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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

ERICA MONIZ, as an individual, and on
behalf of all others similarly situated,

Plaintiff,

vs.

SERVICE KING, INC., a California
Corporation; SERVICE KING PAINT &
BODY, LLC, a Texas limited liability
company; and DOES 2 through 100,

Defendants.

Case No. 18CV335706

*[Assigned to Hon. Theodore C. Zayner,
Department 19]*

**PLAINTIFFS' SUPPLEMENTAL BRIEF IN
SUPPORT OF PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: July 24, 2024
Time: 1:30 p.m.
Dept.: 19

Complaint Filed: September 25, 2018
Trial Date: None Set

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1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2 Plaintiffs Erica Moniz, Hugo Gutierrez, Hagop Ajemyan, Philip Gabriel, Adolfo Chavez,
3 and Manuel Ramirez (collectively, “Plaintiffs”) hereby submit the following supplemental brief
4 in response to the Court’s May 22, 2024 Tentative Ruling (the “Ruling”). After reviewing the
5 Court’s Ruling, Plaintiffs and Defendant Service King Paint & Body, LLC (“Defendant”)
6 (Plaintiffs and Defendant are collectively referred to as the “Parties”) amended the Class Action
7 and PAGA Settlement Agreement and Class Notice (“Settlement Agreement”) and the Court
8 Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval (“Class
9 Notice”) in accordance with the issues identified by the Court.

10 Plaintiffs address each issue raised in the Court’s Ruling. The amended Settlement
11 Agreement and Class Notice are attached as Exhibits 1 and 2, respectively, to the Declaration of
12 Paul K. Haines In Support of Plaintiffs’ Supplemental Brief In Support of Preliminary Approval
13 of Class Action Settlement (“Haines Decl.”), filed concurrently herewith. Redline versions of the
14 amended Settlement Agreement and Class Notice showing all changes are attached as Exhibits 3,
15 and 4, respectively, to the Haines Declaration.

16 **As to the Settlement and Class Notice:**

17 **1. The PAGA Release**

18 The Court’s Ruling directs the Parties to provide supplemental briefing explaining why
19 including the LWDA Letters in the release is fair and how doing so is consistent with *Amaro v.*
20 *Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521.

21 In order to address the Court’s concern regarding the scope of the PAGA release, the
22 Parties amended Section 5.3 of the Settlement Agreement, “Release By Aggrieved Employees”
23 to delete the words “the PAGA Notices”. *See* Haines Decl., ¶ 4, Exh. 1. The Parties also updated
24 the language of the PAGA release in Section 3.10 of the Class Notice. *Id.* Exh 2.

25 **2. Cy Pres**

26 The Court’s Ruling directs the Parties to provide a new *cy pres* in compliance with Code
27 of Civil Procedure section 384.

28 In order to comply with the Court’s Ruling, the Parties have revised Section 4.4.3 of the

1 Settlement Agreement so that uncashed checks are to be sent to Child Advocates of Silicon
2 Valley, a non-profit dedicated to child advocacy. *See* Haines Decl., ¶ 4, Exh 1. The Parties have
3 also revised Section 3.5 (Need to Promptly Cash Payment Checks) of the Class Notice to reflect
4 that uncashed checks will be sent to the proposed *cy pres* Child Advocates of Silicon Valley. *Id.*,
5 Exh 2.

6 **3. Settlement Administration Costs**

7 The Court directed the Parties to file a supplemental declaration addressing the
8 inconsistency in settlement administrator costs because the Declaration of Jodey Lawrence on
9 Behalf of Phoenix Settlement Administrators includes a quote of \$16,500 but the Settlement
10 Agreement allocates up to \$18,500 for Settlement Administrator costs.

11 In order to comply with the Court's Ruling, the Parties have amended the Settlement
12 Agreement and Class Notice to reflect that the Gross Settlement Agreement includes up to
13 \$16,500 to the Administrator for services administering the Settlement. *See* Haines Decl., ¶ 4,
14 Exh 1, at § 3.2.3; *see also* Exh. 2 at § 3.2.C.

15 **4. Specific Revisions to Class Notice**

16 The Court's Ruling directs the Parties to make the following specific changes to the Class
17 Notice: (1) fix the names of the Class Representatives, Philip Gabriel and Manuel Ramirez; and
18 (2) modify the language regarding the final approval hearing.

19 In order to comply with the Court's Ruling, the Parties have revised the opening paragraph
20 of the Class Notice as well as Section 3.2.B (Court Approved Deductions from Gross Settlement)
21 to fix the names of Philip Gabriel and Manuel Ramirez. *See* Haines Decl., ¶ 4, Exh 2.
22 Additionally, the Parties have modified Section 8 (Can I attend the Final Approval Hearing?) of
23 the Class Notice to include the following language regarding the final approval hearing:

24 You can attend the Final Approval Hearing (or hire a lawyer to attend) either
25 personally or remotely using the Microsoft Teams link for Department 19
26 (Afternoon Session). Instructions for appearing remotely are provided at
27 https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml and
28 should be reviewed in advance of the hearing. If you wish to appear remotely,
please contact Class Counsel at least three days before the hearing if possible, so
that potential technology or audibility issues can be avoided or minimized.

Id.

The Court's Ruling directs Plaintiffs to file a supplemental declaration addressing whether the proposed settlement was submitted to the LWDA in compliance with Labor Code section 2699, subdivision (1)(2), along with proof of submission.

Plaintiffs have also submitted the amended Settlement Agreement to the LWDA and have filed a “Proof of Service of Proposed Settlement To The Labor and Workforce Development Agency.” See Haines Decl., ¶ 6, Exh. 7.

The Court's Ruling directs Plaintiff Gabriel to file an amended declaration complying with Code of Civil Procedure section 2015.5.

Dated: July 10, 2024

By:

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