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12 Attorneys for Plaintiffs

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **IN AND FOR THE COUNTY OF MONTEREY**

16 AURORA GARCIA JIMENEZ,
17 EDWARD ANGUIANO II, and
EVELYN SERRATO on behalf of
18 themselves and on behalf of all persons
similarly situated,

19 Plaintiff,

20 vs.

21 KIND OP CORP.; ULTRA
22 PERSONNEL, LLC; and DOES 1
through 25, inclusive,

23 Defendants.
24
25
26
27
28

Case No. 22CV001723

NOTICE OF ENTRY OF JUDGMENT

Hearing Date: September 6, 2024
Hearing Time: 8:30 a.m.
[Hearing scheduled by Order dated February 15,
2024]

Judge: Hon. Carrie M. Panetta
Dept.: 14

Action Filed: June 17, 2022
Trial Date: Not set

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 YOU ARE HEREBY NOTIFIED THAT on September 19, 2024, the Court entered the
3 Judgment in the above entitled action. A true and correct copy of the Judgment is attached hereto
4 as Exhibit #1.

5 Respectfully submitted,

6
7 Dated: September 26, 2024

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

8 By: /s/ Kyle Nordrehaug
9 Kyle R. Nordrehaug
10 Attorneys for Plaintiffs
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

3 I, Kyle Nordrehaug, am employed in the County of San Diego, State of California. I am
4 over the age of 18 and not a party to the within action. My business address is 2255 Calle Clara, La
5 Jolla, California 92037.

6 On September 26, 2024, I served the document(s) described as:

7 **1. Notice of Entry of Judgment**

8 X **(BY ELECTRONIC SERVICE):** Pursuant to the provisions of CCP §1010.6, I provided
9 the documents referenced above electronically via electronic mail (e-mail) to counsel for
10 Defendant at the following confirmed e-mail addresses:

11 Matthew Soleimanpour
12 Brad Beherns
13 Angie Parisi
14 SOLEIMANLAW
15 5771 La Jolla Blvd., Ste. 4
16 La Jolla, CA92037
17 Email: matt@soleimanlaw.com
18 bradley@soleimanlaw.com
19 angie@soleimanlaw.com

20 X **(ONLINE TO THE LWDA):** I caused the above-described document to be delivered to the
21 Labor Workforce Development Agency via online process at the PAGA Filing website in
22 accordance with the procedure imposed by the LWDA.

23 X **(State):** I declare under penalty of perjury under the laws of the State of California that the
24 above is true and correct.

25 Executed on September 26 2024, at La Jolla, California.

26 By: /s/ Kyle Nordrehaug
27 Kyle R. Nordrehaug, Esq.
28 Attorney for Plaintiffs

EXHIBIT #1

1 **MESSRELIAN LAW INC.**

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ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 09/16/2024
By Deputy: Nazarian, Agnes

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22 SUPERIOR COURT OF THE STATE OF CALIFORNIA

23 COUNTY OF MONTEREY

24 AURORA GARCIA JIMENEZ, EDWARD
25 ANGUIANO II, and EVELYN SERRATO on
26 behalf of themselves and on behalf of all
27 persons similarly situated,

28 Plaintiff,

vs.

KIND OP CORP.; ULTRA PERSONNEL,
LLC; and DOES 1 through 25, inclusive,

Defendants.

CASE NO.: 22CV001723

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

Hearing Date: September 6, 2024

Hearing Time: 8:30 a.m.

Judge: Hon. Carrie M, Panetta
Dept: 14

Date Filed: June 17, 2022

Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Aurora Garcia Jimenez, Edward Anguiano II, and
2 Evelyn Serrato ("Plaintiffs") for an order finally approving the Class Action and PAGA
3 Settlement Agreement ("Agreement") with Defendants Ultra Personnel, LLC and Kind Op Corp
4 ("Defendants"), attorneys' fees and costs, service payments, and the expenses of the Administrator
5 duly came on for hearing on September 6, 2024 before the Honorable Carrie M. Panetta.

6 I.

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

10 1. All terms used herein shall have the same meaning as defined in the Agreement.

11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the Superior Court for the State of California, in and for the County of Monterey, and over all
13 Parties to this litigation, including the Class.

14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Five Hundred Thousand
16 Dollars (\$500,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.

17 4. The Court further finds that the Settlement was the result of arm's length
18 negotiations conducted after Class Counsel had adequately investigated the claims and became
19 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
20 Settlement, and the assistance of an experienced mediator in the settlement process, among other
21 factors, support the Court's conclusion that the Settlement is fair, reasonable, and adequate.

