

1
2
3
4
5
6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE**
10

11 Melinda James, individually and on behalf of all
12 similarly situated,

13 Plaintiff,

14 v.

15 Coolsys Commercial & Industrial Solutions,
16 Inc.; Source Refrigeration & HVAC, Inc.; and
17 Does 1-10, inclusive,

18 Defendants.

Case No. 30-2020-01163014-CU-OE-CXC

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND SETTING A
FINAL APPROVAL HEARING**

Assigned to the Honorable Peter Wilson
Dept.: CX-102

Complaint Filed: October 1, 2020

19 **RECITALS**

20 On October 1, 2020, Plaintiff Melinda James (Plaintiff), a former employee of Defendant, filed
21 a representative Private Attorneys General Act ("PAGA") complaint.

22 On November 5, 2020, Defendant Coolsys Commercial & Industrial Solutions, Inc., formerly
23 known as Source Refrigeration & HVAC ("Defendant"), Inc filed an answer, asserting various
24 affirmative defenses.

25 On January 26, 2021, the Parties participated in a full-day mediation before mediator Gig
26 Kyriacou, a very experienced mediator of wage and hour class actions. In advance of the mediation,
27 the Parties engaged in informal discovery, whereby Defendant provided the following information
28 related to Defendant's employees: (1) the number of aggrieved employees; (2) the number of former

1 employees (3) workweeks worked; (4) the number of pay periods; (5) company handbook and policies
2 pertaining to wage and hour issues; and (6) a sample of time and payroll records. No settlement
3 resulted at the mediation session, but rather a mediator's proposal was issued and left open through on
4 February 5, 2201. The Parties accepted the mediator's proposal subject to the approval of the Court
5 and finalization of a Settlement Agreement and amended complaint alleging class action allegations.
6 Plaintiff originally brought this action as a PAGA representative due to a purported arbitration
7 agreement but agreed to amend her complaint to assert class action claims for settlement purposes.

8 In advance of the hearing date of Plaintiff's Motion for Preliminary Approval of Class Action
9 Settlement ("Motion"), Plaintiff filed a joint stipulation for filing of an amended complaint to assert
10 wage and hour violations on behalf of the proposed class to expand the case from a PAGA only case
11 to a hybrid class and PAGA action. Plaintiff sought leave to amend the complaint to allege the
12 following causes of action for the class: (1) Violations of Labor Code §§ 1194, 1197.1 and the
13 Applicable Wage Order for Failure to Pay All Minimum Wages; (2) Violations of Labor Code §§ 510,
14 1194, 1198 and the Applicable Wage Order for Failure to Pay All Overtime Wages; (3) Violations of
15 Labor Code §§ 204, 210 and the Applicable Wage Order for Failure to Pay All Wages; (4) Violations
16 of the Applicable Wage Order for Failure to Pay Reporting Time Pay; (5) Violations of Labor Code §§
17 226.7, 512 and the Applicable Wage Order for Failure to Provide Timely and Compliant Meal Periods;
18 (6) Violations of Labor Code §§ 226.7 and the Applicable Wage Order for Failure to Provide Timely
19 and Compliant Rest Periods; (7) Violations of Labor Code §§ 226(a), 226.3 and the Applicable Wage
20 Order for Failure to Provide Accurate and Itemized Wage Statements; (8) Violations of Labor Code §§
21 201-203 for Failure to Timely Pay All Wages Due to Terminated/Separated Employees; (9) violation
22 of Business and Professions Code §§ 17200, *et seq.*; and (10) Violation Of Private Attorney General
23 Act (Cal. Lab. Code § 2698, *Et. Seq.*)

24 Plaintiff's Motion was filed with the Court on July 14, 2021 and a hearing was held before this
25 Court on August 5, 2021 at 2:00 p.m. Appearing at the hearing were Jonathan Lebe and Annaliz Loera
26 of Lebe Law, APLC, for Plaintiff and as Proposed Class Counsel for the Class, and Christine D. Baran
27 and Ashton M. Riley of Fisher & Phillips LLP.

