

1 Filed
2 January 29, 2025
3 Clerk of the Court
4 Superior Court of CA
5 County of Santa Clara
6 18CV335706
7 By: mcastellon

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA CLARA**

11
12 ERICA MONIZ, as an individual and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 SERVICE KING, INC. a California
17 corporation; SERVICE KING PAINT &
18 BODY, LLC, a Texas limited liability
19 company; and DOES 2 through 100,

20 Defendants.

Case No. 18CV335706

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

**[AMENDED PROPOSED] ORDER AND
JUDGMENT GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: January 22, 2025
Time: 1:30 p.m.
Dept.: 19

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

1 The Motion of Plaintiffs Erica Moniz, Hugo Gutierrez, Hagop Ajemyan, Philip Gabriel,
2 Adolfo Chavez, and Manuel Ramirez (“Plaintiffs”) for Final Approval of Class Action
3 Settlement, Class Representatives’ Service Payments, and Attorneys’ Fees and Costs (“Final
4 Approval Motion”) came on regularly for hearing before this Court on January 22, 2025 at 1:30
5 p.m. Having considered the parties’ Class Action And PAGA Settlement Agreement (the
6 “Settlement”), and the documents and evidence presented in support thereof, and recognizing the
7 sharply disputed factual and legal issues involved in this case, the risks of further prosecution,
8 and the substantial benefits to be received by the Settlement Class pursuant to the Settlement, the
9 Court hereby makes a final ruling that the Settlement is fair, reasonable, and adequate, and is the
10 product of good faith, arm’s-length negotiations between the parties. Good cause appearing
11 therefor, the Court hereby GRANTS Plaintiffs’ Final Approval Motion and hereby ORDERS the
12 following:

13 1. Final judgment is hereby entered in conformity with the Settlement Agreement
14 and this Final Approval Order.

15 2. The conditional class certification is hereby made final, and the Court thus
16 certifies, for purposes of the Settlement, the following Settlement Class:

17 All current and former non-exempt employees of Defendant Service King Paint
18 & Body, LLC in the State of California who held the job title(s) of Service
19 Advisor, Painter, and/or Body Technician during the Class Period and thereby
20 received various forms of productivity/commission pay. The Class Period means
21 September 25, 2014 through January 31, 2023, except that all persons who
participated in the class action settlement in the case of *Roman v. Service King
Paint & Body, LLC*, No. CIVDS16002618 (“*Roman*”), the Class Period shall
begin on December 9, 2016 and run through January 31, 2023.

22 3. Plaintiffs are hereby confirmed as Class Representatives. Paul K. Haines, Sean M.
23 Blakely, and Alexandra R. McIntosh of Haines Law Group, APC; Eric A. Boyajian of the Law
24 Offices of Eric A. Boyajian APC; Marcus J. Bradley of Bradley/Grombacher, LLP, and Donald
25 Potter of the Law Office of Donald Potter, are hereby confirmed as Class Counsel.

26 4. On September 11, 2024, notice was provided to Settlement Class members as set
27 forth in the Settlement, which was approved by the Court on August 20, 2024, and the notice
28 process has been completed in conformity with the Settlement and the Court’s Preliminary

1 Approval Order. The Court finds that said notice was the best notice practicable under the
2 circumstances. The Class Notice provided due and adequate notice of the proceedings and matters
3 set forth therein, informed Settlement Class members of their rights, and fully satisfied the
4 requirements of California Code of Civil Procedure § 1781(e), California Rule of Court 3.769,
5 and due process.

6 5. The Court finds that no Settlement Class member objected to the Settlement, no
7 Settlement Class member opted out of the Settlement, and that the 100% participation rate in the
8 Settlement supports final approval.

9 6. The Court hereby approves the settlement as set forth in the Settlement as fair,
10 reasonable, and adequate, and directs the parties to effectuate the Settlement according to its
11 terms.

