

05/01/2023

David W. Slayton, Executive Officer / Clerk of Court

By: P. Salcido Deputy

CODY PAYNE, SBN 282342

cody@paynellp.com

KIM NGUYEN, SBN 293906

kim@paynellp.com

PAYNE NGUYEN, LLP

100 Wilshire Boulevard, Suite 700

Santa Monica, CA 90401

Telephone: (310) 360-9882

Facsimile: (310) 928-7469

Attorneys for Plaintiff

ROSA GUARDADO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ROSA GUARDADO, individually and as a
private attorney general;

Plaintiff,

vs.

MULTI-PAK CORPORATION, a California
corporation; STAFFMARK INVESTMENT
LLC, doing business as Advantage
Resourcing, a Delaware corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 20STCV45681

*Assigned for All Purposes to: Hon. Robert S.
Draper, Dept. 78*

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Hearing Date: March 16, 2023

Hearing Time: 8:30 a.m.

Department: 78

[PROPOSED] ORDER

Plaintiff Rosa Guardado's ("Plaintiff") Motion for Final Approval of Class Action and PAGA Settlement came regularly for hearing before this Court on March 16, 2023, pursuant to California Rule of Court 3.769 and this Court's earlier Order Granting Motion for Preliminary Approval of Class Action and PAGA Settlement ("Preliminary Approval Order"). Having considered the parties' Stipulation of Class Action and PAGA Settlement ("Settlement Agreement" or "Settlement"), and the documents and evidence presented in support thereof, and recognizing the sharply disputed factual and legal issues involved in this case, the risks of further prosecution, and the substantial benefits to be received by the Class Members pursuant to the Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable, and adequate, and is the product of good faith, arm's length negotiations between the parties. Good cause appearing therefore, the Court hereby GRANTS Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement and **HEREBY ORDERS THE FOLLOWING:**

1. Final judgment is hereby entered in conformity with the Settlement and this Court's Preliminary Approval Order. All terms used herein shall have the same meaning as defined in the Settlement Agreement.

2. The conditional class certification contained in the Preliminary Approval Order is hereby made final, and the Court thus certifies, for purposes of the Settlement, a Class defined as:

All direct hire non-exempt individuals employed by Multi-Pak Corporation in California from November 25, 2016, through the date of preliminary approval of the Settlement ("Direct Hire Class Members") and all non-exempt employees who were placed as temporary employees by Staffmark Investment LLC at Multi-Pak Corporation in California from November 25, 2016, through the date of preliminary approval of the Settlement ("Temporary Class Members").

3. Plaintiff Rosa Guardado is hereby confirmed as the Class Representative, and Cody Payne and Kim Nguyen of Payne Nguyen, LLP are hereby confirmed as Class Counsel.

4. Notice was provided to Class Members as set forth in the Settlement Agreement, which was approved by the Court on September 13, 2022, and the notice process has been

completed in conformity with the Court's Orders. The Court finds that said notice was the best notice practicable under the circumstances. The Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") provided due and adequate notice of the proceedings and of the matters set forth therein, informed Class Members of their rights, and fully satisfied the requirements of California Code of Civil Procedure section 1781(e), California Rule of Court 3.769, and due process.

5. The Court hereby finds the Settlement was entered into in good faith pursuant to and within the meaning of California Code of Civil Procedure section 877.6. The Court further finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the standards and applicable requirements for final approval of this class action settlement under California law, including the provisions of California Code of Civil Procedure section 382 and Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971).

6. The Court hereby approves the settlement set forth in the Settlement Agreement and finds that the Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties to effectuate the Settlement according to its terms. The Court finds that the Settlement has been reached as a result of intensive, serious and non-collusive arms-length negotiations. The Court further finds that the Parties have conducted extensive investigation and research, and counsel for the Parties are able to reasonably evaluate their respective positions. The Court also finds that Settlement at this time will avoid additional substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. The Court has reviewed the benefits that are being granted as part of the Settlement and recognizes the significant value to the Class Members. The Court also finds that the Class is properly certified as a class for settlement purposes only.

7. Upon the funding of the Maximum Settlement Amount, Plaintiff and each of the Participating Class Members shall release Staffmark Investment LLC, Staffmark Group, LLC, Advantage Resourcing, Advantage Resourcing, Inc., and Multi-Pak Corporation, and each of their past and present divisions, affiliates, affiliated entities, related entities, parents, subsidiaries,

1 predecessors, successors, joint ventures, assigns, and their respective shareholders, owners,
2 officers, directors, employees, agents, trustees, attorneys, managers, operators, insurers,
3 representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies,
4 representatives, consultants, and attorneys (collectively the “Released Parties”) from all claims,
5 rights, demands, liabilities, and causes of action of every nature and description, known and
6 unknown, as alleged in the First Amended Complaint or that could have been asserted in the Action
7 based on the facts alleged, arising from or related to the following claims against Defendants: for
8 meal and rest break violations; unpaid wages, including minimum wages, regular wages, overtime
9 and double time wages; wage statement violations; untimely wages and wages due upon
10 termination; failure to provide personnel and pay records; and derivative claims (“Released Class
11 Claims”). Released Class Claims shall also mean any other claims related to this Action by all
12 individuals whether known or unknown, suspected or unsuspected, that were or could have been
13 alleged or asserted based on a Class Member’s employment as a Direct Hire Class Member or
14 Temporary Class Member for Defendants during the Class Period, including all claims that were
15 or could have been brought under the California Labor Code, the applicable Industrial Wage
16 Commission Wage Orders, the Fair Labor Standards Act, the Business and Professions Code
17 section 17200 as it relates to the underlying Labor Code claims referenced above, and the Private
18 Attorneys General Act as it relates to the underlying Labor Code claims referenced above,
19 including any damages, restitution, interest, waiting time penalties, statutory and civil penalties,
20 punitive damages, attorneys’ fees, costs, or any other form of relief whatsoever, during the Class
21 Period. With regard to the Released Class Claims, each member of the Class shall also waive all
22 rights and benefits afforded by California Civil Code section 1542. All Class Members who
23 negotiate their settlement checks will also release all claims that could have been brought under
24 the Fair Labor Standards Act. Additionally, all PAGA Group Members shall release claims for
25 civil penalties that could have been sought by the Labor Commissioner for the violations identified
26 in Plaintiff’s pre-filing letter to the LWDA on July 2, 2020.

