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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 10 2023

BY 
JESSICA MORALES, DEPUTY

7 Attorneys for Plaintiffs Bernardo Hernandez and
8 Maria G. Flores, on behalf of themselves and others
similarly situated

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN BERNARDINO**
12

13 BERNARDO HERNANDEZ and MARIA G.
14 FLORES, on behalf of themselves and others
similarly situated,

15 Plaintiffs,

16 v.

17 WILBUR CURTIS CO., INC.; WCCO
18 HOLDINGS, INC.; KEVIN ROBERT
19 CURTIS; MICHAEL AITKIN CURTIS; and
DOES 1 through 100, inclusive,

20 Defendants.
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Case No.: CIVSB2125955

Assigned for all purposes to:
Hon. David Cohn, Dept. S26

CLASS ACTION

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT, ATTORNEYS' FEES
AND COSTS, AND CLASS
REPRESENTATIVES' ENHANCEMENT
PAYMENTS**

Final Approval Hearing

Date: January 27, 2023
Time: 10:00 a.m.
Dept.: S26

**[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION
SETTLEMENT, ATTORNEYS' FEES AND COSTS, AND PLAINTIFFS' ENHANCEMENT PAYMENTS**

1 This matter came on regularly for hearing on January 27, 2023 at 10:00 a.m. in Dept. S26,
2 pursuant to California Rules of Court, Rule 3.769 and this Court's October 10, 2022 Order Granting
3 Preliminary Approval of Class and Representative Action Settlement ("Preliminary Approval
4 Order"). Having considered the parties' Stipulation of Class and Representative Action Settlement
5 ("Settlement Agreement")¹ and the documents and evidence presented in support thereof, and
6 recognizing the disputed factual and legal issues involved in this case, the risks of further prosecution
7 and the substantial benefits to be received by Settlement Class Members and PAGA Group Members
8 pursuant to the settlement, the Court hereby makes a final ruling that the proposed settlement is fair,
9 reasonable, and adequate, and is the product of good faith, arm's-length negotiations between the
10 parties. Good cause appearing therefor, the Court hereby GRANTS Plaintiffs' Motion for Final
11 Approval of Class and Representative Action Settlement and ORDERS as follows:

12 1. The conditional class certification contained in the Preliminary Approval Order is
13 hereby made final, and the Court thus certifies, for purposes of the settlement only, a Class defined
14 as:

15 All current and former hourly-paid or non-exempt employees who worked for
16 Defendants within the State of California from April 6, 2017 to August 24, 2022 (the
"Class" or "Class Members").

17 2. Plaintiffs Bernardo Hernandez and Maria G. Flores ("Plaintiffs") are hereby
18 confirmed as Class Representatives, and CounselOne, PC is hereby confirmed as Class Counsel.

19 3. Notice was provided to Class Members and PAGA Group Members as set forth in
20 the Settlement Agreement. The form and manner of notice were approved by the Court on October
21 10, 2022, and the notice process has been completed in conformity with the Court's Preliminary
22 Approval Order. The Court finds that said notice was the best notice practicable under the
23 circumstances. The Notice of Pendency of Class and Representative Action Settlement ("Notice")
24 provided due and adequate notice of the proceedings and matters set forth therein, informed Class
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27 ¹ This Order incorporates by reference the definitions in the Settlement Agreement, and all
28 capitalized terms defined therein shall have the same meaning in this Order as set forth in the
Settlement Agreement.

Members of their rights, and fully satisfied the requirements of California Code of Civil Procedure section 1781(e), California Rules of Court, Rule 3.769, and due process.

4. The Court finds that no Class Members objected to or opted out of the settlement, and that the 100% participation rate in the settlement supports final approval.

5. The Court hereby approves the settlement as set forth in the Settlement Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement according to its terms.

6. For purposes of settlement only, the Court finds that (a) the members of the Settlement Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined community of interest among members of the Settlement Class with respect to the subject matter of the litigation; (c) the claims of the Class Representatives are typical of the claims of the members of the Settlement Class; (d) the Class Representatives have fairly and adequately protected the interests of the Settlement Class Members; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class Representatives and the Settlement Class.

7. The Court finds that given the absence of objections to the settlement, and objections being a prerequisite to appeal, that this Order shall be considered final as of the date of notice of entry.

8. The Court orders Defendants to pay the Gross Settlement Amount of \$1,575,000 as provided for in the Settlement Agreement. Pursuant to the terms of the Settlement Agreement, the employer's share of payroll taxes for the portion of the Net Settlement Amount allocated to wages shall be paid by Defendants separately from, and in addition to, the Gross Settlement Amount.

9. The Court finds that the settlement payments, as provided for in the Settlement Agreement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the individual payments in conformity with the terms of the Settlement Agreement.

10. The Court finds that enhancement payments in the amount of \$10,000 to each of the named Plaintiffs is appropriate for the risks they undertook and their service to the Settlement Class.

1 The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
2 Administrator make this payment in conformity with the terms of the Settlement Agreement.

3 11. The Court finds that attorneys' fees in the amount of ~~\$551,250~~^{\$525,000} and litigation costs of
4 \$25,000 for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement
5 Administrator distribute these payments to Class Counsel in conformity with the terms of the
6 Settlement Agreement.

7 12. The Court orders that the Settlement Administrator shall be paid \$14,250 from the
8 Gross Settlement Amount for all of its work done and to be done until the completion of this matter,
9 and finds that sum appropriate.

10 13. The Court finds that the payment to the California Labor & Workforce Development
11 Agency ("LWDA") in the amount of \$105,000 for its share of the settlement of Plaintiffs'
12 representative action under the California Labor Code's Private Attorneys General Act of 2004
13 ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
14 this payment to the LWDA in conformity with the terms of the Settlement Agreement.

