

FILED

KERN COUNTY SUPERIOR COURT  
01/18/2024

BY Urena, Veronica  
DEPUTY

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

**ELVIS LOPEZ**, individually and on behalf of  
other persons similarly situated,

Plaintiff,

vs.

**WIOSS BAKERSFIELD LP**; and **DOES 1-50**, inclusive,

Defendants.

Case No.: **BCV-22-100852**

*Gregory Pulskamp, vu*

[Assigned to Hon. ~~David R. Zulfa~~ for all  
purposes, Div. J]

CLASS ACTION

**[PROPOSED] FINAL ORDER  
APPROVING CLASS ACTION AND  
PAGA SETTLEMENT AND RELEASE;  
AND JUDGMENT**

Date: January 18, 2024

Time: ~~9:00 a.m.~~ **8:30 a.m.**

*vu*

Div. J

1           The above-referenced class action (“Action”) having come before the Court on January  
2 18, 2024, for a hearing and Final Order Approving Class Settlement and Judgment (“Final  
3 Order”), consistent with the Court’s Preliminary Approval Order (“Preliminary Approval  
4 Order”), filed and entered September 18, 2023, and as set forth in the Joint Stipulation of Class  
5 Action and PAGA Settlement Agreement and Release and the Exhibits attached thereto (hereafter  
6 collectively, the “Settlement Agreement”) in the Action, and due and adequate notice having been  
7 given to all Class Members, and Aggrieved Employees, as required in the Preliminary Approval  
8 Order, and the Court having considered all papers filed and proceedings had herein and otherwise  
9 being fully informed and good cause appearing therefore,

10           **THE COURT HEREBY ORDERS AS FOLLOWS:**

11           1.     For purposes of this Final Order, the Court incorporates by reference the  
12 definitions in the Settlement Agreement, and all defined terms herein shall have the same  
13 meaning as set forth in the Settlement Agreement.

14           2.     Consistent with the definitions in the Settlement Agreement, the term “Class” is  
15 defined as all current and former non-exempt, hourly paid employees of Wioss Bakersfield,  
16 L.P. employed in California at any time between April 12, 2018 through May 2, 2023.  
17 “Aggrieved Employees” are all current and former non-exempt, hourly-paid employees of  
18 Wioss employed in California at any time between April 1, 2021 through May 2, 2023. For  
19 purposes of the Settlement and this Final Order, “Released Parties” shall mean Wioss  
20 Bakersfield L.P., its current and former officers, partners (including Witron Service America LP  
21 and Witron Service America LLC), shareholders, investors, directors, agents, employees,  
22 supervisors, attorneys, accountants, insurers, parent(s), affiliated or related companies,  
23 shareholders, and predecessor or successor entities, if any, and each of them and any entities or  
24 persons acting in concert with any of them. This Court has jurisdiction over the subject matter  
25 of this Action and over all Parties to this Action, including all Settlement Class Members.

26           3.     Distribution of the Notice directed to the Settlement Class Members as set forth  
27 in the Settlement Agreement and the other matters set forth therein has been completed in  
28 conformity with the Preliminary Approval Order, including individual notice to all Settlement

1 Class Members who could be identified through reasonable effort, and the best notice  
2 practicable under the circumstances. The Notice provided due and adequate notice of the  
3 proceedings and of the matters set forth therein, including the proposed Settlement set forth in  
4 the Settlement Agreement, to all persons entitled to such Notice, and the Notice fully satisfied  
5 the requirements of due process. All Participating Class Members, Aggrieved Employees,  
6 Released Class Claims and Released PAGA Claims are covered by and included within the  
7 Settlement and this Final Order.

8 4. The Court hereby finds the Settlement was entered into in good faith pursuant to  
9 and within the meaning of California Code of Civil Procedure section 877.6. The Court further  
10 finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the  
11 standards and applicable requirements for final approval of this Class Action and PAGA  
12 Settlement under California law, including the provisions of California Code of Civil Procedure  
13 section 382 and Federal Rule of Civil Procedure 23, approved for use by the California state  
14 courts in *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

15 5. The Court hereby approves the Settlement set forth in the Settlement Agreement,  
16 and finds that the Settlement, including the non-reversionary Gross Settlement Amount (which  
17 is Six Hundred Thousand Dollars and Zero Cents [\$600,000.00]) is, in all respects, fair,  
18 adequate and reasonable, and directs the Parties to effectuate the Settlement according to its  
19 terms. The Court finds that the Settlement has been reached as a result of intensive, serious and  
20 non-collusive arms-length negotiations. The Court further finds that the Parties have conducted  
21 extensive investigation and research, and counsel for the Parties are able to reasonably evaluate  
22 their respective positions. The Court also finds that Settlement at this time will avoid additional  
23 substantial costs, as well as avoid the delay and risks that would be presented by the further  
24 prosecution of the Action. The Court has reviewed the benefits that are being granted as part of  
25 the Settlement and recognizes the significant value to the Settlement Class Members. The  
26 Court also finds that the Class is properly certified as a class for settlement purposes only.

