

1 **BOYAMIAN LAW, INC.**

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8 Attorneys for Plaintiff PAUL BAKER, Other
9 Aggrieved Employees, and the General Public

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF SAN DIEGO**

12 PAUL BAKER, an individual, on behalf
13 of himself, all other aggrieved
14 employees, and the general public,

15 Plaintiff,

16 vs.

17 HESLER LOGISTICS, INC., a Delaware
18 corporation; and DOES 1 through 25,
19 inclusive,

20 Defendants.

CASE NO. 37-2021-00007468-CU-OE-CTL

*Assigned for All Purposes to the Hon. Carolyn Caietti,
Dept. C-70*

UNLIMITED JURISDICTION

**[PROPOSED] ORDER GRANTING APPROVAL
OF AMENDED PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT AGREEMENT
AND AWARD OF ATTORNEYS' FEES AND
COSTS, INCENTIVE PAYMENT, AND
ADMINISTRATOR COSTS**

Hearing:

Date: June 24, 2022

Time: 10:30 a.m.

Dept.: 70

Complaint Filed: February 22, 2021

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego

05/03/2022 at 04:12:44 PM
Clerk of the Superior Court
By Adriana Ives Anzalone, Deputy Clerk

FILED
Clerk of the Superior Court

JUL 14 2022

By: Anthony Shirley, Deputy

1 This matter comes before the Honorable Carolyn Caietti in Department 70 of the above-
2 entitled Court located at Hall of Justice at 3030 West Broadway San Diego, California 92101 on
3 Plaintiff Paul Baker's ("Plaintiff") Motion for Approval of Private Attorneys General Act
4 Settlement Agreement and Award of Attorney's Fees and Costs, incentive Payments, and
5 Administrator Costs. Michael Boyamian of Boyamian Law, Inc. appeared for Plaintiff Paul Baker
6 and Diana M. Estrada and Jennifer A. Brody of Wilson Elser Moskowitz Edleman & Dicker LLP
7 appeared for Defendant Hesler Logistics, Inc. ("Defendant").

8 On April 13, 2022, Plaintiff and Defendant (together the "Parties") fully executed the
9 Amended Settlement Agreement and Release of Claims ("Amended Settlement," "Amended
10 Settlement Agreement," or "Amended Agreement") in accordance with the Court's March 25,
11 2022 Minute Order.

12 The Court has reviewed and considered: (1) The Notice of Motion and Motion for
13 Approval of Private Attorneys General Act Settlement Agreement and Award of Attorneys' Fees
14 and Costs, Incentive Payments, and Administrator Costs and Supplemental papers in support
15 thereof; (2) the Declaration of Plaintiff's Counsel Michael H. Boyamian and Supplemental
16 Boyamian Declaration; (3) The Declaration of Plaintiff; and (4) the Amended Settlement
17 Agreement.

18 Having duly considered the Parties' papers and oral argument, and good cause appearing.

19 **IT IS HEREBY ORDERED AS FOLLOWS:**

20 1. All capitalized terms used herein shall have the same meanings as defined in the
21 Amended Settlement Agreement.

22 2. The Court finds that Plaintiff has satisfied the prerequisites under the California
23 Private Attorneys General Act (Cal. Labor Code § 2698, *et seq.*) ("PAGA"), including, but not
24 limited to. Providing the Labor and Workforce Development Agency ("LWDA") and Defendant
25 with notice of the specific provisions of the California Labor Code alleged to have been violated,
26 including, but not limited to, the facts and theories to support the alleged violations, in conformity
27 with California Labor Code § 2699.3(a).

3. The Court also finds that the Amended Settlement Agreement has been submitted to the LWDA in conformity with California Labor Code § 2699(1)(1) and that the LWDA has not sought to intervene or appear in the Action.

4. The aggrieved employees covered under the Amended Settlement consist of the following individuals:

All current and former hourly non-exempt employees who worked for Defendant in California from June 25, 2019, through the date of preliminary approval, or the date the Court enters an Order Granting Final Approval of the Settlement Agreement, whichever is earlier. (“PAGA Aggrieved Employees”) (“PAGA Period”).

5. The Court finds that the Parties reached the Amended Settlement as a result of arms-length negotiations.

6. Pursuant to California Labor Code § 2699(1)(2), the Court has reviewed the sum allocated for payment of penalties under PAGA (“Net Settlement Amount”), and determines that the Net Settlement Amount is fair, just, reasonable, and adequate. The Court hereby approves the Net Settlement Amount. The Net Settlement Amount shall be the Gross Settlement Amount (\$135,000) less the approved Attorneys’ Fees and Costs, incentive Payments, and Administrator Costs. Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (“LWDA Payment”) and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the PAGA Group Members in accordance with this Order and the Amended Settlement Agreement.

7. The Court has considered the Amended Settlement, and the monetary allocations Provided thereby, and finds that they are fair, just, reasonable, and adequate. The Court hereby directs the Settlement Administrator to administer the Settlement and to make the payments as provided by, and consistent with, this Order and the Amended Settlement Agreement.

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1 8. The Court approves payment of \$37,185.00 for attorneys' fees fully awarded to
2 Boyamian Law, Inc in accordance with the fully executed fee retainer agreement. The Settlement
3 Administrator shall disburse the amount in accordance with this Order, the Amended Settlement
4 Agreement, and the Fee Retainer Agreement.

5 9. The Court approves the payment of \$13,193.50 for reimbursement of litigation
6 costs and expenses incurred in the Action fully awarded to Boyamian Law, Inc.

7 10. The Court approves the payment of \$2,700.00 to Phoenix Class Action Administration
8 Solutions for Administrator Costs, which the Settlement Administrator shall pay itself in
9 accordance with this Order and the Amended Settlement Agreement.

10 11. The Court approves payment in the amount of \$ 7500 to Plaintiff Paul Baker, as
11 an incentive payment. The Settlement Administrator shall disburse this amount in accordance with
12 this Order and the Amended Settlement Agreement.

13 12. The Parties are directed to perform in accordance with the terms set forth in this Order
14 and the Amended Settlement Agreement.

15 13. Defendant shall provide the Settlement Administrator with a list of the names,
16 addresses and number of pay periods/paychecks issued to each of the PAGA Settlement Members
17 during the PAGA Period, fourteen (14) days after the Court issues an Order approving the
18 Amended Settlement.

19 14. Payment of the Total Settlement Payment shall be made by Defendant thirty (30) days
20 after the Effective Date or on March 1, 2022, whichever is later.

21 15. Within thirty (30) days after the Effective Date or the Total Settlement Payment is
22 fully funded, whichever is later, the Settlement Administrator shall pay to the LWDA an amount
23 equivalent.

24 16. Within thirty (30) days after the Effective Date or the Total Settlement Payment is
25 Fully funded, whichever is later, the Settlement Administrator shall distribute to PAGA Settlement
26 Members their individual portion of the PAGA Fund (the "Individual Payment"), or as otherwise
27 directed by the Court. A letter approved by the Parties will be included in the mailing of the
28

1 Individual Payment to each PAGA Settlement Member to seventy-five percent (75%) of the PAGA
2 Fund.

3 17. Within thirty (30) days after the Effective Date or the Total Settlement Payment is
4 fully funded, whichever is later, the Settlement Administrator shall distribute the Plaintiff's
5 Enhancement Award.

6 18. Within thirty (30) days after the Effective Date or the Total Settlement Payment is
7 fully funded, whichever is later, the Settlement Administrator shall distribute to the Plaintiff's
8 Counsel the court-approved Plaintiff's Counsel Payment and approved litigation costs, either via
9 wire transfer payment or check, as specified by Plaintiff's Counsel.

10 19. All settlement checks will remain valid and negotiable for 180 days from the date of
11 their initial mailing by the Settlement Administrator. After 180 days from the date of their mailing
12 by the Settlement Administrator, any uncashed checks will be void. For any PAGA Settlement
13 Member whose funds are undeliverable and/or who does not cash or negotiate her or his settlement
14 check within 180 days, the uncashed funds shall be distributed to the Controller of the State of
15 California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500, et.
16 seq. in the name of the PAGA Group Member whose Settlement Share check is cancelled and in
17 the respective amount of the cancelled check for the benefit of the PAGA Settlement Member(s).

18 20. Judgment shall be entered in this Action. The judgment shall bind each PAGA Group
19 Member and the State of California to the Settlement and shall operate as a full release and
20 discharge of the Released Claims against the Released Parties, as set forth in the Amended
21 Settlement Agreement. All rights to appeal the judgment have been waived. The judgment and this
22 Order shall have *res judicata* effect.

23 21. The Court shall retain jurisdiction as to the implementation and enforcement of the
24 terms of the Amended Settlement Agreement.

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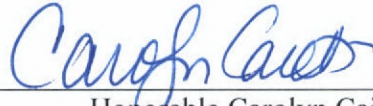
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1 22. Notice of this Order and judgment shall be given to the LWDA by submission through
2 the online system established for the filing of notices and documents, in conformity with California
3 Labor Code § 2699(1)(3).

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5 Date:

7/14/22



Honorable Carolyn Caietti
Judge of the Superior Court