28 The Court has considered the moving and supporting papers, Stipulation, and all other papers

1 filed in this Litigation.

2 FINDINGS AND ORDERS

3 NOW THEREFORE, IT IS HEREBY FOUND AND ORDERED:

4 1. All defined terms contained herein shall have the same meanings as set forth in the Joint
5 Stipulation and Agreement (“Stipulation”), which is attached as **Exhibit 1**.

6 2. The Class Representative and Defendant, through their counsel of record in the Litigation,
7 has reached an agreement to settle the Litigation on behalf of the Class as a whole;

8 3. The Court hereby conditionally certifies the following Class for settlement purposes only:

9 The Class: All individuals employed as non-exempt hourly workers by
10 Defendant within the State of California from October 1, 2016 through April 1,
2021.

11 Should for whatever reason the Stipulation and Judgment not become a final Judgment, the fact
12 that the Parties were willing to stipulate to certification of a class as part of the Stipulation shall have
13 no bearing on, or be admissible in connection with, the Litigation or the issue of whether a class should
14 be certified in the Litigation in a non-settlement context.

15 4. The Court appoints and designates: (a) Plaintiff Melinda James as the Class Representative
16 and (b) Jonathan Lebe and Annaliz Loera of Lebe Law, APLC as Class Counsel for the Class. Class
17 Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by, or
18 which may be given, pursuant to the Stipulation, and such other acts reasonably necessary to finalize
19 the Stipulation and its terms. Any Class Member may enter an appearance through his or her own
20 counsel at such Class Member’s own expense. Any Class Member who does not enter an appearance
21 or appear on his or her own behalf will be represented by Class Counsel.

22 5. The Court hereby preliminary approves the terms and conditions provided for in the
23 Stipulation.

24 6. The Court hereby preliminarily approves the Stipulation, the total Gross Settlement
25 Amount in the amount of \$527,500, and the allocations of the following amounts from the total Gross
26 Settlement Amount, (a) \$5,000 for the Class Representative for her services to the Class; (b) a total of
27 \$175,833.33 to Class Counsel for attorneys’ fees and a total of up to \$15,000 for reimbursement of
28 Class Counsel’s actual litigation costs and expenses incurred; (c) \$25,000 for penalties pursuant to the

1 Private Attorney General Act, California Labor Code sections 2698, *et seq.*, of which \$18,750 shall be
2 paid to the Labor and Workforce Development Agency and \$6,250 shall remain a part of the Net
3 Settlement Amount; and (d) payment to the Settlement Administrator for the Settlement
4 Administration Costs, which are expected not to exceed \$15,000. The Court further hereby
5 preliminarily approves the Net Settlement Amount and the Individual Settlement Amount provided in
6 the Stipulation.

7 7. The Court finds on a preliminary basis that the Stipulation appears to be within the range
8 of reasonableness of a settlement, including the amount of the PAGA penalties, Class Representative
9 Service Award, Class Counsel's attorneys' fees and costs, the Settlement Administration Costs, and the
10 allocation of payments to the Settlement Class Members, that could ultimately be given final approval
11 by this Court. It appears to the Court on a preliminary basis that the Stipulation is fair, adequate, and
12 reasonable as to all potential Class Members when balanced against the probable outcome of further
13 litigation relating to liability and damages issues. It also appears that extensive and costly
14 investigation, research, and mediation proceedings have been conducted so that counsel for the Settling
15 Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement
16 at this time will avoid substantial additional costs by all Settling Parties, as well as avoid the delay and
17 risks that would be presented by the further prosecution of the Litigation. It also appears that the
18 Stipulation has been reached as a result of intensive, serious, and non-collusive arms-length
19 negotiations.

