

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

OCT 19 2022

BY 
RAFAEL HERNANDEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

JOSE RIVERA, individually, and on behalf of
other members of the general public similarly
situated,

Plaintiff,

v.

ACCO BRANDS CORPORATION, a
Delaware corporation; ACCO BRANDS USA,
LLC, a Delaware limited liability company;
and DOES 1 through 100, inclusive,

Defendants.

Case No.: CIVDS2020490

Assigned for All Purposes to:
Honorable David Cohn
Department S-26

CLASS ACTION

**~~PROPOSED~~ ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: October 19, 2022
Hearing Time: 10:00 a.m.
Hearing Place: Department S-26

Complaint Filed: September 28, 2020
FAC Filed: August 11, 2021
Trial Date: None Set

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

1 The Court, having read the papers filed regarding Plaintiffs Jose Rivera's, Chad Turina's,
2 and Jorge Lopez's ("Plaintiffs" "Plaintiff Rivera," "Plaintiff Turina," and "Plaintiff Lopez")
3 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
4 support of the motion, including the Joint Stipulation and Settlement Agreement ("Settlement
5 Agreement," "Settlement," or "Agreement"), hereby FINDS AND ORDERS:

6 Plaintiffs and Defendant ACCO Brands USA, LLC ("Defendant") entered the Settlement
7 Agreement on or about April 21, 2022, to settle this class action lawsuit.

8 The Court entered an Order dated June 17, 2022 preliminarily approving the settlement of
9 this class action lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
10 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
11 Members, scheduling a Final Approval Hearing on October 19, 2022, and providing Class
12 Members with an opportunity to object to the Settlement or exclude themselves from the Class.

13 The Court held a Final Approval Hearing on October 19, 2022.

14 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
15 ("Order and Judgment") incorporates the Settlement. Unless provided otherwise, all capitalized
16 terms in this Order and Judgment shall have the same meaning as set forth in the Settlement.

17 2. Jurisdiction. Because adequate notice was disseminated and the Class was given
18 the opportunity to request exclusion, the Court has personal jurisdiction with respect to the
19 claims of all Class Members. The Court also has subject matter jurisdiction over this lawsuit,
20 including jurisdiction to approve the Settlement, and grants final certification of the Class.

21 3. Final Class Certification. The Court finds the Class satisfies all applicable
22 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
23 process. The Court certifies the Class consisting of all current and former non-exempt California
24 employees of Defendant who were employed by Defendant at any time during the time period
25 from September 28, 2016 through June 17, 2022 ("Class," "Class Members," and "Class
26 Period"). There are ninety-three (93) Class Members who did not submit valid and timely
27 requests to exclude themselves from the Settlement ("Participating Class Members")¹.

28 ¹ ILYM Group mailed Notice Packets to ninety-four (94) Class Members and received one

1 4. Adequacy of Representation. As Class Counsel, Douglas Han, Shunt Tatavos-
2 Gharajeh, and Jason Rothman of Justice Law Corporation have fully and adequately represented
3 the Class for purposes of entering and implementing the Settlement and have satisfied the
4 requirements of Code of Civil Procedure section 382.

5 5. Notice Packet. The Court finds the Notice of Class Action Settlement (“Class
6 Notice”) and the Election Not to Participate In (“Opt Out” From) Class Action Settlement
7 (“Exclusion Form”) (collectively, known as the “Notice Packet”) and its distribution to Class
8 Members were implemented pursuant to the Settlement and this Court’s Preliminary Approval
9 Order. The Court also finds the Notice Packet:

10 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
11 pendency of the class action lawsuit; (ii) material terms and provisions of the Settlement and
12 their rights; (iii) their right to object to any aspect of the Settlement; (iv) their right to exclude
13 themselves from the Settlement; (v) their right to claim an Individual Settlement Share; (vi)
14 their right to appear at the Final Approval Hearing; and (vii) binding effect of the orders and
15 judgment in the class action lawsuit on all Participating Class Members;

16 b. constitutes notice that fully satisfied the requirements of Code of Civil
17 Procedure section 382, California Rule of Court 3.769, and due process;

18 c. constitutes the best practicable notice to Class Members under the
19 circumstances of the class action lawsuit; and

20 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

21 6. Final Settlement Approval. The terms and provisions of the Settlement
22 Agreement have been entered in good faith and are the product of arm’s-length negotiations by
23 experienced counsel who have done a meaningful investigation of the claims. The Settlement
24 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
25 adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the
26 Settlement Agreement according to its terms and provisions.

