

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

SEP 30 2024

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
John A. Young (SBN: 299809)
jyoung@mahoney-law.net
MAHONEY LAW GROUP, APC
249 E. Ocean Boulevard, Suite 814
Long Beach, CA 90802
Telephone No.: 562-590-5550
Facsimile No.: 562-590-8400

Attorneys for Plaintiffs BRIGHTON MERCADO-LARA and JOSEPH GUERRERO, as individuals and on behalf of all similarly situated employees

[ADDITIONAL COUNSEL ON THE FOLLOWING PAGE]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

CIVIL COMPLEX CENTER

BRIGHTON MERCADO-LARA,

Plaintiff,

v.

TERRA UNIVERSAL, INC., and DOES 1-50, inclusive,

Defendants.

Case No. 30-2022-01257538-CU-OE-CXC
Consolidated with Case Nos. 30-2022-01257538-CU-OE-CXC and 30-2022-01282178-CU-OE-CXC

CLASS ACTION

**AMENDED ~~PROPOSED~~ ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Assigned for all purposes to:
Hon. William Claster, Dept. CX-101

Date: September 26, 2024
Time: 9:00 a.m.
Dept.: CX-101

Complaint Filed: April 29, 2022
Trial Date: None Yet Set

1 Joseph Lavi, Esq.

2 JLavi@lelawfirm.com

3 Vincent C. Granberry, Esq.

4 VGranberry@lelawfirm.com

5 Brett Szmanda, Esq.

6 BSzmanda@lelawfirm.com

7 LAVI & EBRAHIMIAN, LLP

8 8889 W. Olympic Blvd., Ste. 200

9 Beverly Hills, CA 90211

10
11 Attorneys for Plaintiff BRIGHTON MERCADO-LARA and JOSEPH GUERRERO, as
12 individuals and on behalf of all similarly situated employees
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

~~PROPOSED~~ ORDER

The Court has reviewed Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Motion"), the Amended Joint Stipulation of Class Action Private Attorneys General Act ("PAGA") Settlement and Release ("Amended Settlement Agreement"), along with the Notice of Proposed Class Action Settlement, Request for Exclusion Form, and Workweek Dispute Form, ("Notice Packet") attached to the Amended Settlement Agreement and the Supplemental Declaration of John A. Young. Under the terms of the Amended Settlement Agreement, Plaintiffs BRIGHTON MERCADO-LARA and JOSEPH GUERRERO ("Plaintiffs"), individually and on behalf of the class they seek to represent, have agreed to settle their claims against Defendant TERRA UNIVERSAL, INC., ("Defendant"). The Court, having also considered the memorandum of points and authorities in support of the Motion for Preliminary Approval, and for good cause appearing, now FINDS and ORDERS as follows:

1. Pursuant to the Amended Settlement Agreement, the terms "Class Member(s)" and "Settlement Class" are defined as: "all non-exempt, hourly paid employees currently and formerly employed by Defendant in the state of California from April 29, 2018 through February 7, 2024."

2. The proposed Settlement Class satisfied the requirements of a class because the Settlement Class are readily ascertainable and a well-defined community of interests exists in the questions of law and fact affecting the Parties. The Court provisionally certifies the Settlement Class for purposes of the Amended Settlement Agreement.

3. The Amended Settlement Agreement falls within the "range of reasonableness" and therefore the Court grants preliminary approval of the Amended Settlement Agreement. Based on a review of the papers submitted by Plaintiffs, the Court finds that the Amended Settlement Agreement is the result of arm's length negotiations conducted after class counsel thoroughly reviewed and adequately investigated the claims and became familiar with the strengths and weaknesses of those claims. The Parties are ordered to carry out the Amended Settlement Agreement according to its terms.

