

PLACER COUNTY SUPERIOR COURT
THURSDAY, CIVIL LAW AND MOTION
DEPARTMENT 3
THE HONORABLE MICHAEL W. JONES
TENTATIVE RULINGS FOR AUGUST 25, 2022 AT 8:30 A.M.

9. S-CV-0046899 MULLIN, SHANNON v. S&G DISCOUNT OUTLET

Plaintiff's Motion for Final Approval of Class and Representative Action Settlement

The unopposed motion is granted. The court has broad discretion to determine whether a class action settlement is fair, adequate, and reasonable. (*In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1389.) When reviewing the fairness of the settlement, the court is to give due regard to the parties' agreement, ensuring that the agreement is not a product of fraud, overreaching parties, or collusion and that the settlement, as a whole, is fair, reasonable, and adequate. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1145.) A presumption of fairness exists where: (1) the settlement was reached through arms-length bargaining; (2) the investigation and discovery were sufficient to allow class counsel and the court to act intelligently; (3) class counsel is experienced in similar litigation; and (4) there is a small percentage of objectors. (*Ibid.*)

Further, the court reviews the moving papers along with the entirety of the court file to determine that the settlement is genuine, meaningful, and consistent with the underlying purposes of the PAGA-related statute. (Labor Code section 2699(l); *O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110.) The court must also determine whether the PAGA settlement appears fundamentally fair, reasonable, and adequate. (*Ibid.*)

The court has carefully reviewed and considered the joint stipulation along with plaintiff's moving papers filed in connection with the motion. The court determines a sufficient showing has been made that the settlement, the attorneys' fees, costs, and service award are fair, adequate, and reasonable. The court further determines a sufficient showing has been made that the settlement is fair, reasonable, genuine, meaningful, and consistent with the purpose of PAGA.

The court grants final approval of the class action and PAGA settlement and approves the attorneys' fees, costs, and service award. The court incorporates by reference the findings and orders outlined in the proposed order approving class action settlement and judgment lodged on July 21, 2022.

The court retains jurisdiction over the parties to enforce the terms of the judgment. (California Rules of Court, Rule 3.769(h).)

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8 and all others similarly situated

9 **SUPERIOR COURT OF CALIFORNIA**
10 **FOR THE COUNTY OF PLACER**

11 SHANNON MULLIN, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.
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16 S&G DISCOUNT OUTLET, INC.;
17 MARK WAGNER, an individual; DOES
18 1 through 20, inclusive,

19 Defendants.
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Case No.: S-CV-0046899

CLASS ACTION

**[PROPOSED] FINAL ORDER
APPROVING CLASS ACTION
SETTLEMENT AND JUDGMENT**

Date: August 25, 2022

Time: 8:30 a.m.

Dept.: 42

Reservation No.: *(hearing set by Judge)*

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 The above-referenced class action (“Action”) having come before the Court on August 25,
3 2022, for a hearing and Final Order Approving Class Settlement and Judgment (“Final Order”),
4 consistent with the Court’s Preliminary Approval Order (“Preliminary Approval Order”), and as
5 set forth in the Joint Stipulation of Settlement and Release Between Plaintiff and Defendant
6 (“Stipulation”) in the Action, and due and adequate notice having been given to all Class Members
7 as required in the Preliminary Approval Order, and the Court having considered all papers filed
8 and proceedings had herein and otherwise being fully informed and good cause appearing
9 therefore, it is hereby ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

10 1. All terms used herein shall have the same meaning as defined in the Joint
11 Stipulation submitted with the Motion for Preliminary Approval.

12 2. Consistent with the definitions provided in the Stipulation, the terms “Class” and
13 “Class Members” shall mean the following:

14 “All current and former commissioned sales employees of Defendant S&G Outlet, Inc.
15 working in the "Costco Group," employed in California for the period from June 23, 2017
16 through February 17, 2021.”

17 3. Consistent with the definitions provided in the Stipulation, the term “Class Period”
18 shall mean the following:

19 “The period from June 23, 2017 through and including February 17, 2021.”

