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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE 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.

FILED FEB 03 2022

filed

BRANDON E. RILEY, CLERK

By *Erin Jordan*
DEPUTY

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

Honorable Barbara Kronlund
Department 10D

CLASS ACTION

**[PROPOSED] ORDER OF
FINAL APPROVAL AND
JUDGMENT**

Hearing Date: February 4, 2022

Hearing Time: 9:00 a.m.

Hearing Place: Department 10D

Complaint Filed: July 8, 2020

FAC Filed: August 3, 2021

Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Jobany Rodriguez's
2 and Janet Ugale's ("Plaintiffs") Motion for Final Approval of a Class Action Settlement,
3 Attorneys' Fees and Costs, and Class/PAGA Representative Enhancement Payments,
4 and after considering the papers submitted in support of the motion, including the Joint
5 Stipulation of Class and Representative Action Settlement and Release ("Settlement
6 Agreement," "Settlement," or "Agreement"), hereby FINDS AND ORDERS as follows:

7 This is a putative class action lawsuit. Plaintiffs are former employees of
8 Defendant Allen Distribution, L.P. ("Defendant"). The operative complaint in the case
9 asserts ten (10) causes of action for wage-and-hour violations. Plaintiffs have brought
10 this case on behalf of: (a) all current and former non-exempt employees employed
11 directly by Defendant at any time between June 16, 2016 and May 4, 2021 ("Class
12 Members" and "Class Period"); and (b) all Class Members whose employment with
13 Defendant ended between June 16, 2017 and May 4, 2021 ("Former Employee Sub-
14 Class Member") (collectively, the "Class"). There are three hundred fifty-five (355)
15 Class Members who did not submit timely and valid requests for exclusion
16 ("Participating Class Members").

17 On September 2, 2021, the Court granted Preliminary Approval of the
18 Settlement. Plaintiffs now move for Final Approval of the Settlement.

19 The terms used in this Order of Final Approval and Judgment shall have the
20 same meaning as defined in the Settlement Agreement except as may otherwise be
21 ordered.

22 The following classes are certified for purposes of settlement only: (a) all current
23 and former non-exempt employees employed directly by Defendant at any time between
24 June 16, 2016 and May 4, 2021; and (b) all Class Members whose employment with
25 Defendant ended between June 16, 2017 and May 4, 2021.

26 Generally, "questions whether a settlement was fair and reasonable, whether
27 notice to the class was adequate, whether certification of the class was proper, and
28 whether the attorney fee award was proper are matters addressed to the trial court's

1 broad discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-
2 235, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794.)

3 In determining whether a class settlement is fair, adequate and reasonable,
4 the trial court should consider relevant factors, such as “the strength of
5 plaintiffs’ case, the risk, expense, complexity and likely duration of further
6 litigation, the risk of maintaining class action status through trial, the
7 amount offered in settlement, the extent of discovery completed and the
8 stage of the proceedings, the experience and views of counsel, the
9 presence of a governmental participant, and the reaction of the class
10 members to the proposed settlement.

11 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*,
12 *supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n, etc.*
13 (9th Cir. 1982) 688 F.2d 615, 624.)

14 “The list of factors is not exclusive and the court is free to engage in a balancing
15 and weighing of factors depending on the circumstances of each case.” (*Wershba v.*
16 *Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the
17 “proposed settlement agreement to the extent necessary to reach a reasoned judgment
18 that the agreement is not the product of fraud or overreaching by, or collusion between,
19 the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and
20 adequate to all concerned.” (*Ibid.*, quoting *Dunk, supra*, 48 Cal.App.4th at p. 1801 and
21 *Officers for Justice v. Civil Service Com’n, etc.*, *supra*, 688 F.2d at p. 625, internal
22 quotation marks omitted.)

23 The burden is on the proponent of the settlement to show that it is fair and
24 reasonable. However “a presumption of fairness exists where: (1) the
25 settlement is reached through arm’s-length bargaining; (2) investigation
26 and discovery are sufficient to allow counsel and the court to act
27 intelligently; (3) counsel is experienced in similar litigation; and (4) the
28 percentage of objectors is small.”

(*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*,
48 Cal.App.4th at p. 1802.)