15 14. The Court finds and determines that upon satisfaction of all obligations under the
16 Settlement Agreement, all Settlement Class Members and PAGA Group Members will be bound by
17 the settlement, will have released the claims listed under the Settlement Class Members' Released
18 Claims and PAGA Group Members' Released Claims (as set forth below and in the Settlement
19 Agreement), and will be permanently barred from prosecuting against the Released Parties any of
20 the claims under the Settlement Class Members' Released Claims and PAGA Group Members'
21 Released Claims (as set forth below and in the Settlement Agreement):

22 Released Parties. "Released Parties" means Defendants, and their former and present
23 officers, directors, employees, attorneys, insurers, predecessors, successors, parents,
related entities, and subsidiaries.

24 Settlement Class Members' Released Claims. "Settlement Class Members' Released
25 Claims" means all liabilities, causes of action and/or claims under any state law, local
26 law, federal law, or administrative order by Settlement Class Members against
27 Released Parties alleged, or that could have been alleged based on the facts asserted
28 in the operative complaint filed by Plaintiffs in the Lawsuit for: (1) failure to pay
minimum wages, (2) failure to pay all overtime wages, (3) failure to provide meal
periods, (4) failure to provide rest breaks, (5) failure to reimburse for business
expenses, (6) failure to provide accurate itemized employee wage statements, (7)
failure to pay all wages owed timely and upon separation of employment, (8) failure

1 to maintain records in violation of Labor Code section 1174(d), and (9) violation of
2 Business & Professions Code sections 17200, *et seq.* This release of claims includes
3 claims that could have been alleged based on the facts asserted in the operative
4 complaint, including under the Fair Labor Standards Act ("FLSA") and under the
5 applicable California Industrial Welfare Commission Wage Order, and derivative
6 claims under common law, and claims for statutory or civil penalties, liquidated
7 damages, punitive damages, interest, attorneys' fees, litigation and other costs,
8 expenses, restitution, and equitable and declaratory relief. The period of the
9 Settlement Class Members' Released Claims shall run from April 6, 2017 through
10 August 24, 2022. This release excludes the release of claims not permitted by law.

11 PAGA Group Members' Released Claims. "PAGA Group Members' Released
12 Claims" means all claims for civil penalties arising under the PAGA (codified in
13 California Labor Code §§ 2698, *et seq.*), during the PAGA Period, alleged or
14 reasonably could have been alleged based on the facts asserted in the operative
15 complaint and Plaintiffs' LWDA letters filed by Plaintiffs in the Lawsuit.

16 Release of Claims by Settlement Class Members. Upon the Final Approval Date,
17 Plaintiffs and all Settlement Class Members (*i.e.*, those who do not opt-out of the
18 settlement), for and in consideration of the Gross Settlement Amount, along with the
19 terms and undertakings herein, the sufficiency and fairness of which are
20 acknowledged, release and forever discharge Defendants, and their former and
21 present officers, directors, employees, attorneys, insurers, predecessors, successors,
22 parents, related entities, and subsidiaries (collectively referred to herein as "Released
23 Parties") from all liabilities, causes of action and and/or claims that were alleged or
24 that could have been alleged based on the facts asserted in the operative complaint
25 filed by Plaintiffs in the Lawsuit, arising at any time during the Class Period, for: (1)
26 failure to pay minimum wages, (2) failure to pay all overtime wages, (3) failure to
27 provide meal periods, (4) failure to provide rest breaks, (5) failure to reimburse for
28 business expenses, (6) failure to provide accurate itemized employee wage
statements, (7) failure to pay all wages owed timely and upon separation of
employment, (8) failure to maintain records in violation of Labor Code section
1174(d), and (9) violation of Business & Professions Code sections 17200, *et seq.*
(collectively, the "Settlement Class Members' Released Claims"). Settlement Class
Members' Released Claims include claims that could have been alleged based on the
asserted arising out of facts asserted in the operative complaint, including under the
Fair Labor Standards Act ("FLSA") and under the applicable California Industrial
Welfare Commission Wage Order, and derivative claims under common law, and
claims for statutory or civil penalties, liquidated damages, punitive damages, interest,
attorneys' fees, litigation and other costs, expenses, restitution, and equitable and
declaratory relief. Settlement Class Members' Released Claims will take effect
whether or not a Settlement Class Member receives his or her Individual Settlement
Payment sent to his or her last known address or cashes and deposits any check for
the Individual Settlement Payment, with the exception for the release of the FLSA
claims which will be effective only as to Settlement Class Members who cash their
Individual Settlement Payment. This release excludes the release of claims not
permitted by law.

25 Release of Claims by PAGA Group Members. Upon the Final Approval Date, all
26 PAGA Group Members will release the Released Parties from all claims for civil
27 penalties arising under the PAGA (codified in California Labor Code §§ 2698, *et*
28 *seq.*), during the PAGA Period, alleged or reasonably could have been alleged based
on the facts asserted in the operative complaint and LWDA letters filed by Plaintiffs
in the Lawsuit (collectively, the "PAGA Group Members' Released Claims").

15. The settlement is not an admission by Defendants, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants. Neither this Order, the settlement, nor any document referred to herein, nor any action taken to carry out the settlement, shall be construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendants.

16. The Court will retain jurisdiction to enforce the Settlement Agreement, this Final Approval Order, and the Judgment entered in connection with the settlement.

17. Notice of entry of this Final Approval Order shall be given to Settlement Class Members and PAGA Group Members by posting a copy of the Final Approval Order on the Settlement Administrator's website for a period of at least sixty (60) calendar days after the date of entry of this Final Approval Order.

IT IS SO ORDERED.

Dated:

2/14/23

Hon. David Cohn
Judge of the Superior Court