12 7. For purposes of settlement only, the Court finds that: (a) the members of the
13 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
14 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
15 community of interest among members of the Settlement Class with respect to the subject matter
16 of the litigation; (c) the claims of the Class Representatives are typical of the claims of the
17 Settlement Class members; (d) the Class Representatives have fairly and adequately protected the
18 interests of the Settlement Class members; (e) a class action is superior to other available methods
19 for an efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as
20 counsel for the Class Representatives and the Settlement Class.

21 8. The Court finds that given the absence of objections to the Settlement, this Order
22 shall be considered final as of the date of entry.

23 9. The Court finds that the Individual Class Payments, as provided for in the
24 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
25 distribute the Individual Class Payments in conformity with the terms of the Settlement.

26 10. The Court orders Defendant Service King Paint & Body, LLC (“Defendant”) to
27 deposit the Gross Settlement Amount of \$4,750,000.00 with the Settlement Administrator,
28 Phoenix Settlement Administrators, within thirty (30) days of the Effective Date.

1 11. The Court finds that Service Payments of \$15,000.00 each to Plaintiffs Moniz and
2 Gabriel; \$7,500 each to Plaintiffs Ajemyan and Gutierrez; and \$5,000.00 each to Plaintiffs Chavez
3 and Ramirez (totaling \$55,000.00) are appropriate for Plaintiffs’ risks undertaken and their
4 service to the Settlement Class. The Court finds that these payments are fair, reasonable, and
5 adequate, and orders that the Settlement Administrator make these payments in conformity with
6 the terms of the Settlement.

7 12. The Court finds that attorneys’ fees in the amount of \$1,583,333.00 for Class
8 Counsel are fair, reasonable, and adequate in light of the common fund created by the Settlement,
9 and orders that the Settlement Administrator distribute these payments to Class Counsel in
10 conformity with the terms of the Settlement.

11 13. The Court finds that reimbursement of actual litigation costs of \$109,588.86 for
12 Class Counsel are fair, reasonable, and adequate, and orders the Settlement Administrator to
13 distribute these payments to Class Counsel in conformity with the terms of the Settlement.

14 14. The Court orders that the Settlement Administrator shall be paid \$16,500.00 from
15 the Gross Settlement Amount in conformity with the terms of the Settlement, for all of its work
16 done and to be done until the completion of this matter and finds that sum appropriate.

17 15. The Court finds that the payment to the California Labor & Workforce
18 Development Agency (“LWDA”) in the amount of \$75,000.00 for its share of the settlement of
19 Plaintiffs’ representative claim under the PAGA is fair, reasonable, and adequate, and orders the
20 Settlement Administrator to distribute this payment to the LWDA in conformity with the terms
21 of the Settlement.

22 16. This Court orders that any settlement checks shall be negotiable for 180 calendar
23 days from the date of issuance of the check, and that for any settlement checks uncashed and
24 cancelled after the void date, the Settlement Administrator will transmit the funds represented by
25 such checks to the *cy pres* Child Advocates of Silicon Valley in accordance with California Code
26 of Civil Procedure Section 384, subd. (b).

27 17. Effective on the date when Defendant fully funds the entire Gross Settlement
28 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class

1 Payments, Participating Class Members, on behalf of themselves and their respective former and
2 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release
3 claims against Defendant, and each of their former and present insurers, brands, concepts,
4 affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers,
5 directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney,
6 and any individual or entity that could be jointly liable with Defendant (the “Released Parties”),
7 from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class
8 Period factual allegations and primary rights stated in the Operative Complaint and any
9 amendments thereto, and ascertained in the course of the Actions, including, e.g., any and all
10 claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods
11 and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest
12 periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide
13 recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to
14 pay wages during employment and upon termination, 7) failure to provide accurate itemized wage
15 statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid
16 sick leave, and 10) violations of California’s unfair competition law (Business and Profession
17 Code 17200, *et seq.*) (the “Released Class Claims”). Except as set forth in Section 5.3 of the
18 Agreement, Participating Class Members do not release any other claims, including claims for
19 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
20 unemployment insurance, disability, social security, workers’ compensation, or claims based on
21 facts occurring outside the Class Period.