1 4. Attached to the Amended Settlement Agreement is a true and correct copy of the
2 "Notice Packet" (Exhibits A is the Class Notice, Exhibit B is the Request for Exclusion Form,
3 and Exhibit C is the Workweek Dispute Form). The Court finds and concludes that the proposed
4 Notice Packet, and the procedures set forth in the Amended Settlement Agreement for providing
5 notice to Class Members, will provide the sufficient notice, will satisfy all notice requirements,
6 and will adequately advise Class Members of their rights under the Amended Settlement
7 Agreement. Therefore, the Notice Packet and opt-out procedure meets the requirements of due
8 process. The Notice Packet fairly, plainly, accurately, and reasonably informs Class Members of:
9 (1) appropriate information about the nature of this action, the definition of the Settlement Class,
10 the identity of class counsel, and the essential terms of the Amended Settlement Agreement; (2)
11 appropriate information about Plaintiffs' and class counsel's forthcoming applications for the
12 enhancement award to the class representatives and attorney's fees and costs to class counsel; (3)
13 appropriate information about how the proceeds of the Amended Settlement Agreement will be
14 distributed, and about Class Members' right to appear through counsel if they desire; (4)
15 appropriate information about how to object to the Amended Settlement Agreement or submit a
16 request to be excluded from the Settlement if a class member wishes to do so; and (5) appropriate
17 instructions as to how to obtain additional information regarding the action and the Amended
18 Settlement Agreement.

19 5. The proposed plan for mailing the Notice Packet is an appropriate method,
20 reasonably designed to reach all individuals who would be bound by the Amended Settlement
21 Agreement. If Notice Packets are returned because of an incorrect address, the Settlement
22 Administrator shall use reasonable practices to obtain more current information for Class
23 Members. If new address information is obtained by return mail, the Settlement Administrator
24 shall promptly forward the Notice Packet to the addressee via first class U.S. mail. On all such
25 re-mails, the Settlement Administrator shall indicate on the Notice Packet the date it was re-
26 mailed, and notify counsel for Defendant and Plaintiffs of the date of each re-mailing.
27
28

1 6. Class Members, including both current and former employees of Defendant are
2 not required to take any action to receive their individual settlement payment, which will be based
3 on the number of weeks worked for Defendant during the Class Period.

4 7. The manner of distribution of the Notice Packet is approved.

5 8. Plaintiffs are appointed class representatives for the Settlement Class for purposes
6 of the Amended Settlement Agreement.

7 9. Kevin Mahoney and John Young of Mahoney Law Group, APC and Joseph Lavi,
8 Vincent C. Granberry, Malcolm Clayton, and Brett Szmanda of Lavi & Ebrahimian, LLC are
9 appointed class counsel for purposes of the Amended Settlement Agreement.

10 10. The Court appoints Phoenix Settlement Administrators as the Settlement
11 Administrator. Promptly following the entry of this Order, the Settlement Administrator shall
12 prepare final versions of the Notice Packet, incorporating into them the relevant dates and
13 deadlines set forth in this Order.

14 11. On or before November 5, 2024, Defendant shall provide the Settlement
15 Administrator with the following information, that is within this Defendant's possession, for each
16 Class Member ("Class Information"): each Class Member's full name; last known address; last
17 known home telephone number; social security number; all start and end dates of employment
18 during the class period, and the total number of weeks each Class Member worked for Defendant
19 during the Class Period. The Class Information shall be based on Defendant's payroll and other
20 business records and in a format readily accessible to the Settlement Administrator. The Class
21 Information shall remain confidential and may be disclosed only for the purposes of carrying out
22 the terms of the Amended Settlement Agreement, including the taxing of any portion of the funds
23 distributed under the Amended Settlement Agreement.

24 12. The Settlement Administrator shall be authorized to use any reasonable practices
25 to locate Class Members in order to provide them with the Notice Packet and/or settlement
26 payments. Neither class counsel nor the Settlement Administrator may use the Class Information
27 for any purpose other than to administer the Amended Settlement Agreement, as provided in the
28 Amended Settlement Agreement.

1 13. On or before November 15, 2024, the Settlement Administrator shall mail the
2 Notice Packet to all Class members by first class U.S. mail, using the most current mailing
3 addresses as provided by Defendant or obtained from a search on the National Change of Address
4 database. Any Notice returned to the Settlement Administrator as non-delivered on or before the
5 response deadline shall be re-mailed to the forwarding address affixed thereto. If a forwarding
6 address is not affixed, the Settlement Administrator shall perform a skip trace to identify an
7 updated mailing address.

8 14. Class Members who do not submit a timely request for exclusion will be bound by
9 the Amended Settlement Agreement and will be sent individual settlement payments.