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1 Although [t]here is usually an initial presumption of fairness when a
2 proposed class settlement ... was negotiated at arm's length by counsel for
3 the class, ... it is clear that the court should not give rubber-stamp
4 approval. Rather, to protect the interests of absent class members, the
5 court must independently and objectively analyze the evidence and
6 circumstances before it in order to determine whether the settlement is in
7 the best interests of those whose claims will be extinguished. To make this
8 determination, the factual record before the ... court must be sufficiently
9 developed... . The proposed settlement cannot be judged without
reference to the strength of plaintiffs' claims. The most important factor is
the strength of the case for plaintiffs on the merits, balanced against the
amount offered in settlement. The court must stop short of the detailed and
thorough investigation that it would undertake if it were actually trying the
case, but nonetheless it must eschew any rubber stamp approval in favor
of an independent evaluation.

10 (*Kullar, supra*, 168 Cal.App.4th at p. 130, internal citations and quotation marks
11 omitted.)

12 Defendant will pay a Maximum Settlement Amount of \$658,980, which
13 includes: (1) the Settlement Administration Costs in an amount of \$6,975; (2) the Private
14 Attorney General Act ("PAGA") Settlement Amount in the sum of \$40,000, seventy-
15 five percent (75%) of which (\$30,000) will be paid to the California Labor and
16 Workforce Development Agency ("LWDA") ("LWDA Payment") and twenty-five
17 percent (25%) of which (\$10,000) will be distributed to the Class Members employed
18 during the period of time from June 11, 2019 through May 4, 2021 ("PAGA Settlement
19 Amount" and "PAGA Settlement Period"); (3) the Class/PAGA Representative
20 Enhancement Payments in the amount of \$7,500 to each Plaintiff; (4) the attorneys' fees
21 in the sum \$230,643, which is thirty-five percent (35%) of the Maximum Settlement
22 Amount to Justice Law Corporation and Mayall Hurley P.C. (collectively, known as
23 "Class Counsel"); (5) the attorneys' costs in the amount of \$10,736.76 to Class Counsel;
24 (6) Individual Settlement Payments payable to all Participating Class Members; and (7)
25 \$250 to each participating Former Employee Sub-Class Member. Participating Class
26 Members shall not be required to complete a claim form. There will be no reversion of
27 the Maximum Settlement Amount to Defendant.

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1 Funding of the Settlement will be as follows:

2 The Maximum Settlement Amount of \$658,980 shall be deposited into the
3 Qualified Settlement Fund ("QSF") within ten (10) calendar days of the Effective Date.
4 The Settlement Administrator shall make the LWDA Payment, mail the Class/PAGA
5 Representative Enhancement Payments to Plaintiffs, and distribute the Attorneys' Fees
6 and Costs awarded to Class Counsel within ten (10) days after Defendant funds the QSF.
7 The Settlement Administrator shall also mail the Individual Settlement Payments to
8 Class Members within twenty (20) calendar days of the Effective Date or within twenty
9 (20) calendar days of the funding of the QSF, whichever is later.

10 As noted in the Preliminary Approval Order, the Settlement is entitled to a
11 presumption of fairness. In their moving papers, Plaintiffs contend that the Settlement
12 was the product of arms-length negotiations following extensive litigation and following
13 extensive discovery and exchange of documentation relating to Plaintiffs' claims.
14 Moreover, the negotiations were facilitated with the assistance of a skilled and
15 experienced mediator, Marc J. Feder, an experienced and well-respected class action
16 mediator.

17 With respect to the benefit to the Class Members, Plaintiffs' moving papers
18 indicate that the *average* Individual Settlement Payment will be approximately
19 \$1,029.93 under the proposed allocation, which is based on the number of weeks worked
20 during the Class Period.

21 If any checks mailed to Participating Class Members remain uncashed after the
22 expiration of one hundred eighty (180) days from mailing, or an envelope mailed to a
23 Participating Class Member is returned and no forwarding address can be located for the
24 Participating Class Member after reasonable efforts have been made (including but not
25 limited to skip tracing), then any such funds shall be transmitted to the Settlement
26 Administrator and distributed as follows in accordance with California Code of Civil
27 Procedure section 384: one hundred percent (100%) to Court Appointed Special
28 Advocates for Children of San Joaquin (serving San Joaquin County).

