class who have not requested exclusion shall be bound by all determinations of the Court, the Settlement Agreement and Judgment.

14. In order to be entitled to be heard at the Final Approval Hearing and/or have his/her/its objections considered, any Class Member who has not opted out must submit and file its written objections and/or Notice of Intention to Appear at the Final Approval Hearing as provided in the Class Notice by the Deadline Date. Settlement Class Members who fail to timely submit and file written objections and/or a notice of intention to appear at the Final Approval Hearing shall be

1 deemed to have waived any objections and/or any right to appear and be heard and shall be
2 foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

3 15. The Settlement Agreement is not a concession or admission and shall not be used
4 against Defendant as an admission or indication with respect to any claim of any fault or omission by
5 Defendant. Whether or not the Settlement Agreement is finally approved, neither the Settlement
6 Agreement, nor any document, statement, proceeding or conduct related to the Settlement
7 Agreement, nor any reports or accounts thereof, shall in any event be construed as, offered or
8 admitted into evidence as, received as or deemed to be evidence for any purpose adverse to the
9 Defendant, including, but not limited to, evidence of a presumption, concession, indication or
10 admission by Defendant of any liability, faulty, wrongdoing, omission, concession or damage.

11 16. The Court expressly reserves the right to adjourn or continue the Final Approval
12 Hearing from time to time without further notice to Class Members.

13 **IT IS SO ORDERED.**

14
15 Date: _____, 2021

The Honorable Barbara A. Kronlund
Superior Court Judge