22 **Preliminary Approval of the Settlement**

23 5. On February 15, 2024, the Court granted preliminary approval of the Settlement.
24 At this same time, the Court approved conditional certification of the Class for settlement
25 purposes only.

26 **Notice to the Class**

27 6. In compliance with the Preliminary Approval Order, the Court-approved Class
28

1 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
2 about June 17, 2024. Mailing of the Class Notice to their last-known addresses was the best notice
3 practicable under the circumstances and was reasonably calculated to communicate actual notice
4 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
5 Members fully and accurately informed the Class Members of all material elements of the
6 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
7 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
8 fully with the laws of the State of California, the United States Constitution, due process and other
9 applicable law. The Class Notice fairly and adequately described the Settlement and provided
10 Class Members adequate instructions and a variety of means to obtain additional information.

11 7. The Response Deadline for opting out or submitting written objections to the
12 Settlement was August 16, 2024, which for re-mailings was extended by fourteen (14) days. There
13 was an adequate interval between notice and the deadline to permit Class Members to choose what
14 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
15 Members to participate in this hearing, and all Class Members and other persons wishing to be
16 heard have had a full and fair opportunity to be heard. Class Members also have had a full and
17 fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
18 Court determines that all Class Members who did not timely and properly submit a request for
19 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

20 **Fairness of the Settlement**

21 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
22 48 Cal.App.4th 1794, 1801 (1996).

23 a. The settlement was reached through arm's-length bargaining between the
24 Parties during an all-day mediation before Louis Marlin, an experienced mediator of wage and
25 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

26 b. Plaintiffs' and Class Counsel's investigation and discovery have been
27 sufficient to allow the Court and counsel to act intelligently.

28

1 c. Counsel for all Parties are experienced in similar employment class action
2 and PAGA litigation. Class Counsel recommended approval of the Agreement.

3 d. The percentage of objectors and requests for exclusion is small. No
4 objections were received. No requests for exclusion were received.

5 e. The participation rate was high. 415 Participating Class Members will be
6 mailed a settlement payment, representing 100% of the overall Class.

7 9. The consideration to be given to the Class Members under the terms of the
8 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
9 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
10 Members' claims, given the uncertainties and significant risks of the litigation and the delays
11 which would ensue from continued prosecution of the action.

12 10. The Agreement is approved as fair, adequate and reasonable and in the best
13 interests of the Class Members.

14 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

15 11. An award of \$166,666 for attorneys' fees, representing one-third of the Gross
16 Settlement Amount, and \$27,000 for litigation costs and expenses, is reasonable, in light of the
17 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
18 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
19 and billing statement.

20 **Class Representative Service Payments**

21 12. The Agreement provides for Class Representative Service Payments of not more
22 than \$10,000 to each of the Plaintiffs, subject to the Court's approval. The Court finds that Class
23 Representative Service Payments in the amount of \$^{5000.00}~~10,000~~ each to the Plaintiffs are reasonable in
24 light of the risks and burdens undertaken by the Plaintiffs in this litigation and for his time and
25 effort in bringing and prosecuting this matter on behalf of the Class.

26 **Administration Expenses Payment**

27 13. The Administrator shall calculate and administer the payment to be made to the
28

1 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
2 Class Representative Service Payments to the Plaintiffs, issue all required tax reporting forms,
3 calculate withholdings and perform the other remaining duties set forth in the Agreement. The
4 Administrator has documented \$11,500 in fees and expenses, and this amount is reasonable in
5 light of the work performed by the Administrator.

6 **PAGA Penalties**

7 14. The Agreement provides for PAGA Penalties out of the Gross Settlement Amount
8 of \$20,000, which shall be allocated \$15,000 to the Labor & Workforce Development Agency
9 ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
10 Agreement pursuant to the PAGA and \$5,000 to be distributed to the Aggrieved Employees and
11 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
12 (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during
13 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
14 Periods. "Aggrieved Employees" are all individuals who are or previously were employed by
15 Defendant Ultra Personnel, LLC and who were staffed to work at Kind Op Corp. in California at
16 any time during the PAGA Period (August 12, 2021 through April 17, 2023). Pursuant to Labor
17 Code section 2699, subdivision (1)(2), the LWDA was provided notice of the Agreement and these
18 settlement terms and has not indicated any objection thereto. The Court finds the PAGA Penalties
19 to be reasonable.

