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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

JEREMY R. RODRIGUEZ and VAQAR
HUSSAIN, individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

KELLES TRANSPORT SERVICE LLC dba
SOAR TRANSPORTATION GROUP; a Utah
Limited Liability Company, and DOES 1 through
50, inclusive,

Defendants.

Case No. CIVDS2015275

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

Hearing Date: June 30, 2023 _
Hearing Time: 8:30 a.m.

Judge: Hon. Janet M. Frangie
Dept: S29

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiffs Jeremy Rodriguez and Vaqar Hussain (“Plaintiffs”) for an order
2 finally approving the Class and Representative Action Settlement Agreement and Release
3 (hereinafter “Settlement Agreement”) with Defendant Kelle’s Transport Service, LLC
4 (Erroneously Sued And Served As "Kelles Transport Service LLC dba SOAR Transportation
5 Group"; “Defendant” or “Kelles”), duly came on for hearing on June 30, 2023 before the
6 Honorable Janet M. Frangie.

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

11 1. All terms used herein shall have the same meaning as defined in the Settlement
12 Agreement.

13 2. This Court has jurisdiction over the subject matter of this litigation pending before
14 the California Superior Court for the County of San Bernardino, and over all Parties to this
15 litigation, including the Class.

16 3. Based on a review of the papers submitted by Plaintiffs and a review of the
17 applicable law, the Court finds that the Gross Settlement Amount of Ninety-One Thousand
18 Dollars and Zero Cents (\$91,000.00) and the terms set forth in the Settlement Agreement are fair,
19 reasonable, and adequate.

20 4. The Court further finds that the Settlement was the result of arm’s length
21 negotiations conducted after Class Counsel had adequately investigated the claims and became
22 familiar with the strengths and weaknesses of those claims. In particular, the amount the
23 Settlement, the significant risks relating to certification, liability, and damages issues, and the
24 assistance of an experienced mediator in the settlement process, among other factors, support the
25 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

26 **Preliminary Approval of the Settlement**

27 5. On February 9, 2023, the Court entered the order granting preliminary approval of
28

1 the Settlement (“Preliminary Approval Order”). In this Preliminary Approval Order, the Court
2 approved conditional certification of the Class for settlement purposes only.

3 **Notice to the Class**

4 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
5 by first class mail to members of the Class at their last known addresses on or about March 9,
6 2023. Mailing of the Class Notice to their last known addresses was the best notice practicable
7 under the circumstances and was reasonably calculated to communicate actual notice of the
8 litigation and the proposed settlement to the Class. The Class Notice given to the Class Members
9 fully and accurately informed the Class Members of all material elements of the proposed
10 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
11 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
12 requirements of California Code of Civil Procedure § 382, California Rules of Court §§ 3.766 and
13 3.769, the California and United States Constitutions, and other applicable law. The Class Notice
14 fairly and adequately described the Settlement and provided Class Members adequate instructions
15 and a variety of means to obtain additional information.

16 7. The deadline for opting out of the Class or submitting written objections to the
17 Settlement was May 8, 2023. There was an adequate interval between notice and the deadline to
18 permit Class Members to choose what to do and act on their decision. A full opportunity has been
19 afforded to the Class Members to participate in this hearing, and all Class Members and other
20 persons wishing to be heard have been heard. Class Members also have had a full and fair
21 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
22 Court determines that all Class Members who did not timely and properly submit a signed Request
23 for Exclusion are bound by the Settlement and this Final Approval Order and Judgment.

24 **Fairness Of Settlement**

25 8. The Settlement Agreement is entitled to a presumption of fairness. *Dunk v. Ford*
26 *Motor Co.* 48 Cal.App.4th 1794, 1801 (1996).

27 a. The settlement was reached through arm's-length bargaining between the
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1 parties during an all-day mediation before Louis Marlin, a respected and experienced mediator of
2 wage and hour class actions. There has been no collusion between the parties in reaching the
3 proposed settlement.

4 b. Plaintiffs' investigation and discovery have been sufficient to allow the
5 Court and counsel to act intelligently.

6 c. Counsel for the Parties are experienced in similar employment class action
7 litigation. All counsel recommended approval of the Settlement Agreement.

8 d. The percentage of objectors and requests for exclusion is small. No
9 objections were received. No requests for exclusion were received.

10 e. The participation rate was high. 91 Class Members will be mailed a
11 settlement payment, representing 100% of the overall Class.