27 6. As of the date of entry of this Final Order, each and every Released Class Claim  
28 (as defined in the Settlement Agreement and set forth below) of each and every Participating

1 Settlement Class Member and the Released PAGA Claims of each and every Aggrieved  
2 Employee is and shall be deemed to be conclusively released as against the Released Parties. As  
3 of the date of this Final Order, the Class Representative, and each and every Settlement Class  
4 Member who has not submitted a valid request for exclusion (“Participating Settlement Class  
5 Member(s)”) shall be deemed to fully forever, irrevocably and unconditionally release, and  
6 discharge Defendants and the Released Parties from all claims that were set forth, or reasonably  
7 could have been set forth based on the facts alleged, in the Operative Complaint, including  
8 claims for: (1) failure to provide legally complaint meal periods in violation of Labor Code  
9 sections 226.7 and 512, and the applicable IWC Wage Order(s); (2) failure to provide legally  
10 compliant rest periods in violation of Labor Code section 226.7 and the applicable IWC Wage  
11 Order(s); (3) failure to pay minimum wages and contract wages on an off-the-clock theory  
12 based on a) time spent during COVID screenings; b) time spent passing through security  
13 screenings and donning and doffing; and c) work time during meal and rest breaks from  
14 carrying radios, work-related interruptions during breaks and working through meal periods but  
15 having time records reflecting meal periods taken, overtime wages, in violation of applicable  
16 law, including Labor Code section 510 and 1194 and the applicable IWC Wage Order(s); (4)  
17 failure to provide complete and accurate wage statements in violation of Labor Code section  
18 226; (5) failure to pay all wages due and owing at separation in violation of Labor Code  
19 sections 201, 202, and 203; (6) deceptive, fraudulent, or otherwise unlawful business practices  
20 based on the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code,  
21 §§ 17200). “Settled Class Claims” is also intended to and includes all types of relief available  
22 for the above-referenced claims, including, without limitation, any claims for damages,  
23 restitution, losses, penalties, attorneys’ fees, costs, expenses, and interest. (“Released Class  
24 Claims.”) In addition, all Aggrieved Employees shall be deemed to fully and forever,  
25 irrevocably and unconditionally release, and discharge the Released Parties from any and all  
26 claims for violation of the California Private Attorneys General Act of 2004 (Labor Code §  
27 2698, et seq.) alleged or that could have been alleged in the operative PAGA letter and  
28 Operative Complaint as amended based on the factual allegations and legal assertions made in

1 the letter that arose during the PAGA Period, including without limitation (1) failure to provide  
2 legally complaint meal periods in violation of Labor Code sections 226.7 and 512, and the  
3 applicable IWC Wage Order(s); (2) failure to provide legally compliant rest periods in violation  
4 of Labor Code section 226.7 and the applicable IWC Wage Order(s); (3) failure to pay  
5 minimum wages and contract wages based on an off-the-clock theory based on a) time spent  
6 during COVID screenings; b) time spent passing through security screenings and donning and  
7 doffing; and c) work time during meal and rest breaks from carrying radios, work-related  
8 interruptions during breaks and working through meal periods but having time records  
9 reflecting meal periods taken, and overtime wages, in violation of applicable law, including  
10 Labor Code section 510 and 1194 and the applicable IWC Wage Order(s); (4) failure to provide  
11 complete and accurate wage statements in violation of Labor Code section 226; (5) failure to  
12 pay all wages due and owing at separation in violation of Labor. ("Released PAGA Claims.")

13 7. Neither the Settlement nor any of the terms set forth in the Settlement  
14 Agreement is an admission by Defendants, or any of the other Released Parties, nor is this Final  
15 Order a finding of the validity of any claims in the Action or of any wrongdoing by Defendants,  
16 or any of the other Released Parties. Neither this Final Order, the Settlement Agreement, nor  
17 any document referred to herein, nor any action taken to carry out the Settlement Agreement is,  
18 may be construed as, or may be used as, an admission by or against Defendants, or any of the  
19 other Released Parties, of any fault, wrongdoing or liability whatsoever. The entering into or  
20 carrying out of the Settlement Agreement, and any negotiations or proceedings related thereto,  
21 shall not in any event be construed as, or deemed to be evidence of, an admission or concession  
22 with regard to the denials or defenses by Defendants, or any of the other Released Parties, and  
23 shall not be offered in evidence in any action or proceeding in any court, administrative agency  
24 or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final  
25 Order, the Settlement Agreement, the Released Class Claims and Released PAGA Claims, or  
26 any related agreement or release. Notwithstanding these restrictions, any of the Released  
27 Parties may file in the Action, or submit in any other proceeding, the Final Order, the  
28 Settlement Agreement, and any other papers and records on file in the Action as evidence of the

1 Settlement to support a defense of *res judicata*, *collateral estoppel*, release, or other theory of  
2 claim or issue preclusion or similar defense as to the Released Class Claims and Released  
3 PAGA Claims.

