

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff ARNOLD SERRANO
individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

ARNOLD SERRANO, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

COOL TIME, LLC, a California Corporation;
and DOES 1 to 100, inclusive,

Defendants.

Case No. 34-2021-00312356

*Assigned for All Purposes to Hon. Lauri A. Damrell,
Department 28*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: August 4, 2023

Time: 9:00 a.m.

Dept.: 28

Judge: Hon. Lauri A. Damrell

Filed: December 8, 2021

FAC Filed: February 10, 2022

Trial Date: None Set

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement (“Motion”) in the above
3 referenced case came before this Court, on August 4, 2023, at 9:00 a.m., in Department 28 before the
4 Honorable Lauri A. Damrell, presiding. Named Plaintiff Arnold Serrano (“Plaintiff”) filed this
5 putative class action on December 8, 2021. The operative Complaint alleges that Defendant Cool
6 Time, LLC (“Defendant”) violated California law by 1) failing to pay overtime wages, 2) failing to
7 pay minimum wages, 3) failing to provide meal periods, 4) failing to provide rest periods, 5) failing to
8 provide accurate wage statements, 6) failing to timely pay all final wages, 7) failing to reimburse
9 employees for incurred expenses, and 8) by engaging in unfair competition. Plaintiff has also alleged
10 Defendant is liable for civil penalties under the Private Attorneys General Act (“PAGA”) based on
11 these alleged violations. Plaintiff sought attorneys’ fees and costs as part of this Action. Defendant
12 denied all of Plaintiff’s claims and denied that this case was appropriate for class treatment. No class
13 has been certified. The class settlement was preliminarily approved by this Court on March 17, 2023.

14 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
15 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
16 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
17 (“Agreement” or “Settlement”). Any capitalized terms herein shall have the same meaning as set forth
18 in the Agreement. The Court, having received and considered Plaintiff’s Motion for Final Approval of
19 Class Action and PAGA Settlement, the declarations in support, the Agreement, the Notice of
20 Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS
21 FOLLOWS:

22 **I. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
23 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

24 The Court finds that certification of the following class for settlement purposes only is
25 appropriate under the California Code of Civil Procedure and related case law:

26 All non-exempt employees who have or continue to work for Defendants
27 in California from December 8, 2017, up to March 17, 2023.

28 The Court recognizes that the foregoing definition is for Class Member identification purposes

only and is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

For settlement purposes only, the Court finds that Class Members meet the ascertainability and numerosity requirements since the parties can identify with a matter of certainty, based on payroll records, individuals who fall within the definition and the number of Class Members would make joinder impractical. The commonality and predominance requirements are met for settlement purposes since there are questions of law and fact common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's contentions that Defendant caused the violations outlined above by 1) failing to pay minimum wages for off-the-clock work, 2) failing to pay overtime wages for off-the-clock-work, 3) failing to properly record and pay for all hours worked, 4) by failing to pay for being on-call, 5) failing to authorize and permit timely and uninterrupted meal periods, 6) failing to authorize and permit timely and uninterrupted rest periods, and failing to pay for reimbursement for mileage, cell phone use, and other work related expenses. The PAGA, waiting time penalty, wage statement violation, and unfair competition claims also derive from these alleged violations. Additionally, Class Members seek the same remedies under state law. The typicality requirement for settlement purposes is also satisfied since the claims of the Class Representative is based on the same facts and legal theories as those applicable to the class members.

The Court also finds that certifying the settlement class is required to avoid each Class Member from litigating similar claims individually. This Settlement will achieve economies of scale for Class Members with relatively small individual claims and conserve the resources of the judicial system.

The Court finds that Plaintiff Arnold Serrano and Plaintiff's counsel, Galen T. Shimoda, Justin P. Rodriguez, and Renald Konini of Shimoda & Rodriguez Law, PC, to be adequate representatives of the settlement class. The Court appoints them as Class Representative and Class Counsel, respectively.

