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Individually and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

KAYLA MILLIGAN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CWI, Inc., d/b/a Camping World, a
Kentucky corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: CIVDS2020159

Assigned to the Hon. David Cohn

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: September 7, 2022

Time: 10:00 a.m.

Dept.: S-26

Complaint Filed: September 21, 2020

1 This matter came on for hearing on September 7, 2022, at 10:00 a.m. in Department S-26
2 before this Court on the Plaintiff KAYLA MILLIGAN's ("Plaintiff") Motion for Final Approval
3 of a Class Action and PAGA Settlement ("Motion"), and for Award of Attorneys' Fees, Costs, and
4 Class Representative Enhancement Award. At the Final Approval Hearing, James Hawkins APLC
5 appeared for Plaintiff and members of the class and PAGA, and Littler Mendelson P.C. appeared
6 for Defendant CWI, Inc. d/b/a Camping World ("Defendant").

7 The Court now having considered all papers filed and proceedings had herein, having heard
8 the statements of counsel, and otherwise being fully informed in the matter, hereby **GRANTS** the
9 Motion in its entirety. Good cause appearing therefore, this Court **HEREBY MAKES THE**
10 **FOLLOWING DETERMINATIONS AND FINDINGS:**

11 1. The Court has jurisdiction over the claims of the participating Settlement Class
12 Members and PAGA Releasees asserted in this proceeding and over all Parties to the Settled
13 Lawsuits.

14 2. The Court finds that no Class Members objected to or requested exclusion from the
15 Settlement. Similarly, the Court finds that no Class Members disputed their workweek or pay period
16 calculations.

17 3. This Final Approval Order incorporates by reference the Parties' Class and PAGA
18 Action Settlement Agreement and Release ("Settlement" or "Settlement Agreement"), which was
19 attached as **Exhibit "1"** to the Declaration of James Hawkins, and all defined terms herein shall
20 have the same meaning as set forth in the Settlement Agreement.

21 4. The Court has considered all relevant factors for determining the fairness of the
22 Settlement Agreement and has concluded that all such factors weigh in favor of granting final
23 approval. In particular, the Court finds that the Settlement Agreement was reached following
24 meaningful investigation and informal discovery conducted by Class Counsel; that the Settlement
25 Agreement is the result of informed, adversarial, and arm's-length negotiations between the Parties;
26 and that the terms of the Settlement Agreement are in all respects fair, adequate, and reasonable. In
27 so finding, the Court has considered all of the evidence presented, including evidence regarding the
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1 strength of the Plaintiff's case; the risk, expense, and complexity of the claims presented; the likely
2 duration of further litigation; the amount offered in the Settlement Agreement; the extent of
3 investigation and discovery completed; and the experience and views of Class Counsel.
4 Accordingly, the Court **FINALLY APPROVES** of the terms and conditions contained in the
5 Settlement Agreement as to the Settlement Class Members and the PAGA Releasees. The Court
6 finds that the Settlement is, in all respects, fair, reasonable, adequate, and in the best interests of
7 the Settlement Class Members and PAGA Releasees and hereby directs implementation of all
8 remaining terms, conditions, and provisions of the Settlement Agreement.

9 5. The Court further finds that the Settlement satisfies the standards and applicable
10 requirements for final approval of this class action settlement under California law, including the
11 provisions of California Code of Civil Procedure sections 382 and California Rules of Court, Rule
12 3.769, and applicable law.

13 6. For purposes of approving the Settlement only, this Court finds and concludes that:
14 (a) the Class Members are ascertainable and so numerous that joinder of all members is
15 impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined
16 community of interest among Class Members with respect to the subject matter of the claims in the
17 action; (c) the claims of the Plaintiff are typical of the claims of the Class Members; (d) the Plaintiff
18 has fairly and adequately protected the interests of the Class Members; (e) a class action is superior
19 to other available methods for an efficient adjudication of this controversy; and (f) the counsel of
20 record for the Plaintiff, i.e., Class Counsel, is qualified to serve as counsel for the Plaintiff in his
21 individual and representative capacity and for the Class.