27 8. The Court finds that no Class members opted out of the Class and that the
28 participation rate of 100% of the Class in the Settlement supports final approval.

1 9. The Court finds that there have been no objections to the Settlement.

2 10. The Court hereby approves the Settlement as set forth in the Settlement Agreement
3 as fair, adequate and reasonable, and directs the parties to effectuate the Settlement Agreement
4 according to its terms.

5 11. The Court orders that within fifteen (15) days of the Effective Date (as defined in
6 the Settlement Agreement), Defendants deposit the amount of \$340,000.00 with Phoenix
7 Settlement Administrators (“Settlement Administrator”), as provided for in the Settlement
8 Agreement.

9 12. The Court finds that the Class Representative Service Award, as provided for in the
10 Settlement, is fair, reasonable, and adequate, and approves and orders the payment of \$5,000.00
11 to Plaintiff Rosa Guardado in accordance with the terms of the Settlement.

12 13. The Court finds that attorneys’ fees in the amount of \$113,220.00 and litigation
13 costs of \$8,329.33 for Class Counsel are fair, reasonable, and adequate, and orders that the
14 Settlement Administrator distribute these payments to Class Counsel in accordance with the terms
15 of the Settlement.

16 14. The Court orders payment in the amount of \$37,500.00 (75% of \$50,000.00) from
17 the Maximum Settlement Amount for PAGA penalties, shall be made payable to the California
18 Labor Workforce Development Agency; and the remaining \$12,500.00 (25% of \$50,000.00) shall
19 be distributed to the PAGA Group Members as set forth in the Settlement Agreement.

20 15. The Court orders that the Settlement Administrator be paid \$8,000.00 from the
21 Maximum Settlement Amount for all of its work done and to be done until the completion of this
22 matter and finds that sum appropriate.

23 16. The Court hereby approves and orders payment of individual settlement payments
24 from the Net Settlement Amount to the Participating Class Members on a *pro rata* basis as set
25 forth in the Agreement.

26 17. The Court also hereby approves and orders that any checks distributed from the
27 Maximum Settlement Amount yet remaining un-cashed after one hundred and eighty (180)
28 calendar days after being issued shall be void. All uncashed settlement checks shall be transferred

1 to the California State Controller's Office and held in trust for such Participating Class Members
2 pursuant to California Unclaimed Property Law, Civil Code § 1500 *et seq.*

3 18. Provided the Settlement becomes effective under the terms of the Agreement, the
4 Court also hereby orders that the deadline for mailing the Court-approved individual settlement
5 payments, attorneys' fees and costs, and Class Representative Service Award is as set forth in the
6 Agreement.

7 19. Neither the Settlement nor any of the terms set forth in the Settlement is an
8 admission by Defendants, or any of the other Released Parties, nor is this Final Order a finding of
9 the validity of any claims in the Actions or of any wrongdoing by Defendants, or any of the other
10 Released Parties. Neither this Final Order, the Settlement, nor any document referred to herein,
11 nor any action taken to carry out the Settlement is, may be construed as, or may be used as, an
12 admission by or against Defendants, or any of the other Released Parties, of any fault, wrongdoing
13 or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations
14 or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of,
15 an admission or concession with regard to the denials or defenses by Defendants, or any of the
16 other Released Parties, and shall not be offered in evidence in any action or proceeding in any
17 court, administrative agency or other tribunal for any purpose whatsoever other than to enforce the
18 provisions of this Final Order, the Agreement, the Released Class Claims, or any related agreement
19 or release. Notwithstanding these restrictions, any of the Released Parties may file in the Actions,
20 or submit in any other proceeding, the Final Order, the Agreement, and any other papers and
21 records on file in the Actions as evidence of the Settlement to support a defense of *res judicata*,
22 *collateral estoppel*, release, or other theory of claim or issue preclusion or similar defense as to the
23 Released Class Claims.

24 20. Without affecting the finality of this Judgment, the Court shall retain continuing
25 jurisdiction over this action and the parties, including all Class Members, and over all matters
26 pertaining to the implementation and enforcement of the terms of the Settlement pursuant to
27 California Rule of Court 3.769(h) and California Code of Civil Procedure section 664.6. Except
28 as provided to the contrary herein, any disputes or controversies arising with or with respect to the

1 interpretation, enforcement, or implementation of the Settlement shall be presented to the Court
2 for resolution.

3
4 **IT IS SO ORDERED.**



Jill Feeney

5
6 DATED: 05/01/23

By: Jill Feeney / Judge
HON. ~~ROBERT S. DRAPER~~
JUDGE OF THE SUPERIOR COURT