1 The Plaintiffs have explained the risks and costs associated with continuing with
2 the litigation and the benefits conferred upon Class Members in the form of immediate
3 compensation. Plaintiffs have satisfactorily assessed the maximum value of the claims
4 and of the reasonableness of the discount accepted in the settlement considering these
5 risks. Finally, the Declaration of the Settlement Administrator, Taylor Mitzner, states
6 that the Notice of Class Action Settlement ("Class Notice") was mailed to three hundred
7 fifty-five (355) Class Members, there were no requests for exclusion from the
8 Settlement, and there were no objections to the Settlement. This is further proof of the
9 fairness of the Settlement. The Declaration of Douglas Han provides sufficient
10 information about Class Counsel's experience in litigating class action lawsuits.

11 The Court also has an independent right and responsibility to review the
12 requested attorneys' fees and only award so much as it determines reasonable. (See
13 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-
14 128.) The amount of attorney's fees requested by Class Counsel in the sum of \$230,643
15 is thirty-five percent (35%) of the common fund created for the benefit of the Class
16 Members and are supported by use of the percentage-fee method. (See *Laffitte v. Robert*
17 *Half International, Inc.* (2016) 1 Cal. 5th 480, 504.) According to the Declaration of
18 Douglas Han, Class Counsel collectively expended 499.15 hours with a total lodestar
19 figure of \$353,739.45. Even under the lodestar cross-check, the requested fee is below
20 the lodestar, resulting in a negative multiplier. Considering the contingent nature of the
21 representation and the ongoing monitoring of the settlement administration, the
22 requested hourly rates and the fee is justified. Accordingly, the Court finds that the fee
23 request is reasonable, and it is, therefore, approved.

24 The Court has also reviewed the Declaration of Douglas Han regarding the costs
25 expended in the prosecution of this litigation. Under the terms of the settlement,
26 Plaintiffs may seek reimbursement of up to \$20,000 in actual litigation costs. The Court
27 finds that Plaintiffs have expended \$10,736.76 in actual litigation costs that were
28

1 reasonable. Thus, the Court approves the payment of \$10,736.76 in costs from the
2 settlement fund for the reimbursement of Class Counsel's actual litigation costs.

3 The rationale for making the Class/PAGA Representative Enhancement
4 Payments is that the Class Representatives should be compensated for the expense or
5 risk they incurred in conferring a benefit on other Class Members. Such enhancement
6 payments are appropriate if they are necessary to induce individuals to participate in the
7 suit. The criteria courts may consider include: (1) the risk to the class representative in
8 commencing suit, both financial and otherwise; (2) the notoriety and personal
9 difficulties encountered by the class representative; (3) the amount of time and effort
10 spent by the class representative; (4) the duration of the litigation; and (5) the personal
11 benefit (or lack thereof) enjoyed by the class representative because of the litigation.

12 The Court has reviewed Plaintiffs' declarations, which outline their involvement
13 in the lawsuit. Given the risks inherent in service as the Class Representatives, the
14 duration of the case and time involved, and the benefits created for the Class, the Court
15 approves the Class/PAGA Representative Enhancement Payments in the amount of
16 \$7,500 to each Plaintiff.

17 The Court has reviewed the Declaration of Taylor Mitzner, the Case Manager for
18 Phoenix Class Action Administration Solutions ("Phoenix"), the Court-approved
19 Settlement Administrator. The Court finds notice was provided to the Class pursuant to
20 the preliminary approval order, that the notice was sufficient, and that the notice satisfies
21 due process. Thus, Phoenix has discharged its duties to provide notice to the Class and
22 approves a payment of \$10,000 for its services in administering this settlement,
23 including the mailing of settlement awards according to the terms of the Agreement.

24 The Released Claims means all claims that were or could have been raised based
25 on the factual allegations made in this case. This includes, but is not limited to: (a)
26 failure to pay minimum, straight time, overtime, or double time wages, and failure to
27 pay other wages of any kind during employment under the Labor Code, the FLSA or
28 common law; (b) failure to authorize and permit rest periods or pay rest period

