

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF TULARE

MATTHEW RAMIREZ, ADAM
VILLASENOR, LUIS FLORES, STEVEN
SAEVANG, and PEDRO GUTIERREZ
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

v.

PREGIS INNOVATIVE PACKAGING LLC,
a Limited Liability Company; MANPOWER,
U.S. INC., a Corporation, and Does 1 through
50, Inclusive,

Defendants.

CASE NO.: VCU285886 / VCU285887

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

Hearing Date: February 14, 2023
Hearing Time: 8:30 a.m.

Judge: Hon, Bret Hillman
Dept.: 7

Action Filed: February 3, 2021
Trial Date: None Set

1 The motion of Plaintiffs Matthew Ramirez, Adam Villasenor, Luis Flores, Steven Saevang,
2 and Pedro Gutierrez (“Plaintiffs”) for an order finally approving the Class Action Settlement
3 Agreement (“Agreement”) with Defendants Pregis Innovative Packaging LLC (“Pregis”) and
4 Manpower US Inc. (“Manpower”), and the motion for attorneys’ fees and costs, service payments,
5 and the fees and expenses of the Settlement Administrator, duly came on for hearing on February
6 14, 2023 before the Honorable Bret Hillman.

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 Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the California Superior Court for the County of Tulare, and over all Parties to this litigation,
14 including the Class.
- 15 3. Based on a review of the papers submitted by Plaintiffs and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of Seven Hundred Eighty-Four
17 Thousand Six Hundred Twenty Dollars (\$784,620), which is the original Gross Settlement
18 Amount of \$750,000 plus the additional class size modification amount of \$34,620, and the terms
19 set forth in the Agreement are fair, 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 August 18, 2022, the Court granted preliminary approval of the Settlement. At
28

1 this same time, the Court approved conditional certification of the Class for settlement purposes
2 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 September 20,
6 2022. Mailing of the Class Notice to their last known addresses was the best notice option under
7 the circumstances and was reasonably calculated to communicate actual notice of the litigation
8 and the proposed settlement to the Class. The Class Notice given to the Class Members fully and
9 accurately informed the Class Members of all material elements of the proposed Settlement and of
10 their opportunity to object to or comment thereon or to seek exclusion from the Settlement; was
11 valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the
12 State of California, the United States Constitution, due process and other applicable law. The
13 Class Notice fairly and adequately described the Settlement and provided Class Members adequate
14 instructions and a variety of means to obtain additional information.

15 7. The deadline for opting out of the Class or submitting written objections to the
16 Settlement was November 19, 2022. There was an adequate interval between notice and the
17 deadline to permit Class Members to choose what to do and act on their decision. A full
18 opportunity has been afforded to the Class Members to participate in this hearing, and all Class
19 Members and other persons wishing to be heard have been heard. Class Members also have had a
20 full and fair opportunity to exclude themselves from the proposed Settlement and Class.
21 Accordingly, the Court determines that all Class Members who did not timely and properly submit
22 a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

23 **Fairness Of Settlement**

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

26 a. The settlement was reached through arm's-length bargaining between the
27 parties during an all-day mediation before Jeffrey Krivis, a respected and experienced mediator of
28

1 wage and hour class actions. There has been no collusion between the parties in reaching the
2 proposed settlement.

3 b. Plaintiff's investigation and discovery have been sufficient to allow the
4 Court and counsel to act intelligently.

5 c. Counsel for both parties are experienced in similar employment class action
6 litigation. All counsel recommended approval of the Agreement.

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

9 e. The participation rate was high. 248 Class Members will be mailed a
10 settlement payment, representing 100% of the overall Class.

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

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

18 **Attorneys' Fees and Costs**

19 11. An award of \$250,000 for attorneys' fees, representing one-third (1/3) of the Gross
20 Settlement Amount, and \$14,721.59 for litigation costs and expenses, is reasonable, in light of the
21 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
22 achieved by Class Counsel. The requested awards have been supported by Class Counsel's
23 lodestar and billing statement.

24 **Class Representative Service Payments**

25 12. The Agreement provides for a Class Representative Service Payments of not more
26 than \$10,000 to each of the Plaintiffs, subject to the Court's approval. The Court finds that a Class
27 Representative Service Payments in the reduced amount of \$5,000 to each of the Plaintiff is
28

1 reasonable in light of the risks and burdens undertaken by the Plaintiffs in the litigation, for their
2 time and effort in bringing and prosecuting this matter on behalf of the Class, and for their
3 execution of a general release.

4 **Settlement Administration Expenses**

5 13. The Settlement Administrator shall calculate and administer the payment to be
6 made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
7 transmit the Class Representative Service Payments to the Plaintiffs, distribute the PAGA
8 Payment, issue any required tax reporting forms, calculate withholdings and perform the other
9 remaining duties set forth in the Agreement. The Settlement Administrator has documented
10 \$10,440 in fees and expenses, and this amount is reasonable in light of the work performed by the
11 Settlement Administrator.