12 9. The consideration to be given to the Class Members under the terms of the
13 Settlement Agreement is fair, reasonable and adequate considering the strengths and weaknesses
14 of the claims asserted in this action and is fair, reasonable and adequate compensation for the
15 release of Class Members' claims, given the uncertainties and significant risks of the litigation and
16 the delays which would ensue from continued prosecution of the action.

17 10. The Settlement Agreement is approved as fair, adequate and reasonable and in the
18 best interests of the Class Members.

19 **Attorneys' Fees and Costs**

20 11. An award of \$30,333.33 for attorneys' fees, representing one-third (1/3) of the
21 Gross Settlement Amount, and \$15,000 for litigation costs and expenses, is reasonable and
22 adequate, in light of the contingent nature of Class Counsel's fee, the hours worked by Class
23 Counsel, and the results achieved by Class Counsel. The requested award is supported by
24 reference to Class Counsel's lodestar, which exceed the requested fee award.

25 **Enhancement Awards**

26 12. The Settlement Agreement provides for Enhancement Awards of not more than
27 \$4,000 to each of the Plaintiffs, subject to the Court's approval. The Court finds that Enhancement
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Awards in the amount of \$4,000 to each of the Plaintiffs are reasonable in light of the risks and burdens undertaken by the Plaintiffs in the litigation, for the time and effort in bringing and prosecuting this matter on behalf of the Class, and for the execution of a general release.

Administration Costs

13. The Settlement Administrator shall calculate and administer the payment to be made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the Enhancement Awards to the Plaintiffs, distribute the PAGA Penalties, issue any required tax reporting forms, calculate withholdings and perform the other remaining duties set forth in the Agreement. The Settlement Administrator has documented \$4,000 in fees and expenses, and this amount is reasonable in light of the work performed by the Settlement Administrator.

PAGA Payment

14. The Settlement Agreement provides for a PAGA Payment out of the Gross Settlement Amount of \$9,000, which shall be allocated \$6,750 to the LWDA and \$2,250 to be distributed to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked by all members of the PAGA Settlement Class. "PAGA Settlement Class" are all persons who are or have been employed by Defendant as Non-Exempt Employees or equivalent positions, however titled, in the state of California from the period beginning July 16, 2019 through November 27, 2022. The PAGA Payment shall be allocated to all PAGA Settlement Class members regardless of whether they request exclusion. The PAGA Payment is fair, reasonable and adequate.

II.

ORDERS

Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

14. The certification of the Settlement Class for the purposes of settlement is confirmed. The Settlement Class is defined as follows:

FINAL APPROVAL ORDER AND JUDGMENT

1 All persons who are or have been employed by Defendant as Non-Exempt
2 Employees or equivalent positions, however titled, in the state of California any
3 and all current and former hourly-paid or non-exempt employees who worked for
4 Defendant within the State of California at any time from August 1, 2018 through
5 November 27, 2022.

6 15. All persons who meet the foregoing definition are members of the Settlement Class
7 as there were no individuals who timely submitted a signed Request for Exclusion ("opt out")
8 from the Settlement Class.

9 16. The Settlement Agreement is hereby finally approved as fair, reasonable, adequate,
10 and in the best interest of the Settlement Class.

11 17. Class Counsel are awarded attorneys' fees in the amount of \$30,333.33 and costs in
12 the amount of \$15,000, which shall be distributed in accordance with the Settlement Agreement.
13 Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant,
14 Plaintiffs or members of the Settlement Class.

15 18. The payment of the Enhancement Awards in the amount of \$4,000 to each of the
16 Plaintiffs is approved and is to be distributed in accordance with the Settlement Agreement.

17 19. The payment of \$4,000 to the Settlement Administrator for its fees and expenses is
18 approved and is to be distributed in accordance with the Settlement Agreement.

19 20. The PAGA Payment of \$9,000 is approved and is to be distributed in accordance
20 with the Settlement Agreement.

21 21. The Settlement Agreement and this Settlement are not an admission by Defendant,
22 nor is this Final Approval Order and Judgment a finding, of the validity of any claims in the
23 Action or of any wrongdoing by Defendant or that this Action is appropriate for class treatment
24 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
25 Settlement Agreement, nor any document referred to herein, nor any action taken to carry out the
26 Settlement Agreement is, may be construed as, or may be used as an admission by or against
27 Defendant of any fault, wrongdoing or liability whatsoever. The entering into or carrying out of
28 the Settlement Agreement, and any negotiations or proceedings related thereto, shall not in any
event be construed as, or deemed to be evidence of, an admission or concession with regard to the

1 denials or defenses by Defendant. Notwithstanding these restrictions, Defendant may file in the
2 Action or in any other proceeding this Final Approval Order and Judgment, the Settlement
3 Agreement, or any other papers and records on file in the Action as evidence of the Settlement to
4 support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue
5 preclusion or similar defense as to the Released Claims.