10 15. Each Notice Packet shall include the number of weeks the respective Class
11 Member worked as a non-exempt employee for Defendant during the Class Period. To the extent
12 a Class Member disputes the information listed on his or her Notice Packet, the Class Member
13 may submit documentation and/or explanation or a Workweek Dispute Form to the Settlement
14 Administrator showing the number of weeks the Class Member contends to have worked for
15 Defendant during the Class Period. The Settlement Administrator shall determine the eligibility
16 for, and the amounts of, any individual settlement payment under the terms of the Amended
17 Settlement Agreement. The Settlement Administrator's determination of the eligibility for and
18 amount of any individual settlement payment shall be binding on the Class Members and the
19 Parties.

20 16. All written objections to the Amended Settlement Agreement must be sent to the
21 Settlement Administrator within sixty (60) days after the initial mailing of the Notice Packet by
22 the Settlement Administrator. All requests for exclusions must be sent to the Settlement
23 Administrator within sixty (60) days after the initial mailing of the Notice Packet by the
24 Settlement Administrator. In the event Notice is re-mailed to certain class members by the
25 Settlement Administrator, those Class Members shall have fourteen (14) calendar days thereafter
26 or until the response deadline has expired, whichever is later, to mail the request for exclusion or
27 notice of objection. Only Class Members who have not opted out of the Amended Settlement
28

1 Agreement may submit written objections or make oral objections at the hearing for final
2 approval.

3 17. The Court hereby preliminarily approves the Amended Settlement Agreement, the
4 total Gross Settlement Amount in the amount of two million dollars (\$2,000,000.00), and the
5 allocations of the following amounts from the Gross Settlement Amount, (a) ten thousand dollars
6 (\$10,000.00) to each Plaintiff for their service to Class Members totaling twenty thousand dollars
7 (\$20,000.00); (b) payment to the Settlement Administrator for the costs of administration of the
8 Settlement, which are expected not to exceed eleven thousand dollars (\$11,000.00); (c) fifty
9 thousand dollars (\$50,000.00) for penalties pursuant to the Private Attorney General Act,
10 California Labor Code sections 2698, *et seq.*, of which thirty-seven thousand five hundred dollars
11 (\$37,500.00) shall be paid to the Labor and Workforce Development Agency and twelve thousand
12 five hundred dollars (\$12,500.00) shall be paid to PAGA Members that worked during the PAGA
13 Period (April 29, 2021 through February 7, 2024); and (d) a total of up to one-third of the Gross
14 Settlement Amount, Six Hundred Sixty-Six Thousand Six Hundred and Sixty Six Dollars And
15 Sixty-Seven Cents (\$666,666.67) to Class Counsel for attorneys' fees and a total of up to Twenty-
16 Two Thousand Dollars (\$22,000.00) for reimbursement of Class Counsel's actual litigation costs
17 and expenses incurred. The Court further hereby preliminarily approves the Net Settlement
18 Amount and the formulas provided in the Settlement regarding the Individual Class Payments.

19 18. On March 7, 2025, at 9:00 a.m. the Court will hold a final approval hearing to
20 determine: (1) whether the Amended Settlement Agreement is fair, reasonable, adequate, and
21 should be finally approved by the Court; (2) the amount of attorney's fees and costs to award to
22 class counsel; (3) the amount of Class Representative Service Awards to award to Plaintiffs; and
23 (4) the amount of the settlement administration costs to award to the Settlement Administrator.

24 19. Briefs in support of final approval of the Amended Settlement Agreement shall be
25 filed on or before February 11, 2025.

26 20. The Court reserves the right to continue the date of the hearing for final approval
27 without further notice to Class Members. However, such notice shall be posted on the website
28 maintained by the Settlement Administrator for the purpose of implementing the Amended

1 Settlement Agreement. The Court retains jurisdiction to consider all further applications arising
2 out of or in connection with the Amended Settlement Agreement.

3 21. In the event the Amended Settlement Agreement is not finally approved, or
4 otherwise does not become effective, this Order shall be rendered null and void and shall be
5 vacated, and the Parties shall revert to their respective positions as of before entering into the
6 Amended Settlement Agreement.

7
8 **IT IS SO ORDERED**

9
10
11 DATED: 9/30/24

William D. Claster
12 THE HONORABLE WILLIAM CLASTER
13 JUDGE OF THE SUPERIOR COURT,
14 COUNTY OF ORANGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28