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16 Attorneys for Plaintiff JAYSON ARRINGTON and others similarly situated

17 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

18 **FOR THE COUNTY OF SAN FRANCISCO**

19 JAYSON ARRINGTON, individually and on
20 behalf of others similarly situated,

Case No. CGC-22-600445

21 **PLAINTIFF**

22 **v.**

23 **POPCORNVAN, INC.; and DOES 1 through**
24 **100, inclusive,**

25 **Defendants.**

**PLAINTIFF'S NOTICE OF ENTRY OF
ORDER GRANTING PLAINTIFF'S
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

1 **TO ALL PARTIES:**

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1. A judgment, decree, or orders were entered in this action on: August 9, 2024

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2. A copy of the judgment, decree, or orders are attached to this notice as Exhibit One.

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9 Dated: August 13, 2024

LADVA LAW FIRM

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Scott S. Nakama,
Attorney for Plaintiff

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1 **PROOF OF SERVICE**

2 I, Scott S. Nakama, declare:

3 I am employed in San Francisco, California. I am over 18 years of age and I am not a
4 party to this action. My business address is 530 Jackson Street, 2nd Floor, San Francisco,
California 94113. On August 13, 2024, I served a copy of the attached:

5 **PLAINTIFF'S NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S**
6 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

7
8
9 by depositing a true copy to the following:

Heather Sager, Esq.
Matthew Goldberg, Esq.
Jill Ripke, Esq.
Jessica Poras

12 CALIFORNIA LABOR AND WORKFORCE DEVELOPEMENT AGENCY
13 ("LWDA")

- 14 ☐ BY REGULAR MAIL: I caused such envelopes to be deposited in the United
15 States mail at San Francisco, California, with postage prepaid.
- 16 ☐ BY FACSIMILE: (C.C.P. § 1013(e)(f)).
- 17 ☐ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier,
18 with next-day service, to the offices of the addresses. (C.C.P. § 1013(c)(d)).
- 19 ☐ BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to
the offices of the addresses. (C.C.P. § 1011(a)(b)).
- 20 ☒ BY ELECTRONIC SERVICE: I caused such documents to be electronically
21 served to all parties. (C.C.P. § 1010.6). I also caused such documents to be
22 electronically submitted on the LWDA'S website for proposed settlements
including listing the hearing date for Plaintiff's Motion for Preliminary Approval of
23 Class Action Settlement: <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

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26 I declare, under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct and this declaration was executed on August 13, 2024 at San
28 Francisco, California.

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Scott Nakama

EXHIBIT 1

FILED
San Francisco County Superior Court

AUG 09 2024

CLERK OF THE COURT
BY: Edmund J. Lee
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

DEPARTMENT 304

JAYSON ARRINGTON, individually and on
behalf of others similarly situated,

Plaintiff,

v.

POPCORNVAN, INC.; and DOES 1 through
100, inclusive,

Defendants.

Case No: CGC-22-600445

ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

1 Plaintiff Jayson Arrington ("Plaintiff") and Defendant Popcornvan, Inc. ("Defendant")
2 have reached terms of settlement for a putative class and representative action. Plaintiff filed a
3 Motion for Preliminary Approval of Class Action Settlement. Based on a review of the record in
4 this matter, including the papers filed in support of this motion, the Court hereby FINDS AND
5 ORDERS as follows:

6 **I. PRELIMINARY APPROVAL OF SETTLEMENT**

7 1. The Court grants preliminary approval of the settlement based upon the terms set
8 forth in the Settlement Agreement.¹ The Court finds that the settlement embodied in the
9 Settlement Agreement is the result of arm's-length negotiations and appears to be fair, reasonable,
10 and adequate. The settlement falls within the range of final approval and appears to be
11 presumptively valid.

12 **II. APPROVAL OF THE SETTLEMENT CLASS**

13 2. Based on the foregoing, and for good cause shown, the Court finds that the
14 following class should be certified only for the purposes of this settlement (the "Settlement
15 Class"): "(i) independent contractors who performed services for the Company in the warehouse
16 or as a driver and/or (ii) non-exempt employees for the Company during the Class Period.
17 Excluded from the definition of 'Class' are individuals who signed severance agreements with
18 Defendant or one of the Released Parties."

19 3. For settlement purposes only, the proposed Settlement Class meets the
20 requirements for certification under section 382 of the California Code of Civil Procedure in that:
21 (a) the proposed Settlement Class is ascertainable and so numerous that joinder of all members of
22 the Settlement Class is impracticable; (b) common questions of law and fact predominate, and
23 there is a well-defined community of interest amongst the members of the Settlement Class with
24 respect to the subject matter of the litigation; (c) the claims of the named plaintiffs are typical of
25 the claims of the members of the proposed Settlement Class; and (d) a class action is superior to
26 other available methods for the efficient adjudication of this controversy.

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28 ¹ "Settlement Agreement" refers to the Class Action and PAGA Settlement Agreement attached as Exhibit 1 to the Declaration of Ashwin Ladva filed on July 10, 2024.

1 4. For settlement purposes only, Plaintiff Jayson Arrington is appointed as Settlement
2 Class representative. The Court preliminarily finds that Plaintiff will adequately represent the
3 Settlement Class in accordance with Code of Civil Procedure section 382 for settlement purposes.