22 7. The Parties adequately performed their obligations under the Settlement Agreement
23 and Preliminary Approval Order.

24 8. The Court finds that the approved Class Notice (attached as **Exhibit "A"** to the
25 Settlement Agreement), along with the related notification procedure contemplated by the
26 Settlement Agreement, constituted the best notice practicable under the circumstances. Notice was
27 provided to the Class Members in compliance with the Settlement Agreement and Preliminary
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1 Approval Order, California Code of Civil Procedure section 382, California Rules of Court 3.766
2 and 3.769, the California and United States Constitutions, and any other applicable law.
3 Specifically, the Class Notice: (i) fully and accurately informed Class Members about the lawsuit
4 and Settlement; (ii) provided sufficient information so that Class Members were able to decide
5 whether to opt-out and pursue their own remedies, or object to the proposed Settlement;
6 (iii) provided procedures for Class Members to request exclusion from the Settlement, to state
7 written objections to the proposed Settlement, to dispute the number of workweeks, and to appear
8 at the hearing; and (iv) provided the time, date and place of the final fairness hearing. A full
9 opportunity has been afforded to the Class Members to participate in this hearing and all Settlement
10 Class Members and other persons wishing to be heard have been heard. Accordingly, the Court
11 determines that all Settlement Class Members that did not submit a request for exclusion are bound
12 by this Final Approval Order.

13 9. The Maximum Gross Settlement Amount and the means of distributing the Net
14 Settlement Amount to participating Settlement Class Members are fair and reasonable in light of
15 the nature of this case.

16 10. Class Counsel, James Hawkins APLC, has provided services and benefits to absent
17 Class Members and expended efforts and resources to secure the benefits, and is thus entitled to the
18 requested and unopposed attorneys' fees and costs as approved by the Court.

19 11. The Class Representative, Kayla Milligan, has prosecuted this lawsuit, worked with
20 counsel, undertaken the risks associated with litigation, acted to protect the Class's interests, and
21 conferred a benefit on absent Class Members, and is thus entitled to receive a service payment

22 12. The appointed Settlement Administrator, ILYM Group, Inc., rendered services and
23 will continue to render services, in connection with administering the notice and settlement process,
24 and is thus entitled to its requested administration fees.

25 13. The Maximum Gross Settlement Amount is \$1,500,000.00, with the Net Settlement
26 Amount to be paid to participating Class Members being calculated by subtracting the following
27 amounts from the Maximum Gross Settlement Amount: (1) Class Counsel's attorneys' fees of
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1 \$500,000; (2) Class Counsel's documented costs of \$14,624.27; (3) Service Award to be paid to
2 the Class Representative of \$10,000.00 (4) 75% of the PAGA Penalties of \$125,000.00
3 (\$93,750.00) to the LWDA and 25% of the PAGA Penalties (\$31,250.00) to the PAGA Releasees;
4 and (5) the Settlement Administrator fees to ILYM Group, Inc. of \$15,000.00. The Net Settlement
5 Amount which will be paid as individual Settlement Payments to participating Class Members is
6 estimated to be approximately **\$835,375.73**. There is no reversion to Defendants.

7 14. Pursuant to Labor Code Section 2699, subdivision (l)(2), the Court approves of the
8 Settlement's provisions relating to settlement of claims under the Private Attorneys General Act of
9 2004, Labor Code Section 2698 et seq. ("PAGA").

10 15. Entry of this Final Approval Order shall constitute a full and complete bar against
11 Plaintiff, Settlement Class Members and PAGA Releasees (whether individually, cumulatively or
12 in any combination or in any manner) and in favor of the Released Parties (as defined in the
13 Settlement Agreement) from bringing any Released Claims against Defendant and Released Parties
14 (whether individually, cumulatively or in any combination or in any manner), and shall constitute
15 *res judicata* and collateral estoppel with respect to the Released Claims. As such, as of the Effective
16 Date, the Court finally and permanently enjoins all of the Settlement Class Members and PAGA
17 Releasees from pursuing, or seeking to reopen, any released claims as defined in the Settlement
18 Agreement and/or the Class Notice.