22 18. In addition, upon the occurrence of the Effective Date, all Aggrieved Employees,
23 the State of California, and the LWDA are deemed to release, on behalf of themselves and their
24 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
25 and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or
26 reasonably could have been alleged, based on the PAGA Period (December 21, 2017 through
27 January 31, 2023) factual allegations and primary rights stated in the Operative Complaint and
28 any amendments thereto, and ascertained in the course of the Actions, including, e.g., any and all

claims for 1) unpaid wages, 2) unpaid overtime and double time, 3) failure to provide meal periods and properly calculate the rate of compensation on premiums paid, 4) failure to provide rest periods and properly calculate the rate of compensation on premiums paid, 5) failure to provide recovery periods and properly calculate the rate of compensation on premiums paid, 6) failure to pay wages during employment and upon termination, 7) failure to provide accurate itemized wage statements, 8) failure to reimburse expenses, 9) failure to provide or properly compensate paid sick leave, and 10) failure to maintain accurate records (the "Released PAGA Claims").

19. This document shall constitute a final judgment pursuant to California Rule of Court 3.769(h), which provides, "If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final Approval Order, and this Judgment.

20. A Compliance Hearing is set for September 3, 2025 at 2:30 p.m. in Department 19. Class Counsel shall submit an amended judgment pursuant to Code of Civil Procedure § 384(b) by August 20, 2025. The Settlement Administrator shall submit an accounting report attesting to the Net Settlement Amount and the distributions made, the number and value of uncashed checks, the amount to be remitted to the *cy pres* recipient, and the status of any unresolved issues no later than August 20, 2025.

IT IS SO ORDERED.

Dated: January 28, 2025



Honorable Theodore C. Zayner
Judge of the Superior Court

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 264384 NAME: Sean M. Blakely FIRM NAME: Haines Law Group, APC STREET ADDRESS: 2155 Campus Drive, Suite 180 CITY: El Segundo STATE: CA ZIP CODE: 90245 TELEPHONE NO.: (424) 292-2350 FAX NO.: (424) 292-2355 E-MAIL ADDRESS: phaines@haineslawgroup.com ATTORNEY FOR (name): Plaintiffs Erica Moniz, Hugo Gutierrez, Hagop Ajemyan & Philip Gabriel		FOR COURT USE ONLY on 1/28/2025 12:20 PM Reviewed By: M. Offhaus Case #18CV335706 Envelope: 18066830
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, 95113 BRANCH NAME: Downtown Superior Court		
PLAINTIFF/PETITIONER: Erica Moniz DEFENDANT/RESPONDENT: Service King, Inc., et al. OTHER:		CASE NUMBER: 18CV335706
		JUDICIAL OFFICER: Hon. Judge Theodore C. Zayner
PROPOSED ORDER (COVER SHEET)		DEPT: 19

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
Plaintiffs Erica Moniz, Hugo Gutierrez, Hagop Ajemyan, and Philip Gabriel
2. Title of the proposed order:
[Amended Proposed] Order and Judgment Granting Final Approval of Class Action Settlement
3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: Motion for Final Approval of Class Action Settlement
 - b. Date and time: January 23, 2025, 1:30 p.m.
 - c. Place: 191 N. First Street
San Jose, California 95113
4. The proposed order was served on the other parties in the case.

Sean M. Blakely

(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:

Erica Moniz v. Service King, Inc., et al.

CASE NUMBER:

18CV335706

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):

b. My electronic service address is (*specify*):

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):

b. To (*electronic service address of person served*):

c. On (*date*):

☒ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format ~~and service of the proposed order in an editable word-processing format~~ on additional persons is described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: January 28, 2025

Aaron Clark

(TYPE OR PRINT NAME OF DECLARANT)



Aaron Clark

(SIGNATURE OF DECLARANT)