20 4. For purposes of the Settlement and this Final Order, “Released Parties” as referenced
21 herein and as released in the Settlement shall collectively mean:

22 “(i) S&G Carpet Outlet; (ii) Mark Wagner; (iii) each of Defendants' past, present, and future
23 direct and indirect parents; (iv) the respective past, present, and future direct and indirect
24 subsidiaries and affiliates of any of the foregoing; (v) the past, present, and future
25 shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners,
26 managers, contractors, agents, consultants, representatives, administrators, fiduciaries,
27 benefit plans, insurers, transferees, predecessors, successors and assigns of any of the
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1 foregoing; and (vi) any individual or entity which could be jointly liable with any of the
2 foregoing.”

3 5. This Court has jurisdiction over the subject matter of this Action and over all Parties
4 to this Action, including all Class Members.

5 6. Distribution of the Class Notice directed to the Class Members as set forth in the
6 Stipulation and the other matters set forth therein has been completed in conformity with the
7 Preliminary Approval Order, including individual notice to all Class Members who could be
8 identified through reasonable effort, and the best notice practicable under the circumstances. The
9 Notice provided due and adequate notice of the proceedings and of the matters set forth therein,
10 including the proposed Settlement set forth in the Stipulation, to all persons entitled to such Notice,
11 and the Notice fully satisfied the requirements of due process. All Class Members and all Released
12 Claims are covered by and included within the Settlement and this Final Order.

13 7. The Court hereby finds the Settlement was entered into in good faith pursuant to and
14 within the meaning of California Code of Civil Procedure section 877.6. The Court further finds
15 that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the standards and
16 applicable requirements for final approval of this class action settlement under California law,
17 including the provisions of California Code of Civil Procedure section 382 and Federal Rule of Civil
18 Procedure 23, approved for use by the California state courts in *Vasquez v. Superior Court* (1971) 4
19 Cal. 3d 800, 821.

20 8. The Court hereby approves the Settlement set forth in the Stipulation and finds that
21 the Settlement is, in all respects, fair, adequate, and reasonable, and directs the Parties to effectuate
22 the Settlement according to its terms. The Court finds that the Settlement has been reached as a
23 result of intensive, serious, and non-collusive arm’s length negotiations. The Court further finds that
24 the Parties have conducted extensive investigation and research, and counsel for the Parties are able
25 to reasonably evaluate their respective positions. The Court also finds that Settlement at this time
26 will avoid additional substantial costs, as well as avoid the delay and risks that would be presented
27 by the further prosecution of the Action. The Court has reviewed the benefits that are being granted
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1 as part of the Settlement and recognizes the significant value to the Class Members. The Court also
2 finds that the Class is properly certified as a class for settlement purposes only.

3 9. As of the date of entry of this Final Order, each and every Released Claim (as defined
4 in the Stipulation of Settlement and set forth below) of each and every Class Member is and shall be
5 deemed to be conclusively released as against the Released Parties. As of the date of this Final
6 Order, the Class Representatives and each and every Class Member who has not submitted a timely
7 and valid Request for Exclusion is hereby released and forever barred and enjoined from prosecuting
8 the Released Claims, except as to such rights that may be created by the Settlement, against
9 Defendant and the Released Parties, from any and all claims, debts, liabilities, demands, obligations,
10 guarantees, costs, expenses, attorneys' fees, damages, action or causes of action of any nature under
11 any state, federal or local law that were or could have been asserted based on the facts and allegations
12 made in the Action, and any amendments thereto, as to the Class Members.

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14 10. "Released Claims" is defined as follows:

15 "All claims under state, federal and local law that were or could have been asserted based
16 on the facts and allegations made in the Action, and any amendments thereto, as to the
17 Class Members, including without limitation, California Labor Code sections
18 200,201,202,203,213,226, 2698, et seq., 2802, California Industrial Commission Wage
19 Orders, and Business and Professions Code sections 17200, et seq., and including all claims
20 for or related to alleged unpaid wages, timely payment of wages during employment and at
21 separation, unfair competition, unfair business practices, unlawful business practices,
22 fraudulent business practices, conversion, class actions, representative actions, aggrieved
23 party claims, injunctive relief, declaratory relief, accounting, liquidated damages, penalties
24 of any nature (including but not limited to civil penalties, waiting-time penalties, and
25 PAGA penalties), interest, fees, costs, as well as all other claims and allegations alleged in
26 the Action, from June 23, 2017 through the date the Court finally approves the Settlement."

27 11. Neither the Settlement nor any of the terms set forth in the Stipulation is an admission
28 by Defendants, or any of the other Released Parties, nor is this Final Order a finding of the validity

1 of any claims in the Action or of any wrongdoing by Defendants, or any of the other Released Parties.
2 Neither this Final Order, the Stipulation, nor any document referred to herein, nor any action taken
3 to carry out the Stipulation is, may be construed as, or may be used as, an admission by or against
4 Defendants, or any of the other Released Parties, of any fault, wrongdoing or liability whatsoever.
5 The entering into or carrying out of the Stipulation, and any negotiations or proceedings related
6 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
7 concession with regard to the denials or defenses by Defendants, or any of the other Released Parties,
8 and shall not be offered in evidence in any action or proceeding in any court, administrative agency
9 or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Order,
10 the Stipulation, the Released Claims, or any related agreement or release. Notwithstanding these
11 restrictions, any of the Released Parties may file in the Action, or submit in any other proceeding,
12 the Final Order, the Stipulation, and any other papers and records on file in the Action as evidence
13 of the Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of
14 claim or issue preclusion or similar defense as to the Released Claims.
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16 12. The Court hereby enters judgment in the entire Action as of the filing date of this
17 Final Order, pursuant to the terms set forth in the Stipulation. Without affecting the finality of this
18 Final Order in any way, the Court hereby retains continuing jurisdiction over the interpretation,
19 implementation and enforcement of the Settlement and all orders entered in connection therewith
20 pursuant to California Code of Civil Procedure section 664.6.

21 13. The Court finds the settlement payments provided for under the Settlement to be fair
22 and reasonable in light of all of the circumstances. The Court orders the calculations and the
23 payments to be made and administered in accordance with the terms of the Settlement.

24 14. The Court hereby confirms Timothy B. Del Castillo and Kent L. Bradbury of Castle
25 Law: California Employment Counsel, PC as Class Counsel in the Action.

26 15. Pursuant to the terms of the Settlement, and the authorities, evidence and argument
27 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in the amount
28 of \$38,500.00, and attorneys' costs in the amount of \$1,639.04, from the Maximum Settlement

1 Amount as final payment for and complete satisfaction of any and all attorneys' fees and costs
2 incurred by and/or owed to Class Counsel and any other person or entity related to the Action. The
3 Court further orders that the award of attorneys' fees and costs set forth in this Paragraph shall be
4 administered pursuant to the terms of the Stipulation; any allocation of attorneys' fees and costs
5 between and among Class Counsel shall be made by the Settlement Administrator pursuant to a
6 separate and independent agreement between Class Counsel.

7 16. The Court also hereby approves and orders a Class Representative Incentive Award
8 to Plaintiff and Class Representative Shannon Mullin in the amount of \$5,000.00 from the Maximum
9 Settlement Amount.

10 17. The Court also hereby approves and orders payment in the amount of \$3,750.00 (75
11 percent of \$5,000.00) from the Maximum Settlement Amount for PAGA penalties, which shall be
12 made payable to the California Labor Workforce Development Agency; the remaining \$1,250.00
13 (25 percent) shall remain included in the Net Settlement Amount for distribution to Class Members.

14 18. The Court also hereby approves and orders payment from the Maximum Settlement
15 Amount for actual settlement administration expenses incurred by the Settlement Administrator,
16 *Simpluris* in the amount of \$3,000.00.

17 19. The Court also hereby approves and orders that to the extent any Participating
18 Settlement Class Member fails to cash a settlement check within 90 days of issuance, the uncashed
19 funds, including interest accrued in the QSF, will be paid out to Center for Worker's Rights, as the
20 *cy pres* recipient pursuant to Code of Civil Procedure Section.

21 20. Provided the Settlement becomes effective under the terms of the Stipulation, the
22 Court also hereby orders that the deadline for mailing the Court-approved Settlement Awards,
23 attorneys' fees and costs, and Enhancement Award is as set forth in the Implementation Schedule
24 within the Preliminary Approval Order.

25 21. The Court also hereby finds that there were no objections to the Settlement raised by
26 any person on the record at the hearing on the Final Order.
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IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____

JUDGE OF THE SUPERIOR COURT