19 16. The Settlement Agreement is not a concession or admission and shall not be used
20 against Defendant as an admission or indication with respect to any claim of any fault or omission
21 by Defendant. Except as necessary to enforce the terms of the Settlement Agreement, neither the
22 Settlement, nor any document, statement, proceeding or conduct related to the Settlement, nor any
23 reports or accounts thereof, shall in any event be construed as, offered or admitted into evidence
24 as, received as or deemed to be in evidence for any purpose adverse to the Defendant, including,
25 but not limited to, evidence of a presumption, concession, indication or admission by Defendant of
26 any liability, fault, wrongdoing, omission, concession, or damage, except for legal proceedings
27 concerning the implementation, interpretation, or enforcement of the Settlement Agreement.
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1 17. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in
2 connection with the administration of the Settlement which are not materially inconsistent with
3 either this Final Approval Order or the terms of the Settlement.

4 **IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

5 **1. Class Members.** The Class is defined and certified as any and all current and former
6 hourly-paid non-exempt employees employed by Defendant CWI Inc. d/b/a Camping World within
7 the State of California at any time between July 8, 2016, and May 2, 2022 (hereinafter “Class
8 Members”). All Class Members who did not timely opt-out are bound by the terms of the Settlement
9 Agreement, and release all of their claims as defined in the Settlement Agreement.

10 **2. Class Period:** The Class Period is defined as the period from July 8, 2016, to May
11 2, 2022.

12 **3. Binding Effect of Order.** This order applies to all claims or causes of action settled
13 under the Settlement Agreement, including any claims settled under PAGA, and binds all Class
14 Members who did not submit valid requests for exclusion (opt-out) from the Settlement (also
15 known as “Settlement Class Members”).

16 **4. Plaintiff’s Release.** Plaintiff, in her individual capacity, is deemed to have released
17 and discharged Defendant and the Released Parties from any and all Plaintiff’s Released Claims,
18 known or unknown, as described in the Settlement Agreement, sections 2.20, and 8.1.2.

19 **5. Class Members’ Release.** Plaintiff and all Class Members who did not properly
20 request exclusion are deemed to have released and discharged the Released Parties from all
21 Released Claims under the Settlement Agreement. The full and complete terms of the releases
22 described in this paragraph are set forth in the Settlement Agreement, sections 2.37, 2.38, 8.1, and
23 8.1.1.
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25 **6. PAGA Releasee Release.** Plaintiff and all PAGA Releasees are deemed to have
26 released and discharged the Released Parties from all PAGA Claims under the Settlement
27 Agreement. The full and complete terms of the releases described in this paragraph are set forth in
28 the Settlement Agreement, sections 2.25, 2.28, and 8.1.3.

1 **7. FLSA Release.** In addition, any individual who worked for Defendant during the
2 FLSA period from July 8, 2017, through May 2, 2022, and that cashes, deposits, or otherwise
3 negotiates the Individual Settlement Payment check shall be deemed to have opted into KAYLA
4 MILLIGAN, et al. v. CWI, Inc. d/b/a CAMPING WORLD, et al., Case No. CIVDS2020159 for
5 purposes of fully and finally releasing all FLSA claims that they may have against the Released
6 Parties.

7 **8. Funding of Settlement.** Within 30 business days after the Effective Date, as
8 defined in the Settlement Agreement, Defendant shall deposit the Maximum Gross Settlement
9 Amount and the amount that the Settlement Administrator advises is due for employer-side payroll
10 taxes into the account created by the Settlement Administrator for administration of the Settlement
11 according to the terms of the Settlement Agreement. The Settlement Administrator shall calculate
12 and distribute the court-approved allocations and the Net Settlement Amount to the participating
13 Settlement Class Members and PAGA Releasees. The distribution shall be in accordance with the
14 instructions and timeline set forth in the Settlement Agreement, sections 7.1, 7.2, 7.4, and 7.6.