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28 (1) request for exclusion. Thus, there are ninety-three (93) Participating Class Members.

1 7. Binding Effect. The terms and provisions of the Settlement and this Order and
2 Judgment are binding on Plaintiffs, Participating Class Members, Private Attorneys General Act
3 of 2004 (“PAGA”) Members, and their spouses, heirs, registered domestic partners, executors,
4 administrators, successors, and assigns. In addition, those terms shall have res judicata and other
5 preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by
6 or on behalf of any such persons to the extent those claims, lawsuits, or other proceedings
7 involve matters that were or could have been raised in this lawsuit and are encompassed by the
8 Released Claims. The Settlement will have no binding effect upon, and provide no res judicata
9 preclusion to, those Class Members who have submitted timely requests for exclusion.

10 8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
11 any action to enforce the terms and provisions of the Settlement Agreement.

12 9. Class Released Claims. Upon Defendant’s fulfillment of its payment obligations
13 pursuant to section III (J)(9)(a) of the Agreement, the claims that Plaintiffs and the other Class
14 Members are releasing in exchange for the consideration provided for by the Agreement are any
15 and all facts and claims asserted or that could have been asserted in the complaints and Plaintiff’s
16 PAGA notice sent to the California Labor and Workforce Development Agency (“LWDA”) on
17 December 28, 2021 based upon or arising out of the facts alleged therein, during the Class
18 Period, including, but not limited to: (a) failure to pay minimum wages; (b) failure to pay
19 overtime and double time wages; (c) failure to provide compliant rest breaks and pay premium
20 wages for noncompliant rest breaks; (d) failure to provide compliant meal breaks and pay
21 premium wages for noncompliant meal breaks; (e) failure to provide compliant wage statements;
22 (f) failure to timely pay wages; (g) failure to reimburse business expenses; (h) failure to properly
23 calculate and pay sick leave; (i) failure to provide one day’s rest in seven (7) days; (j) related
24 PAGA penalties; and (k) violation of Business & Professions Code section 17200, *et seq.*

25 a. Effect of PAGA Settlement. Upon Defendant’s fulfillment of its payment
26 obligations under section III (J)(9)(a) of the Agreement, the LWDA, and any
27 other representative, proxy, or agent thereof, including, but not limited to, any and
28 all PAGA Members are barred from pursuing any action for civil penalties under

PAGA, Labor Code section 2698, *et seq.*, against the Released Parties, based on or arising out of the alleged violations of Labor Code sections alleged in Plaintiff Lopez's PAGA notice sent to the LWDA on December 28, 2021 and the operative complaints, and occurring during the PAGA Period.

b. Plaintiffs' Release of Claims and General Release. Upon Defendant's fulfillment of their payment obligations under section III (J)(9)(a) of the Agreement, in exchange for the Class Representative Enhancement Payments of \$10,000 to Plaintiffs Rivera and Plaintiff Lopez each, and \$7,500 to Plaintiff Turina and in recognition of their work and efforts in obtaining the benefits for the Class and undertaking the risk of paying litigation costs if this matter had not successfully resolved, Plaintiffs provide a general release of claims for themselves and any respective spouse, heirs, successors and assigns. With respect to the General Release, as of the Effective Final Settlement Date, Plaintiffs shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits of section 1542 of the Civil Code, or any other similar provision under federal or state law.

c. Released Parties. The Released Parties include Defendant and its present and former parents, owners, subsidiaries, and any affiliated or related persons or entities, including Acco Brands Corporation, and each of their respective officers, directors, employees, partners, shareholders, insurers, attorneys, and agents, and any other successors, assigns, or legal representatives.