20 8. The "Final Approval Hearing" shall be held before this Court on _____ at
21 _____ in Department CX-102 of the Superior Court of the State of California, County of
22 Orange to determine all necessary matters concerning the Stipulation, including whether the proposed
23 settlement of the Litigation on the terms and conditions provided for in the Stipulation is fair, adequate
24 and reasonable and should be finally approved by the Court and whether a Judgment, as provided in
25 the Stipulation, should be entered herein. At this same time, a hearing on Class Counsel's motion for
26 an award of attorneys' fees, reimbursement of litigation costs, and the Class Representative
27 Enhancement Award shall also be held.

1 9. The Court hereby approves, as to form and content, the Notice of Proposed Class Action
2 Settlement ("Class Notice"), which is attached to the Stipulation as **Exhibit A**, to be sent to the Class
3 Members. The Court finds that distribution of the Class Notice to Class Members substantially in the
4 manner and form set forth in the Stipulation and this Class Notice meets the requirements of due
5 process and shall constitute due and sufficient notice to all parties entitled thereto.

6 10. The Court appoints and designates CPT Group, Inc. as the Settlement Administrator. The
7 Court hereby directs the Settlement Administrator to provide the approved Class Notice to the Class
8 Members within thirty-five (35) calendar days of this Preliminary Approval Order, in conformity with
9 the Stipulation.

10 11. Any Class Member may choose to opt out of, and be excluded from, the settlement as
11 provided in the Stipulation, by following the instructions set forth in the Class Notice, for requesting
12 exclusion. Any person who timely and properly opts out of the Stipulation will not be bound by the
13 Stipulation or have any right to object, appeal, or comment thereon. Any Opt-Out request must be in
14 writing, clearly state that the Class Member wishes to be excluded from the settlement of the
15 Litigation, and be signed by each such Class Member opting out, and must otherwise comply with
16 the requirements delineated in the Stipulation and Class Notice. Class Members who have not
17 requested exclusion by submitting a proper and timely Opt-Out request that is postmarked no later
18 than the Opt-Out Deadline, shall be bound by all determinations of the Court, the Settlement, and
19 Judgment. Plaintiff is required to provide all disputes, objections, and exclusions to the Court at the
20 Final Approval Hearing.

21 12. The Motion for Final Approval shall be filed no later than sixteen (16) court days before
22 the Final Approval Hearing.

23 13. In the event that the Effective Date occurs, all Settlement Class Members and the Class
24 Representative will be deemed to have forever released and discharged the Released Claims applicable
25 to them. The Class Representative additionally will be deemed to have waived her rights under
26 California Civil Code section 1542.

27 14. In the event that the Effective Date occurs, the action captioned as, *Melinda James v.*
28 *Coolsys Commercial & Industrial Solutions, Inc., et al.*, Orange County Superior Court Case No. 30-

2020-01163014-CU-OE-CVC, shall be resolved pursuant to the terms of the Stipulation by entry of Judgment.

15. The calendar of events leading to the Final Approval Hearing shall be as follows:

Date/ Triggering Event:	Event
The date of this Preliminary Approval Order ("PAO")	Court orders preliminary approval of Settlement and conditional certification of class, and Defendant shall provide the Settlement Administrator with the Class Members' contact information.
Within 35 days of PAO	Settlement Administrator to mail Class Notices.
Within 45 days of Class Notice mailing	Deadline for Class Members to submit Opt Out Requests, Requests for Exclusion, or Objections to the Settlement.
November 8, 2021	Deadline for filing: (1) Motion for Final Approval (2) Application for Attorney's Fees, Costs, and Expenses, and (3) Application for Class Representative Service Award.
November 17, 2021	Deadline to File a Response to Any Objections and to file the Declaration of Settlement Administrator.
December 2, 2021	Final Approval Hearing

16. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing and all dates provided for in the Stipulation without further notice to the Class, and retains jurisdiction to consider all further applications arising out of or connected with the Stipulation.

///

///

1 ///

2 ///

3
4 IT IS SO ORDERED.

5
6
7 DATED: _____

8 Honorable Peter Wilson
9 Judge of the Superior Court
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28