6 22. If the Settlement Agreement does not become final and effective in accordance
7 with the terms of the Settlement Agreement, then this Final Approval Order and Judgment, and all
8 orders entered in connection herewith, shall be rendered null and void and shall be vacated, and
9 the Parties shall revert to their respective positions as of before entering into the Settlement
10 Agreement, and expressly reserve their respective rights regarding the prosecution and defense of
11 this Action, including all available defenses and affirmative defenses, and arguments that any
12 claim in the Action could not be certified as a class action and/or managed as a representative
13 action.

14 23. Defendant shall deposit the Gross Settlement Amount in a lump sum payment to
15 the Settlement Administrator within fifteen business (15) days of the Effective Date. Neither
16 Defendant nor any of the Released Parties shall have any further liability for costs, expenses,
17 interest, attorney's fees, or for any other charge, expense or liability, except as provided by the
18 Settlement Agreement.

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20 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

21 24. Final judgment is hereby entered in conformity with the Settlement Agreement and
22 this Court's Preliminary Approval Order. This document shall constitute a final judgment pursuant
23 to California Rule of Court 3.769(h).

24 25. Except as set forth in the Settlement Agreement and this Final Approval Order and
25 Judgment, Plaintiffs, and all members of the Class, shall take nothing in the Action.

26 26. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
27 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any

1 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
2 arising from or in connection with the distribution of settlement benefits.

3 27. Each party shall bear its own attorneys' fees and costs, except as otherwise
4 provided in the Settlement Agreement and in this Final Approval Order and Judgment.

5 28. Upon the Effective Date, the Releasing Parties shall be deemed to each release the
6 Released Parties, and each of them, of and from any and all Released Claims arising during the
7 Class Period. The "Released Claims" are those claims arising out of or related to the allegations
8 set forth in the Complaint and/or PAGA notices to the LWDA or any other claims or allegations
9 that could have been asserted in the Complaint and/or PAGA notices to the LWDA based on
10 similar operative facts, conduct, and or omissions, which arose during the Class Period, including
11 claims for: (1) failure to pay minimum and regular wages; (2) failure to provide compliant meal
12 periods and pay proper missed meal period premiums; (3) failure to provide compliant rest periods
13 and pay proper missed rest period premiums; (4) failure to pay all wages due upon separation of
14 employment; (5) failure to provide accurate itemized wage statements; (6) failure to indemnify all
15 necessary business expenditures; (7) unlawful deductions from wages; (8) statutory penalties
16 pursuant to PAGA (Lab. Code, §§ 2698-2699.6); (9) violations of the Unfair Competition Law;
17 and (10) all claims for liquidated damages, penalties, interest, fees, costs based on the foregoing.
18 No other claims are released other than those claims specifically plead in the Complaint or those
19 claims that could have been asserted in the Complaint based on the facts alleged, or otherwise
20 specifically identified herein. This Settlement Agreement will not release any person, party, or
21 entity from claims, if any, by Class Members for workers compensation, unemployment, or
22 disability benefits of any nature. Nor does it release any claims, actions, or causes of action which
23 may be possessed by Class Members under state or federal discrimination statutes, including,
24 without limitation, the California Fair Employment and Housing Act (Gov. Code, §§ 12900–
25 12996); the Unruh Civil Rights Act (Civ. Code, § 51); the California Constitution; Title VII of the
26 Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.); the Americans with Disabilities Act (42
27 U.S.C. § 12101, et seq.); the Employee Retirement Income Security Act of 1974 (29 U.S.C. §

1 1001 et seq.); and all of their implementing regulations and interpretive guidelines. The “Released
2 Parties” are Defendant and each of its subsidiaries, affiliates, investors, partners, owners, related
3 organizations, including, but not limited to, predecessors or successors, and all agents, employees,
4 officers, directors, members, managers, holding companies, insurers, and attorneys thereof.

5 29. Pursuant to California Code of Civil Procedure §384, the unclaimed funds from any
6 settlement checks which are not timely cashed are to be sent forthwith to the following cy pres
7 recipient: ABA Military Pro Bono Project.

8 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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10 Dated: _____

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12 HON. JANET M. FRANGIE
13 JUDGE, SUPERIOR COURT OF CALIFORNIA
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