12 **PAGA Payment**

13 14. The Agreement provides for a PAGA Payment out of the Gross Settlement
14 Amount of \$20,000, which shall be allocated \$15,000 to the LWDA as the LWDA's 75% share of
15 the settlement of civil penalties paid pursuant to the PAGA and \$5,000 to be distributed to the
16 Aggrieved Employees based on their respective pay periods during the PAGA Period. The
17 Aggrieved Employees are all individuals who are or previously were employed by Defendant
18 Pregis and all individuals who were employed by Defendant Manpower and assigned to work at a
19 Pregis facility in California who were classified as hourly non-exempt employees at any time
20 during the PAGA Period, which is February 2, 2020 through February 21, 2022. The Court finds
21 this PAGA Payment to be reasonable. All Aggrieved Employees will be sent their share of the
22 PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth
23 below, whether or not they opt out of the Settlement.

24 **II.**

25 **ORDERS**

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

27 1. The certification of the Class for the purposes of settlement is confirmed. The
28

1 Class is defined as follows:

2 All individuals who are or previously were employed by Defendant Pregis and all
3 individuals who were employed by Defendant Manpower and assigned to work at a
4 Pregis facility in California who were classified as hourly non-exempt employees at
any time during the Class Period (May 8, 2018 to February 21, 2022).

5 2. All persons who meet the foregoing definition are members of the Class, except for
6 those individuals who filed a valid request for exclusion (“opt out”) from the Class. There were
7 no individuals who requested exclusion.

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

10 4. Class Counsel are awarded attorneys' fees in the amount of \$250,000 and costs in
11 the amount of \$14,721.59. Class Counsel shall not seek or obtain any other compensation or
12 reimbursement from Defendants, Plaintiffs or members of the Class.

13 5. The payment of the Class Representative Service Payments in the amount of
14 \$5,000 to each of the Plaintiffs is approved.

15 6. The payment of \$10,440 to the Settlement Administrator for their fees and
16 expenses is approved.

17 7. The PAGA Payment of \$20,000 is approved and shall be allocated in accordance
18 with the Agreement.

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

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

6 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
7 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
8 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
9 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
10 to individual Class Members.

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

18
19 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

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

22 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
23 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
24 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
25 arising from or in connection with the distribution of settlement benefits.

26 3. The Parties are authorized to agree to and to adopt such amendments, modifications
27 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
28

1 Final Approval Order and Judgment and as approved by the Court.

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

4 5. As of the Effective Date, and by virtue of this Order, each Class Member who has
5 not validly opted out has fully and completely released and discharged the "Released Class
6 Claims" against the Defendants and the Released Parties as set forth in the Agreement. "Released
7 Class Claims" means all class claims that were pled or could have been pled based on the factual
8 allegations contained in the operative complaint which occurred during the Class Period, including
9 claims that have been or could have been pled based on the facts of the operative complaint as to
10 wage and hour violations under local, state, and federal law, including, claims under the California
11 Labor Code which arose during the Class Period, and expressly excluding claims for vested
12 benefits, wrongful termination, unemployment insurance, disability, social security, workers'
13 compensation, and class claims outside of the Class Period. The Released Class Claims include
14 claims for: (i) violation of California Business and Professions Code; (ii) failure to pay overtime
15 wages; (iii) failure to pay minimum wages; (iv) failure to provide required meal periods; (v)
16 failure to provide required rest periods; (vi) failure to provide accurate itemized wage statements;
17 (vii) failure to reimburse employees for required expenses; and (viii) failure to provide wages
18 when due.

19 6. As of the Effective Date, Defendants shall receive a release from the State of
20 California of all PAGA claims for civil penalties under California Labor Code Sections 2698 *et*.
21 *seq.*, predicated on the California Labor Code violations that are asserted in the LWDA Notices
22 for violations of Labor Code sections §§ 201, 202, 203, 204, 210, 226(a), 226.7, 351, 510, 512,
23 558(a)(1)-(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
24 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14),
25 Violation of Applicable Industrial Welfare Commission Wage Orders which occurred during the
26 PAGA Period ("Released PAGA Claims"). The release of the Released PAGA Claims shall be
27 effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted
28

1 a request for an exclusion from the Class. The Released PAGA Claims do not include other
2 PAGA claims, underlying wage and hour claims, claims for vested benefits, wrongful termination,
3 discrimination, unemployment insurance, disability, social security, worker's compensation, and
4 PAGA claims outside of the PAGA Period.

5 7. As of the Effective Date, Plaintiff generally releases and discharges the Released
6 Parties from all of the Plaintiffs' Released Claims as set forth fully in the Agreement.

7 8. This Order shall constitute a final judgment pursuant to California Rule of Court
8 3.769(h).

9 9. The Parties will bear their own costs and attorneys' fees except as otherwise
10 provided by this Court's Order awarding Class Counsels' Award for attorneys' fees and litigation
11 costs.

12 10. The Court hereby enters final judgment in accordance with the terms of the
13 Settlement Agreement, the Order Granting Preliminary Approval of Class Action Settlement filed
14 on August 18, 2022, and this Order

15
16 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

17
18 Dated: _____

19 _____
20 HON. BRET HILLMAN
21 JUDGE, SUPERIOR COURT OF CALIFORNIA
22
23
24
25
26
27
28