1 premiums; (c) failure to provide meal periods or pay meal period premiums; (d) failure
2 to provide accurate and itemized wage statements; (e) failure to pay sick pay; (f) failure
3 to pay final wages due at separation; (g) failure to reimburse or indemnify all necessary
4 business expenses; (h) claims brought under Business & Professions Code sections
5 17200, *et seq.*, including, but not limited to all claims for unfair, unlawful and harmful
6 conduct to class members, the general public, and Defendant's competitors and claims
7 of unlawfully gaining an unfair advantage over other businesses; (i) claims under PAGA
8 for civil penalties due to any Labor Code violations by Defendant arising out of or
9 related to events alleged in this case, including, but not limited to, Labor Code sections
10 201, 202, 203, 204, 210, 226, 226.3, 226.7, 233, 245.5-249, 510, 512, 558, 1174, 1174.5,
11 1182.12, *et seq.*, 1194, 1194.2, 1197, 1198, 2800, 2802 and any applicable Wage Order;
12 (j) claims of any nature, related to or arising out of or related to Labor Code sections
13 201, 202, 203, 204, 210, 226, 226.3, 226.7, 233, 245.5- 249, 510, 512, 558, 1174,
14 1174.5, 1182.12, *et seq.*, 1194, 1194.2, 1197, 1198, 2800, 2802 and any applicable
15 Wage Order; (k) penalties of any nature; (l) interest; and (m) attorneys' fees and costs
16 that occurred at any time during the Class Period ("Released Claims").

17 The Released PAGA Claims mean all claims under PAGA for civil penalties that
18 were or could have been raised based on the factual allegations made in this case,
19 including, but not limited to, Labor Code sections 201, 202, 203, 204, 210, 226, 226.3,
20 226.7, 233, 245.5-249, 510, 512, 558, 1174, 1174.5, 1182.12, *et seq.*, 1194, 1194.2,
21 1197, 1198, 2800, 2802 and any applicable Wage Order ("Released PAGA Claims").

22 The Released Parties include Defendant; (b) each of Defendant's respective past,
23 present and future parents, subsidiaries, and affiliates including, without limitation, any
24 corporation, limited liability company, partnership, trust, foundation, and non-profit
25 entity which controls, is controlled by, or is under common control with Defendant; (c)
26 the past, present and future shareholders, directors, officers, agents, employees,
27 attorneys, insurers, members, partners, managers, contractors, agents, consultants,
28 representatives, administrators, fiduciaries, benefit plans, transferees, predecessors,

1 successors, and assigns of any of the foregoing; and (d) any individual or entity which
2 could be jointly liable with any of the foregoing ("Released Parties").

3 Defendant makes no admission of liability or wrongdoing by virtue of entering
4 the Agreement. Additionally, Defendant reserves the right to contest any issues relating
5 to class certification and liability if the Settlement is not approved. Defendant denies it
6 has engaged in any unlawful activity, has failed to comply with the law in any respect,
7 has any liability to anyone under the claims asserted in this case, or that but for the
8 Settlement, a Class should be certified in this case, or that the PAGA claim could
9 proceed on a representative basis. The Agreement is entered solely for the purpose of
10 compromising highly disputed claims. Nothing in the Agreement is intended or will be
11 construed as an admission by Defendant of liability or wrongdoing. The Settlement and
12 Plaintiffs' and Defendant's willingness to settle this case will have no bearing on and
13 will not be admissible in connection with, any litigation, administrative proceeding, or
14 other special proceeding (other than solely in connection with the Settlement).

15 The Agreement will be binding upon, and inure to the benefit of, the successors
16 and assigns of the Parties.

17 For the reasons set forth above, the Motion for Final Approval of Class Action
18 Settlement, the Attorneys' Fees and Costs, and the Class/PAGA Representative
19 Enhancement Payments is GRANTED. Settlement Administrator is directed to carry out
20 the terms of the Agreement forthwith.

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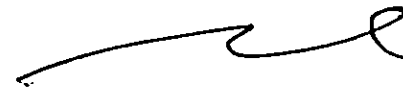
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1 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS
2 OF THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF
3 COURT 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON
4 THE TERMS OF THIS ORDER AND SETTLEMENT AGREEMENT AND,
5 WITHOUT AFFECTING THE FINALITY OF THIS MATTER, RETAINS
6 EXCLUSIVE AND CONTINUING JURISDICTION TO ENFORCE THIS ORDER,
7 THE SETTLEMENT AGREEMENT, AND THE JUDGMENT THEREON.

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9 IT IS SO ORDERED.

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11 DATED: 2/4/2022



12 HONORABLE BARBARA KRONLUND
13 SUPERIOR COURT JUDGE
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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On February 10, 2022, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Ugale v. Allen Distribution, LP**
LWDA/Court Case No.: **LWDA-CM-793195-20**
STK-CV-UOE-2020-0005807
San Joaquin County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 10, 2022, at Pasadena, California.


Mariah Anderson