II. APPROVING CLASS ACTION AND PAGA SETTLEMENT

The Court has again reviewed the preliminarily approved Agreement, which was submitted with Plaintiff's Motion as Exhibit A. The Court finds, that final approval is warranted as the Agreement falls within the range of reasonableness and is fair, reasonable. The Court also finds the Settlement was

1 agreed upon only after extensive investigation, litigation, and arms-length negotiations by counsel
2 experienced in complex litigation, who took reasonable steps and measures to weigh the potential value
3 of the disputed claims against the risks of continued litigation. Class Members were able object to the
4 Agreement and its terms through the administration process and at a fairness hearing or opt-out of being
5 bound by the preliminarily approved Agreement.

6 No objections were made by Class Members and no Class Members opted out of the settlement.
7 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
8 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
9 gives final approval to the Agreement and all terms therein as if stated here in full, including the
10 \$105,000 Gross Settlement Amount.

11 The Court approves of the Five Thousand (\$5,000) PAGA Payment, which shall be paid from
12 the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged
13 PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
14 Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved
15 Employees on a pro rata basis as described in the Agreement. The Court also finds that based on the
16 facts of this case and the disputed issues, the Agreement provides a recovery that creates an effective,
17 substantial deterrent to any potential future non-compliance, furthering the purpose of the Labor Code
18 and LWDA.

19 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
20 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the
21 deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for
22 Workers' Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the
23 Gross Settlement Amount will revert to Defendant for any reason.

24 The releases and waivers for Class Members who did not opt out of being bound by the
25 Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representative are
26 also approved by the Court as set forth in the Agreement.

27 Class Counsel sought an award of attorneys' fees of \$36,750.00, attorney's costs of \$3,301.21,
28 an Enhancement Payment to the Class Representative in the amount of \$10,000, and for Settlement

1 Administrator Costs in the amount of \$6,377.40. Defendant does not oppose these requests. The Notice
2 of Settlement sent to Class Members included information regarding these amounts and that they would
3 be requested in connection with final approval of the Agreement. Class Members have been given the
4 opportunity to object to these amounts and no objections have been submitted in any respect whatsoever.
5 The Court has considered the evidence submitted by Class Counsel regarding their hourly rates,
6 including prior fee awards in Sacramento County Superior Court at the requested rates, and the amount
7 of time expended in the litigation for the benefit of Class Members. The Court finds that the rates
8 requested and hours expended are reasonable. The Court has also reviewed the updated itemized costs
9 submitted by Class Counsel, the information provided by the Class Representative regarding the efforts
10 and burdens undertaken for the benefit of the class, and the cost information provided by the Settlement
11 Administrator in its declaration. The Court finds that these amounts requested for attorneys' fees and
12 costs, the Enhancement Payment, and the Settlement Administrator Costs are fair and reasonable, and
13 awarded as requested and deducted from the gross settlement amount. This finding is further supported
14 by the lack of objection by Class Members to these amounts. The difference between the actual
15 attorneys' costs and Settlement Administrator Costs awarded and the originally allocated \$4,000 for
16 attorneys costs and \$10,000 for Settlement Administrator costs will be added to the Net Settlement
17 Amount pursuant to the terms of the Agreement.

18 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
19 **INCLUDING THE NOTICE OF SETTLEMENT**

20 The Court finds that the Notice of Settlement, which was submitted with Plaintiff's Motion as
21 Exhibit A to the Declaration of Karen Hernandez, fairly and adequately advised Class Members of the
22 terms of the Agreement, the rights being waived, their right to opt out, the ability to dispute the number
23 of workweeks worked during the Class Period, their pro rata share of the Net Settlement Amount, how
24 to participate in the settlement, how to file documentation in opposition to the proposed settlement, and
25 when to appear at the fairness hearing. The Court further finds that the Notice of Settlement and
26 proposed distribution of such notice by first class mail to each identified Class Member at his or her
27 most recent address based on a National Change of Address database search from the Class Members'
28 last known address and a skip trace on any Class Members who have the Notice of Settlement returned

as “undeliverable” or “not at this address” comported with all constitutional requirements, including those of due process.

IV. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts to Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel	Within 7 calendar days after the Effective Date
Last day for Defendant to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel’s attorney’s fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendant has funded the settlement
Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to

1 the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved
2 Agreement.

3
4 **IT IS SO ORDERED.**

5
6 Date: _____

By: _____
Judge of the Superior Court