20 **II.**

21 **ORDERS**

22 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

23 15. The Class is certified for the purposes of settlement only. The Class is defined as
24 follows:

25 All individuals who are or previously were employed by Defendant Ultra
26 Personnel, LLC and who were staffed to work at Kind Op Corp. in California at
27 any time during the Class Period (August 12, 2018 through April 17, 2023).
28

1 16. All persons who meet the foregoing definition are members of the Class, except for
2 those individuals who filed a valid request for exclusion ("opt out") from the Class. There were
3 no individual who requested exclusion.

4 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
5 best interest of the Class.

6 18. Class Counsel are awarded attorneys' fees in the amount of \$166,666 and costs in
7 the amount of \$27,000 Class Counsel shall not seek or obtain any other compensation or
8 reimbursement from Defendants, Plaintiffs or members of the Class.

9 19. The payment of Class Representative Service Payments in the amount of ~~\$10,000~~ ^{\$5000.00}
10 each to the Plaintiffs is approved.

11 20. The payment of \$11,500 to the Administrator for its fees and expenses is approved.

12 21. The PAGA Penalties amount of \$20,000 is approved and is to be distributed in
13 accordance with the Agreement.

14 22. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
15 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
16 entry.

17 23. Neither the Agreement nor this Settlement is an admission by Defendants, nor is
18 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of
19 any wrongdoing by Defendants or that this Action is appropriate for class or representative
20 treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment,
21 the Agreement, nor any document referred to herein, nor any action taken to carry out the
22 Agreement is, may be construed as, or may be used as an admission by or against Defendants of
23 any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement,
24 and any negotiations or proceedings related thereto, shall not in any event be construed as, or
25 deemed to be evidence of, an admission or concession with regard to the denials or defenses by
26 Defendants. Notwithstanding these restrictions, Defendants may file in the Action or in any other
27 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
28

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

4 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
5 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
6 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
7 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
8 to individual Class Members.

9 25. If the Agreement does not become final and effective in accordance with the terms
10 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
11 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
12 revert to their respective positions as of before entering into the Agreement, and expressly reserve
13 their respective rights regarding the prosecution and defense of this Action, including all available
14 defenses and affirmative defenses, and arguments that any claim in the Action could not be
15 certified as a class action and/or managed as a representative action.

16 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

17 26. Except as set forth in the Agreement and this Final Approval Order and Judgment,
18 Plaintiffs, and all members of the Class, shall take nothing in the Action.

19 27. The Court shall retain jurisdiction to construe, interpret, implement and enforce the
20 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
21 supervise and adjudicate any dispute arising from or in connection with the distribution of
22 settlement benefits.

23 28. All Parties shall bear their own attorneys' fees and costs, except as otherwise
24 provided in the Agreement and in this Final Approval Order and Judgment.

25 29. Effective on the date when Defendants fully fund the entire Gross Settlement
26 Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class
27
28

1 Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will
2 release claims against all Released Parties as follows:

3 (a) All Participating Class Members, on behalf of themselves and their
4 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
5 and assigns, release Released Parties from the Released Class Claims. The "Released Class
6 Claims" are all claims that were alleged, or reasonably could have been alleged, based facts stated
7 in the Operative Complaint which occurred during the Class Period. Except as expressly set forth
8 in this Agreement, Participating Class Members do not release any other claims, including claims
9 for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
10 unemployment insurance, disability, social security, workers' compensation, or claims based on
11 facts occurring outside the Class Period.

12 (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf
13 of themselves and their respective former and present representatives, agents, attorneys, heirs,
14 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
15 The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably
16 could have been alleged, based on the facts stated in the Operative Complaint and the PAGA
17 Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include
18 other PAGA claims, underlying wage and hour claims, claims for wrongful termination,
19 discrimination, unemployment insurance, disability and worker's compensation, and claims
20 outside of the PAGA Period.

21 (c) Plaintiffs and their respective former and present spouses, representatives,
22 agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge
23 Released Parties from all claims, transactions, or occurrences that occurred during the Class
24 Period, as fully set forth in the Agreement.

25 30. For any Class Member or Aggrieved Employee whose Individual Class Payment
26 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the
27 Administrator shall transmit the funds represented by such checks to the ^{cy pres beneficiary} ~~California Controller's~~
28

Legal Aid For Work

~~Unclaimed Property Fund in the name of the Class Member~~ thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.

Dated: 9/16/2024


HON. CARRIE M. PANETTA
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA