

FILED
YOLO SUPERIOR COURT

AUG 29 2022
BY N. PLOWMAN
DEPUTY
N. PLOWMAN

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Brittany V. Berzin (Cal. State Bar No. 325121)
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 CHRISTOPHER HAMPTON

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF YOLO

CHRISTOPHER HAMPTON, individually
and on behalf of all other similarly situated
employees,

Plaintiff,

vs.

UNLIMITED SECURITY SPECIALISTS,
INC., a California Corporation; and DOES 1 to
100, inclusive,

Defendants.

Case No. CV2021-2130

CLASS ACTION

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

Date: August 25, 2022

Time: 9:00 a.m.

Dept.: 10

Judge: Hon. Samuel T. McAdam

Filed: December 3, 2021

FAC Filed: February 25, 2022

Trial Date: None Set

~~[PENDING]~~ ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 1. The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion")
3 in the above referenced case came before this Court on August 25, 2022, at 9:00 a.m., in Department 10
4 before the Honorable Samuel T. McAdam, presiding. Named Plaintiff Christopher Hampton
5 ("Plaintiff") filed this putative class action on December 3, 2021. The operative Complaint alleges that
6 Defendant Unlimited Security Specialists Inc. ("Defendant") violated California law by failing to pay
7 overtime wages, failing to pay minimum wages, failing to provide meal periods or pay premiums in
8 lieu thereof, failing to provide rest periods or pay premiums in lieu thereof, failing to provide accurate
9 wage statements, failing to pay final wages, failing to pay reimbursements for expenses, failing to
10 maintain accurate records, and failing to timely pay of wages. Plaintiff has also alleged Defendant is
11 liable for civil penalties under the Private Attorneys General Act ("PAGA") based on these violations.
12 Plaintiff sought attorneys' fees and costs as part of this Action. Defendant denied all of Plaintiff's
13 claims and denied that this case was appropriate for class treatment. No class has been certified.

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"). Any capitalized terms herein shall have the same meaning as set forth in the
18 Agreement. The Court, having received and considered Plaintiff's Motion for Preliminary Approval
19 of Class Action and PAGA Settlement, the declarations in support, the Agreement, the proposed
20 Notice of Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS
21 AS FOLLOWS:

22 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
23 **CLASS 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 Unlimited
27 Security Specialists, Inc. and its owner, Jose H. Cardona, in California
28 from December 3, 2017, up to the Preliminary Approval Date.

1 The Court recognizes that the foregoing definition is for Class Member identification purposes only and
2 is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

3 The Court finds that Class Members meet the ascertainability and numerosity requirements since
4 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
5 the definition and the number of Class Members would make joinder impractical. The commonality and
6 predominance requirements are met for settlement purposes since there are questions of law and fact
7 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
8 contentions that Defendant caused the violations outlined above by 1) paying Class Members under
9 invalid alternative workweek agreements; 2) failing to pay the correct overtime and double time hours
10 for shifts worked outside of the regularly scheduled alternative workweek and shifts over 12 hours in a
11 day; 3) failing to pay Class Members for all hours worked, including for hours worked in excess of eight
12 in a day or forty hours in a workweek; 4) failing to authorize and permit all meal and rest periods; 5)
13 failing to timely pay Class Members wages in accordance with Labor Code section 204; 6) failing to
14 reimburse Class Members for the use of personal cellphones; 7) failing to pay Class Members all final
15 wages upon separation of employment in accordance with Labor Code sections 201, 202, and 203; and
16 8) failure to provide Class Members with accurate itemized wage statements. The PAGA and unfair
17 competition claims also derive from these violations. Additionally, Class Members seek the same
18 remedies under state law. The typicality requirement for settlement purposes is also satisfied since the
19 claims of the Class Representative are based on the same facts and legal theories as those applicable to
20 Class Members.

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

25 The Court finds that Plaintiff Christopher Hampton and Plaintiff's counsel, Galen T. Shimoda,
26 Justin P. Rodriguez and Brittany V. Berzin of Shimoda & Rodriguez Law, PC, to be adequate
27 representatives of the settlement class. The Court appoints them as Class Representative and Class
28 Counsel, respectively.

II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT

The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit A. The Court finds on a preliminary basis that the Agreement falls within the range of reasonableness of a settlement, which could ultimately be given final approval by this Court. The Court also acknowledges that Class Members may object to the settlement at a fairness hearing approved by this Court or opt-out of being bound by the preliminarily approved Agreement.

Because the Court finds the Parties' settlement to have been agreed upon only after an extensive investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court preliminarily approves the Agreement and all terms therein as if stated here in full, including the \$350,000.00 Gross Settlement Amount.

