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FILED
BY SUPERIOR COURT OF CALIFORNIA,
COUNTY OF KINGS
06/06/2025
NOC ONASOBOLESKI, CLERK OF THE COURT
JULIENNE DE SANTOS, DEPUTY


**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KINGS**

VAUGHN HENRY, individually, on behalf of
all others similarly situated; PEDRO TORRES
ZERMENO, individually, and on behalf of all
other similarly situated,

Plaintiffs,

v.

TESSENDERLO KERLEY, INC., a Delaware
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 22C-0027

[Assigned for all purposes to: Hon. Robert
Shane Burns, Dept. 2]

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Preliminary Approval Hearing:

Date: June 26, 2025

Time: 8:15 a.m.

Dept.: 2

~~PROPOSED~~ **ORDER**

Having reviewed Plaintiff Pedro Torres Zermeno's (collectively, "Plaintiffs") Motion for Preliminary Approval of Class Action Settlement ("Motion"), the Declaration of Benjamin H. Haber, Plaintiff's declaration, and the Joint Stipulation of Class Action and PAGA Settlement ("Settlement" or "Settlement Agreement"), and good cause appearing, the Court finds and orders as follows:

1. The Court finds on a preliminary basis that the Settlement Agreement appears to be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval. The Court grants preliminary approval of the Settlement and the Settlement Class based on the terms set forth in the Settlement Agreement between Plaintiff and Defendant Tessengerlo Kerley, Inc. ("Defendant"), attached to the Declaration of Benjamin H. Haber in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement as **Exhibit 1**.

2. The Settlement falls within the range of reasonableness of a settlement which could ultimately be given final approval by this Court, and appears to be presumptively valid, subject only to any objections that may be raised at the Final Approval Hearing and final approval by this Court. The Court notes that Defendant has agreed to create a common fund of \$410,000.00 to cover (a) settlement payments to Class Members who do not validly opt out; (b) a \$25,000.00 allocation toward civil penalties under the Private Attorneys General Act, 75% of which (\$18,750.00) will be paid to the State of California, Labor & Workforce Development Agency and 25% of which (\$6,250.00) will be paid to eligible Aggrieved Employees; (c) Class Representative service payment of up to \$10,000.00 to Plaintiff Pedro Torres Zermeno; (d) Class Counsel's attorneys' fees, not to exceed one-third of the Gross Settlement Amount (i.e., \$136,666.67), and up to \$20,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to \$10,000.00.

3. The Court preliminarily finds that the terms of the Settlement appear to be within the range of possible approval, pursuant to California Code of Civil Procedure § 382 and applicable law. The Court finds on a preliminary basis that: (1) the Settlement amount is fair and reasonable to the Class Members when balanced against the probable outcome of further

1 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
2 significant informal discovery, investigation, research, and litigation have been conducted such
3 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
4 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
5 by the further prosecution of the litigation; and (4) the proposed Settlement has been reached as
6 the result of intensive, serious, and non-collusive negotiations between the Parties with the
7 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
8 that the Settlement Agreement was entered into in good faith.

9 4. A final fairness hearing on the question of whether the proposed Settlement,
10 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
11 Workforce Development Agency for its share of the settlement of claims for penalties under the
12 Private Attorneys General Act, and the Class Representative's enhancement award should be
13 finally approved as fair, reasonable and adequate as to the members of the Class is hereby set
14 in accordance with the Implementation Schedule set forth below.

15 5. The Court provisionally certifies for settlement purposes only the following class
16 (the "Class"): "all individuals who are or previously were employed by Defendant in the State
17 of California and classified as non-exempt employees at any time during the Class Period."

18 6. "Class Period" means the period from August 3, 2017 to the date of Preliminary
19 Approval.

20 7. The Court finds, for settlement purposes only, that the Settlement Class meets the
21 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
22 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
23 of law and fact that are common, or of general interest, to all Settlement Class Members, which
24 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
25 Settlement Class Members; (4) Plaintiff and Class Counsel will fairly and adequately protect
26 the interests of the Settlement Class Members; and (5) a class action is superior to other
27 available methods for the fair and efficient adjudication of the controversy.

28 8. The Court appoints as Class Representative, for settlement purposes only,

Plaintiff Pedro Torres Zermeno. The Court further preliminarily approves Plaintiff Pedro Torres Zermeno's ability to request an incentive award up to \$10,000.00.

9. The Court appoints, for settlement purposes only, Benjamin H. Haber, Daniel J. Kramer, and Chase M. Stern of Wilshire Law Firm, PLC, as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Gross Settlement Amount (i.e., \$136,666.67), and costs not to exceed \$20,000.00.

10. The Court appoints Phoenix Settlement Administration as the Settlement Administrator with reasonable administration costs estimated not to exceed \$10,000.00.

11. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

12. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement.

13. Any Class Member who does not timely and validly request exclusion from the Settlement may object to the Settlement Agreement.

14. The Court orders the following implementation schedule:

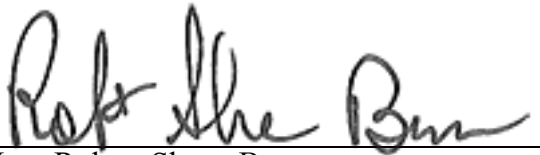
EVENT:	DEADLINE:
Defendant to provide Class Data to the Settlement Administrator	<u>July 10th</u> , 2025 (14 days after entry of Preliminary Approval Order)
Settlement Administrator to mail the Notice Packets	<u>September 8th</u> , 2025 (14 calendar days after receipt of Class Data)
Class Member Response Deadline	<u>September 8th</u> , 2025 (45 days after mailing Notice to Class)

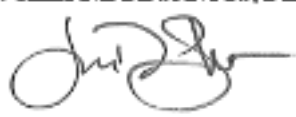
EVENT:	DEADLINE:
Class Member Deadline to Object	<u>September 8th</u> , 2025 (45 days after mailing Notice to Class)
Deadline for Administrator to Submit Declaration in Support of Motion for Final Approval	<u>November 9th</u> , 2025 (10 days before Final Approval Hearing)
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Awards to Plaintiff	<u>October 27th</u> , 2025 (16 court days before the calendared Final Approval Hearing)
Final Approval Hearing	<u>November 19th</u> , 2025 at <u>0815</u> a.m./ p.m.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE: June 26th, 2025


Hon. Robert Shane Burns
Kings County Superior Court

Superior Court of California County of Kings 1640 Kings County Drive Hanford, CA 93230 www.kings.courts.ca.gov 559-582-1010 option 3	FILED BY SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS 06/27/2025 NOC ONASOBLESKI, CLERK OF THE COURT JULIENNE DE SANTOS, DEPUTY 
Vaughn Henry Plaintiff/Petitioner, VS. Tessengerlo Kerley, Inc., a Delaware corporation Defendant/Respondent	
Certificate of Mailing by Electronic Service or U.S. Mail	Case No. 22C-0027

I hereby declare under penalty of perjury that I am employed by the Kings County Superior Court, over the age of 18 and not a party to this action.

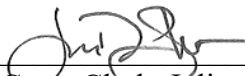
On June 27, 2025, I served a true copy of: **Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement**

By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listing with an e-mail address.

Benjamin H Haber
WILSHIRE LAW FIRM
benjamin@wilshirelawfirm.com

Date: June 27, 2025

Nocona Soboleski, Court Executive Officer

By:  _____
 Deputy Court Clerk, Julieanne De Santos