10. Class Representative Enhancement Payments. The Court finds the Class Representative Enhancement Payments of \$10,000 to Plaintiff Rivera and Plaintiff Lopez each and \$7,500 to Plaintiff Turina, to be paid by Defendant to Plaintiffs out of the Gross Settlement Amount, to be reasonable and appropriate. The Class Representative Enhancement Payments are to be paid pursuant to the terms and provisions set forth in the Agreement.

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1 a. The rationale for making enhancement payments is class representatives should
2 be compensated for the expense and risk they incurred in conferring a benefit on
3 the Class. Criteria courts consider include: (1) risk to the class representatives in
4 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
5 effort spent by the class representatives; (4) duration of the litigation; and (5)
6 personal benefit (or lack thereof) enjoyed by class representatives.

7 b. The Court reviewed Plaintiffs' declaration outlining their involvement. Given the
8 risks inherent in their services as the Class Representatives, duration of the case
9 and time involved, and benefits created for the Class, the Court approves the
10 payment of the Class Representative Enhancement Payments of \$10,000 to
11 Plaintiff Rivera and Plaintiff Lopez each and \$7,500 to Plaintiff Turina.

12 11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award
13 of \$291,666.67, to be paid out of the Gross Settlement Amount by Defendant to Class Counsel,
14 to be reasonable and appropriate. The Court finds the Cost Award as reimbursement for actual
15 litigation costs incurred of \$16,032.37, to be paid by Defendant to Class Counsel out of the
16 Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid
17 pursuant to the terms and provisions set forth in the Settlement. Defendant shall not be required
18 to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class
19 Counsel or any other counsel representing Plaintiffs or Class Members. Defendant shall also not
20 be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
21 Plaintiffs or Class Members in connection with or related in any manner to this lawsuit, the
22 Settlement, the settlement administration, and/or the Released Claims.

23 a. The Court has an independent right and responsibility to review the requested
24 Attorney Fee Award and only award so much as it determines reasonable. (See
25 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123,
26 127-28.) The Attorney Fee Award requested by Class Counsel of \$291,666.67 is
27 one-third (1/3) of the common fund created for the benefit of the Class and is
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supported by use of the percentage-fee method.² (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the exceptional results achieved, financial risk undertaken, novel and difficult nature of this litigation, skills required, percentage fees award in previous and other cases, and contingent fees charged in the marketplace, the Court finds the requested Attorney Fee Award is consistent with the marketplace, is reasonable, and is approved.

b. The Court reviewed the declaration of Douglas Han regarding the costs expended in prosecuting this case. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$20,000 in litigation costs. The Court finds Class Counsel expended \$16,032.37 in litigation costs, and such costs were reasonable. Thus, the Court approves the payment of the Cost Award of \$16,032.37 from the common fund for the reimbursement of Class Counsel's litigation costs.

12. Administration Costs. The Court finds Administration Costs of \$6,000, to be paid by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be reasonable and appropriate. The Administration Costs are to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

a. The Court reviewed the declaration of Nicole Bench from ILYM Group, Inc. ("ILYM Group"), the Court-approved Settlement Administrator. The Court finds notice was provided to the Class pursuant to the Preliminary Approval Order, the notice constitutes the best practicable notice to the Class, and the notice satisfied due process. Thus, the Court approves the payment of the Administration Costs of \$6,000 for ILYM Group services in administering the Settlement.

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² The Parties agreed to request an Attorney Fee Award that is one-third (1/3) of the Gross Settlement Amount instead of thirty-five percent (35%) of the Gross Settlement Amount as reflected in the Settlement Agreement.

1 13. PAGA Payment. The Court finds the PAGA Payment of \$50,000, seventy-five
2 percent (75%) of which (\$37,500) shall be paid to the LWDA, and twenty-five percent (25%) of
3 which (\$12,500) shall be distributed to PAGA Members, on a pro rata basis, to be reasonable and
4 appropriate. The PAGA Payment is to be paid pursuant to the terms and provisions set forth in
5 the Settlement Agreement.

6 14. Funding of the Settlement. Within fourteen (14) calendar days after the Effective
7 Final Settlement Date, Defendant shall deposit the Gross Settlement Amount into the Qualified
8 Settlement Fund. Defendant shall at this time provide any tax information that the Settlement
9 Administrator may need to calculate each Participating Class Member's Individual Settlement
10 Share. Within fourteen (14) calendar days after the funding of the Settlement, the Settlement
11 Administrator shall calculate and pay all payments due under the Settlement.

12 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
13 Settlement is entitled to a presumption of fairness. In their moving papers, Plaintiffs contend the
14 Settlement was the product of arm's-length negotiations following extensive litigation,
15 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
16 Deborah Saxe an experienced and well-respected class action mediator.

17 a. The fairness of the Settlement is demonstrated by there being no objections to and
18 only one (1) request for exclusion from the Settlement.

19 b. The fairness of the Settlement is further illustrated by the *average* Individual
20 Settlement Share being approximately \$5,279.80, and the *highest* Individual
21 Settlement Share being about \$8,795.07.

22 16. Uncashed Checks. Class Members must cash or deposit their Individual
23 Settlement Share checks within one hundred eighty (180) calendar days after the checks are
24 mailed to them. Uncashed settlement checks will be canceled and paid to the California State
25 Controller: Unpaid ^{Property} ~~Wage~~ Fund.

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1 17. Modification of Settlement Agreement. The Participating Class Members are
2 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
3 modifications of the Settlement Agreement by an express written instrument signed by counsel
4 for all Parties or their successors-in-interest. Such amendments or modifications shall be
5 consistent with this Order and Judgment and cannot limit the rights of Participating Class
6 Members under the Settlement Agreement.

7 18. Final Accounting and Compliance. The Court sets a final accounting and
8 compliance hearing for June 16, 2023 at 10:00 a.m. in Department S-26. Within five (5) court
9 days before this hearing, Plaintiffs shall file a status report regarding compliance. Pursuant to
10 Code of Civil Procedure section 384, the status report shall specify the total amount paid to
11 Participating Class Members and the residual of the unclaimed settlement funds that will be paid
12 to the entity identified as the recipient of such funds in the Settlement Agreement.

13 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
14 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
15 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
16 and for any other necessary purpose, including, without limitation:

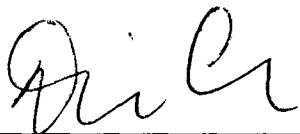
- 17 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
18 claims, or causes of action in the class action that, in whole or in part, are related
19 to or arise out of the Settlement or this Order and Judgment;
20 b. entering such additional orders as may be necessary or appropriate to protect or
21 effectuate this Order and Judgment approving the Settlement, and permanently
22 enjoining Plaintiffs from initiating or pursuing related proceedings, or to ensure
23 the fair and orderly administration of the Settlement; and
24 c. entering any other necessary or appropriate orders to protect and effectuate this
25 Court's retention of continuing jurisdiction.

26 The Motion for Final Approval of Class Action Settlement, Attorney Fee Award, Cost
27 Award, and Class Representative Enhancement Payments is GRANTED. The Settlement
28 Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

1 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
2 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
3 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
4 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
5 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
6 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
7 THE JUDGMENT THEREON.

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9 IT IS SO ORDERED.

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11 DATED: 10/19/22



HONORABLE DAVID COHN
SUPERIOR COURT JUDGE

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On October 20, 2022, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Rivera v. Acco Brands Corporation**
LWDA/Court Case No.: **LWDA Case No.: CM-859965-21**
Court Case No.: CIVDS2020490
San Bernardino County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 20, 2022, at Pasadena, California.



Mariah Anderson