15 **9. Uncashed Checks.** Individual Settlement Payment checks shall be negotiable for
16 180 days from the date of issuance. Any individual Settlement Payment checks that have not been
17 negotiated within 180 days after the date of issuance will be voided and shall escheat to the State
18 of California Controller's Office to be held in the name of the Settlement Class Member who is the
19 payee of the check, as set forth in the Settlement Agreement, section 4.5.1(b).

20 **10. Attorneys' Fees and Costs.** Class Counsel is awarded \$_____ in
21 attorneys' fees (\$500,000 requested) and \$_____ in costs (\$14,624.27 requested).
22 This amount is justified under the common fund doctrine, the range of awards ordered by this Court,
23 the excellent results obtained, the substantial risk borne by Class Counsel in litigating this matter,
24 the high degree of skill and quality of work performed, the financial burden imposed by the
25 contingency basis of Class Counsel' representation of Plaintiff and the Class, and the additional
26 work required of Class Counsel to bring this Settlement to conclusion. The Settlement
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1 Administrator on Defendants' behalf must pay Class Counsel this amount according to the timeline
2 set forth in the Settlement Agreement.

3 **11. Service Award.** Plaintiff Kayla Milligan is awarded \$_____ as a
4 service award (\$10,000 requested). The Settlement Administrator on Defendants' behalf must pay
5 Plaintiff this amount according to the timeline set forth in the Agreement.

6 **12. Payment of Settlement Administration Costs.** Payment of \$_____
7 (\$15,000 requested) shall be made to ILYM Group, Inc. for its services as the Settlement
8 Administrator according to the timeline set forth in the Agreement.

9 **13. LWDA Payment.** Payment of \$_____ (\$93,750 requested) shall be
10 paid to the Labor Workforce & Development Agency as 75% of the PAGA penalties. The
11 Settlement Administrator on Defendants' behalf must pay the LWDA this amount according to the
12 timeline set forth in the Settlement Agreement.

13 **14. Final Report.** The Parties shall file a report concerning any uncashed checks or
14 other cash residue by _____ (March 7, 2023 proposed). The report shall be
15 in the form of a declaration from the Settlement Administrator and shall describe: (i) the date the
16 checks were mailed, (ii) the total number of checks mailed to class members, (iii) the average
17 amount of those checks, (iv) the number of checks that remain uncashed, (v) the total value of those
18 uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the nature and date of
19 the disposition of those unclaimed funds.

20 **15. Final Report Hearing.** The Court sets a compliance hearing for
21 _____, 2023 at _____ a.m./p.m.

22 **16. Judgment.** The Court finds that there is no reason for delay and directs the Clerk
23 to enter judgment in accordance with the terms of this Final Approval Order as of the date of this
24 order. By operation of the entry of this Final Approval Order, the Parties and Settlement Class
25 Members are ordered to perform their respective duties and obligations under the Settlement
26 Agreement.
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17. Notice of Judgment. Plaintiff is to give notice to all Class Members of this Final Approval Order and Judgment in accordance with California Rule of Court 3.771(b) by filing a Notice of Entry of Judgment of this Final Approval Order and Judgment with the Court.

18. Copy to LWDA. Within 10 days of entry of this Final Approval Order and Judgment, Plaintiff shall provide a copy of this Final Approval Order and Judgment to the LWDA, pursuant to Labor Code Section 2699, subdivisions (1), (3), & (4).

19. Court's Jurisdiction. Pursuant to the Parties' request, California Code of Civil Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains jurisdiction over this action and the Parties until final performance of the Settlement Agreement.

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: _____, 2022

Honorable David Cohn
JUDGE OF THE SUPERIOR COURT

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