4 8. The Court hereby enters judgment in the entire Action as of the filing date of this  
5 Final Order, pursuant to the terms set forth in the Settlement Agreement. Without affecting the  
6 finality of this Final Order in any way, the Court hereby retains continuing jurisdiction over the  
7 interpretation, implementation and enforcement of the Settlement and all orders entered in  
8 connection therewith pursuant to California Code of Civil Procedure section 664.6.

9 9. The Court finds the settlement payments provided for under the Settlement to be  
10 fair and reasonable in light of all of the circumstances. The Court orders the calculations and the  
11 payments to be made and administered in accordance with the terms of the Settlement  
12 Agreement.

13 10. The Court hereby confirms Jeremy F. Bollinger, Dennis F. Moss, and Ari E.  
14 Moss of Moss Bollinger LLP as Class Counsel in the Action.

15 11. Pursuant to the terms of the Settlement, and the authorities, evidence and  
16 argument submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in  
17 the amount of \$210,000.00, and attorneys' costs in the amount of \$13,287.11 from the Gross  
18 Settlement Amount as final payment for and complete satisfaction of any and all attorneys' fees  
19 and costs incurred by and/or owed to Class Counsel and any other person or entity related to the  
20 Action. The Court further orders that the award of attorneys' fees and costs set forth in this  
21 Paragraph shall be administered pursuant to the terms of the Settlement Agreement and  
22 transferred and/or made payable to Class Counsel in the Action.

23 12. The Court also hereby approves and orders a service award to Plaintiff and Class  
24 Representative Elvis Lopez in the amount of \$10,000.00 from the Gross Settlement Amount.

25 13. The Court also hereby approves and orders payment in the amount of \$18,750  
26 from the Gross Settlement Amount for 75% of the PAGA penalties, payable to the California  
27 Labor & Workforce Development Agency ("LWDA"). The Court finds and determines that the  
28 parties have satisfied the requirements of Section 2699(l)(2) of PAGA, by submitting the

1 Settlement Agreement to the LWDA.

2 14. The Court also hereby approves and orders payment from the Gross Settlement  
3 Amount for actual Administration Costs incurred by the Settlement Administrator, Phoenix  
4 Settlement Administrators, in the amount of \$8,750.00.

5 15. The Court also hereby approves and orders that any monies remaining in the  
6 distribution account shall be distributed to the Controller of the State of California to be held  
7 pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the benefit of  
8 those Participating Settlement Class Members who did not cash their checks until such time that  
9 they claim their property, resulting in no “unpaid residue.”

10 16. The Court also hereby finds and orders that the Settlement Agreement is and  
11 constitutes a fair, adequate, and reasonable compromise of the Released Class Claims and the  
12 Released PAGA Claims against Defendants and the Released Parties.

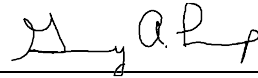
13 17. Provided the Settlement becomes effective under the terms of the Settlement  
14 Agreement, the Court also hereby orders that Defendants will pay the Gross Settlement Amount  
15 to the Settlement Administrator within twenty-one (21) calendar days of the Effective Date  
16 defined in the Settlement Agreement, and that the Settlement Administrator will mail the Court-  
17 approved Individual Settlement Payments to Participating Class Members and Aggrieved  
18 Employees, including Plaintiff’s Service Award, within fourteen (14) calendar days, after such  
19 payment is received by the Settlement Administrator, but after the 60th day of the entry of  
20 Judgment. Within fourteen (14) calendar days of Defendants’ funding of the Settlement, but  
21 after the 60th day of the entry of Judgment, the Settlement Administrator will mail all Court-  
22 approved payments to Class Counsel and the LWDA.

23 18. The Court also hereby finds that there were no objections to the Settlement  
24 raised by any person on the record at the hearing on the Final Order.

25 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

26 Dated: January 18, 2024

Signed: 1/18/2024 10:05 AM

27 

28 JUDGE OF THE SUPERIOR COURT  
Honorable Gregory A. Pulskamp