The Court orders that Plaintiff Christopher Hampton will receive \$15,000.00 as a Class Representative Enhancement Payment in addition to any amount Plaintiff may be entitled to under the Agreement's pro rata distribution formula for Plaintiff's time and effort on behalf of Class Members.

The Court orders and approves ILYM, Inc. to act as the Claims Administrator in this case. The Claims Administrator will take its fees out of the Gross Settlement Amount, which are not to exceed \$15,000.00. Any difference between the actual cost of the Claims Administrator and the approved payment will become part of the Net Settlement Amount.

The Court finds that an award of fees under the common fund doctrine is appropriate in this case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits can be accurately traced as set forth in the Agreement, Plaintiff and Class Counsel were able to negotiate on behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of thirty-five percent (35%) of the Gross Settlement Amount, *i.e.* \$122,500.00, to be appropriate compensation for Class Counsel. The attorneys' fees request is within the range that has been approved by other Courts in similar cases and is reasonable in light of the circumstances of this case, the substantial and beneficial results obtained on behalf of Class Members, and the contingent nature of the

1 recovery over the course of this case, which included potential loss at summary judgment, certification,
2 and/or trial proceedings. Additionally, the Court orders that up to \$15,000.00 of the settlement proceeds
3 will be paid to Class Counsel for reasonable costs incurred in this case. Any difference between the
4 actual costs incurred and the \$15,000.00 shall become part of the Net Settlement Amount.

5 The Court approves of the \$10,000.00 PAGA Payment, which shall be paid from the Gross
6 Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the alleged PAGA
7 claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and Workforce
8 Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved Employees
9 on a pro rata basis as described in the Agreement. The Court also finds that the Agreement provides a
10 recovery that creates an effective substantial deterrent to any potential future non-compliance, furthering
11 the purpose of the Labor Code and LWDA.

12 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
13 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
14 donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights.

15 The releases and waivers for Class Members who do not opt out of being bound by the
16 Agreement (*i.e.*, Qualified Claimants), Aggrieved Employees, and the Class Representative are also
17 approved by the Court as set forth in the Agreement.

18 **III. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
19 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

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

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

3 The Court also finds that because there is a strong interest in providing Class Members the
4 opportunity to participate in the settlement, along with the Parties’ efforts to minimize any intrusion to
5 privacy rights, the sharing of employment information, including social security numbers, is not a
6 serious intrusion on their privacy rights. Hence, the Court orders Defendant to provide first and last
7 name, last known mailing address, social security number, and hire and termination dates, total number
8 of workweeks during which the Class Member performed any actual work to the Claims Administrator
9 only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the
10 Agreement and approved by this Order. The Claims Administrator shall only use this information for
11 settlement purposes identified herein, and this information shall be kept confidential, not be shared with
12 any third-party, and used only to administer the settlement.

13 IMPLEMENTATION SCHEDULE

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

16 Last day for Defendants to provide Claims 17 Administrator with Class Member and Aggrieved 18 Employee information	Within 21 calendar days after the Preliminary Approval Date
19 Last day for Claims Administrator to complete 20 NCOA search, update Class Member and 21 Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators’ receipt of Class Members’ information from Defendants
22 Last day for Class Members to opt-out, submit 23 disputes, submit objections, and submit data 24 requests	45 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
25 Last day for Claims Administrator to provide 26 Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period

1 2 3 4 5	Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
6 7	Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
8 9 10 11	Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payment, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after Defendants fund the settlement
12 13 14	Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 calendar days after issuance of checks to Qualified Members and Aggrieved Employees
15 16 17	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
18 19	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline
20 21 22	Last day for Defendants to provide Claims Administrator with Class Member and Aggrieved Employee information	Within 21 calendar days after the Preliminary Approval Date

FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of December 23, 2022, at 9:00 a.m. with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Class Members who object in a timely manner, and in the manner set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

Department 10, appearance by Zoom

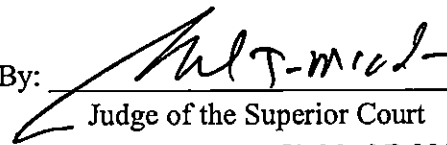
1 If for any reason the Court does not grant final approval of the Agreement, all evidence and
2 proceedings held in connection therewith shall be without prejudice to the status quo and rights of the
3 parties to the litigation, including all challenges to personal jurisdiction and to class certification for any
4 purpose other than approving a settlement class. The parties will revert to their respective positions as if
5 no settlement had been reached at all.

6 **IT IS SO ORDERED.**

7
8 Date:

8/25/22

By:



Judge of the Superior Court

SAMUEL T. McADAM

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13 Notice shall include CRC 3.776 (d)(4)
14 (d)(5)
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