4 5. For settlement purposes only, Ashwin Ladva and Scott Nakama at Ladva Law Firm
5 and Daniel Martinez de la Vega of the Law Offices of Daniel Vega are designated as Settlement
6 Class Counsel. The Court preliminarily finds that Class Counsel will represent the interests of the
7 Settlement Class fairly and adequately in accordance with Code of Civil Procedure section 382 for
8 settlement purposes.

9 6. The Court hereby appoints Simpluris as Settlement Administrator.

10 **III. APPROVAL OF CLASS NOTICE**

11 7. The Settlement Class Notice, attached as Exhibit B to the Declaration of Scott
12 Nakama filed on August 1, 2024, is hereby approved as to form and content.

13 8. The Court finds that the proposed plan for distributing the Settlement Class Notice
14 set forth in the Settlement Agreement is reasonable; that it constitutes due, adequate and sufficient
15 notice to all persons entitled to be provided with notice; and that it meets the due process
16 requirements of the United States Constitution and complies with applicable law and with the
17 Rules of the Court. The Court hereby directs the Parties and the Settlement Administrator to
18 execute the notice plan in accordance with the Settlement Agreement.

19 9. Not later than thirty (30) days after the Court grants Preliminary Approval of the
20 Settlement, Defendant shall deliver the Class Data to the Settlement Administrator, in the form of
21 a password protected Microsoft Excel spreadsheet.

22 10. No later than three (3) business days after receipt of the Class Data, the
23 Administrator shall notify Class Counsel that the list has been received and state the number of
24 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

25 11. Using best efforts to perform as soon as possible, and in no event later than
26 fourteen (14) days after receiving the Class Data, the Administrator shall disseminate the Class
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1 Notice, in both English and Spanish, to all Class Members identified in the Class Data via first-
2 class United States Postal Service ("USPS") mail and email, where email addresses are available.

3 12. Not later than three (3) business days after the Administrator's receipt of any Class
4 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
5 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
6 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class
7 Notice to the most current address obtained.

8 13. The procedures set forth in the Settlement Agreement for objecting to and
9 requesting exclusion from the proposed settlement are approved. The deadline for Class Members
10 to submit written objections or requests for exclusion is sixty (60) days after the Settlement
11 Administrator mails Class Notice. The deadline shall be extended fourteen (14) days for all Class
12 Members whose notice is re-mailed.

13 14. Any Settlement Class Member who does not make a timely written request for
14 exclusion shall be bound by this and by all subsequent proceedings, orders, and judgments in this
15 Action regarding the Settlement Agreement.

16 **IV. PROCEDURE FOR FINAL APPROVAL HEARING**

17 15. The Court shall conduct a Final Approval Hearing on December 12, 2024 at 9:00
18 a.m. in Department 304 of the Superior Court of California, County of San Francisco to determine,
19 among other things; (a) whether the settlement of the Action on the terms agreed should be
20 approved as fair, reasonable, and adequate; (b) whether judgment should be entered pursuant to
21 the terms of the Settlement Agreement; and (c) the appropriate amount of any incentive payment
22 to the Class Representative and payment of attorneys' fees and reimbursement of costs to Class
23 Counsel.

24 16. Plaintiff's Motion for Final Approval of Class Action Settlement and
25 corresponding application for fees, costs, and service awards shall be filed no later than sixteen
26 (16) court days prior to the Final Approval Hearing.

1 17. At or before the Final Fairness Hearing, Class Counsel and Counsel for Defendant
2 shall serve on each other, and on any Settlement Class Member (or his or her counsel) who has
3 made an individual appearance in this Action, any further documents in support of the proposed
4 settlement, including responses to any papers filed by Settlement Class Members.

5 18. In the event the settlement does not receive final approval or the Settlement
6 Agreement is terminated, this Order shall have no continuing force and effect. In that event, the
7 Parties and the Action shall be restored as nearly as possible to the status quo ante and this Order
8 and the Settlement Agreement and all the negotiations, statements and proceedings relating to this
9 Order and/or Settlement Agreement shall be without prejudice to the rights of any of the parties.

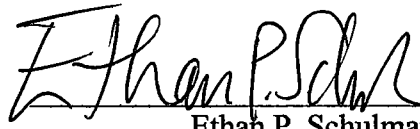
10 19. The Court reserves the right to continue the date of the Final Approval Hearing.
11 Any Class Members who submit objections to the Settlement shall receive notice if the Final
12 Approval Hearing is continued.

13 20. All proceedings in this Action are stayed until further order of the Court, except as
14 may be necessary to implement the settlement or to comply with the terms of the Settlement
15 Agreement. The Court retains jurisdiction to consider all further applications arising out of or
16 connected with the proposed Settlement.

17 21. Class Counsel shall submit a copy of this Order to the Labor and Workforce
18 Development Agency within ten (10) days after entry of this Order pursuant to Labor Code section
19 2699(l)(3).
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21 IT IS SO ORDERED.

22 Dated: August 9, 2024
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25 Ethan P. Schulman
26 Judge of the Superior Court
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CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, Edward Santos, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

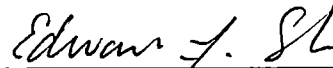
On August 9, 2024, I electronically served ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated:

AUG 09 2024

Brandon E. Riley, Court Executive Officer

By:



Edward Santos, Deputy Clerk