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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

CELIA STEWART, as an individual and on behalf
of all others similarly situated, and as a private
attorney general;

Plaintiff,

vs.

RITCHIE BROS AUCTIONEERS (AMERICA)
INC., a Washington corporation; RITCHIE BROS
AUCTIONEERS INC., a Washington corporation
upon information and belief, and DOES 1 through
50, inclusive,

Defendants.

Case No. RG21086650

[Hon. Evelio Grillo, Department 21]

**~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: March 1, 2023
Time: 10:00 a.m.
Department: 21

Reservation ID: 179371674381

Complaint Filed: January 25, 2021

FILED
ALAMEDA COUNTY

MAR 06 2023

CLERK OF THE SUPERIOR COURT
By *Mercedes*

1 On or about February 2, 2023, Plaintiff, Celia Stewart, filed a motion for an Order Granting Final
2 Approval of Class Action Settlement, and on March 1, 2023, a hearing was held on this matter.

3 The Court has considered the papers and evidence, including the Joint Stipulation of Class
4 Action and PAGA Settlement (“Agreement”), the arguments of counsel, and all other matters presented
5 to the Court regarding final approval of the settlement, approval of requested allocations from the
6 settlement fund, and entry of final judgment.

7 **I. Background**

8 On January 25, 2021, Plaintiff, Celia Stewart, filed this class and Labor Code Private Attorneys
9 General Act of 2004 (“PAGA”) action against Defendants Ritchie Bros. Auctioneers (America) Inc. and
10 Ritchie Bros. Auctioneers Inc. The operative first amended complaint alleges claims for underpaid sick
11 pay wages, underpaid overtime, untimely payment of wages during and upon separation of employment,
12 inaccurate itemized wage statements, unfair competition, and penalties pursuant to PAGA. The lawsuit
13 seeks to remedy (i) alleged underpayments of sick pay wages and overtime resulting from a failure to
14 factor certain non-discretionary remuneration into the regular rate of pay and (ii) alleged failures to
15 furnish wage statements showing the name of the legal entity that was the employer.

16 **A. Class Members**

17 The Class is defined to include Sick Pay Class Members, Overtime Class Members, and Wage
18 Statement Class Members. “Sick Pay Class Member” means any current or former non-exempt
19 employee of Defendants in the State of California who was paid sick pay wages in any workweek during
20 the Class Period in which they also earned non-discretionary remuneration, including profit-sharing pay.
21 “Overtime Class Member” means any current or former non-exempt employee of Defendants in the
22 State of California who was paid overtime wages in any workweek during the Class Period in which
23 they also earned non-discretionary remuneration, including profit-sharing pay. “Wage Statement Class
24 Member” means any current or former non-exempt employee of Defendants in the State of California
25 during the Class Period. The Class Period is from April 4, 2021, through February 3, 2022.

26 All Class Members are also Aggrieved Employees. The PAGA Period is the same as the Class
27 Period.
28

1 **B. Operation of the Settlement**

2 Pursuant to the Court's November 9, 2022 Preliminary Approval Order, the Court conditionally
3 certified the Class and granted preliminary approval to the settlement. The Preliminary Approval Order
4 also approved of the proposed forms of notice to the Class. The Court entered the Preliminary Approval
5 Order after review and consideration of all of the pleadings filed in connection herewith, and the oral
6 presentations made by counsel at the hearing. In compliance with the Preliminary Approval Order, the
7 Notice of Class Action Settlement ("Class Notice") was sent to all Class Members via first class mail.
8 The notice process was timely completed.

9 This Court finds that the Agreement appears to be the product of serious, informed, non-
10 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
11 to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to
12 California Code of Civil Procedure section 877.6. The Court further finds that the Agreement is fair,
13 adequate, and reasonable and that Plaintiff has satisfied the standards for final approval of a class action
14 settlement under California law. Under the provisions of California Code of Civil Procedure section 382
15 and Rule 23 of the Federal Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4
16 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

17 [Q]uestions of law or fact common to the members of the class predominate over any questions
18 affecting only individual members, and that a class action is superior to the available methods for
the fair and efficient adjudication of the controversy

19 FED. R. CIV. PROC. 23.

20 Certification of a settlement class is the appropriate judicial device under these circumstances.

21 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

22 1. For purposes of this Order, the Court adopts all defined terms as set forth in the
23 Agreement.

24 2. The Court has jurisdiction over the subject matter of the litigation, the Class
25 Representative, Settlement Class Members, and Defendant.

26 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
27 appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice
28

1 practicable under the circumstances to all Class Members, and fully met the requirements of California
2 law and due process under the State and Federal Constitutions.

3 4. The Court approves the settlement of the above-captioned action, as set forth in the
4 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
5 to perform in accordance with the terms set forth in the Agreement.

6 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
7 and attorneys' fees.

8 6. The Court hereby certifies the following Class of Sick Pay Class Members, Overtime
9 Class Members, and Wage Statement Class Members for settlement purposes only: (i) all current or
10 former non-exempt employees of Defendants in the State of California who were paid sick pay wages in
11 any workweek from April 4, 2021, through February 3, 2022, in which they also earned non-
12 discretionary remuneration, including profit-sharing pay; (ii) all current or former non-exempt
13 employees of Defendants in the State of California who were paid overtime wages in any workweek
14 from April 4, 2021, through February 3, 2022, in which they also earned non-discretionary
15 remuneration, including profit-sharing pay; and (iii) all current or former non-exempt employees of
16 Defendants in the State of California at any time from April 4, 2021, through February 3, 2022.

17 7. With respect to the Class and for purposes of approving the settlement only and for no
18 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
19 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
20 the Class, and there is a well-defined community of interest among members of the Class with respect to
21 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representative are
22 typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately
23 protected the interests of the members of the Class; (e) a class action is superior to other available
24 methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class
25 Representative, i.e., Class Counsel, are qualified to serve as counsel for Plaintiff in her individual and
26 representative capacities and for the Class.

1 8. Within 14 days after the grant of Final Approval of the settlement, Defendant shall
2 deposit the Gross Settlement Amount of \$228,900.00 with the Administrator, pursuant to the terms of
3 the Agreement.

4 9. Subject to the holdback in Paragraph 10, the Administrator shall pay from the Gross
5 Settlement Amount:

- 6 1. to Class Counsel attorneys' fees in the amount of \$76,300.00 and reimbursement
7 of costs in the amount of \$10,065.24;
- 8 2. to Class Representative Celia Stewart for her unique services to the Class, and as
9 consideration for the execution of a general release, the amount of ~~\$16,000.00~~^{7,500};
- 10 3. to the California Labor and Workforce Development Agency the amount of
11 \$15,000.00 for its 75% share of PAGA Penalties; and
- 12 4. to Phoenix Settlement Administrators the amount of \$6,250.00 for its fees and
13 costs in administering the settlement.

14 10. The Court finds that these amounts are fair and reasonable. The Administrator is directed
15 to make such payments in accordance with the terms of the Agreement, with the exception of 10% of the
16 \$76,300.00 in attorneys' fees, or \$7,630.00, which shall remain on deposit with the Administrator until
17 the completion of the settlement distribution process and the Court approves a final accounting.

18 11. The Court approves the Individual Settlement Payment and Individual PAGA Payment
19 amounts, which shall be distributed by the Administrator pursuant to the terms of the Agreement, after
20 allocation of the amounts set forth in Paragraph 9.

21 12. The Court hereby orders the parties to implement the terms of the Agreement, including
22 distributing any uncashed settlement checks to the State Unclaimed Property Fund in the name of the
23 recipient.

24 13. A compliance hearing is set for October ___, 2023, at 10:00 a.m. in Department 21 of this
25 Court. At least 16 days prior to the compliance hearing, Plaintiff shall file a declaration from the
26 Administrator establishing the status of distribution of settlement funds. If the distribution is completed,
27 the Court will approve a final accounting and order the release of the holdback of 10% of the attorneys'
28 fees.

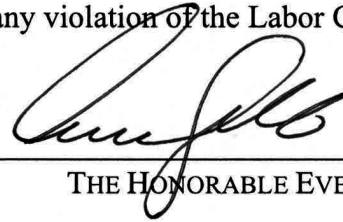
1 14. All Class Members who did not opt out of the Settlement shall be bound by the releases
2 provided in the Agreement. All PAGA Employees shall be bound by the PAGA releases provided in the
3 Agreement. The Class Representative shall be bound by the additional general releases provided in the
4 Agreement.

5 15. The Court hereby enters final judgment in this case in accordance with the terms of the
6 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement
7 or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the
8 Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order
9 and the Settlement.

10 16. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the
11 filing of this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or
12 other wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
13 judgment are an admission of any liability or finding of any violation of the Labor Code.

14 **IT IS SO ORDERED AND ADJUDGED.**

15 DATED: March 6, 2023, 2023



THE HONORABLE EVELIO GRILLO