

1 Kane Moon, Esq. (SBN 249834)
2 Allen Feghali, Esq. (SBN 301080)
3 Lannie Pham (SBN 342139)
4 **MOON LAW GROUP, PC**
5 1055 W. Seventh Street, Suite 1880
6 Los Angeles, California 90017
7 Telephone: (213) 232-3128
8 Facsimile: (213) 232-3125
9 E-mail: kmoon@moonlawgroup.com
10 E-mail: afeghali@moonlawgroup.com
11 E-mail: lpham@moonlawgroup.com

12 *Attorneys for Plaintiff, Leroy Merced Torres*

13
14
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SACRAMENTO**

17 LEROY MERCED TORRES, individually, and
18 on behalf of all others similarly situated,

19 *Plaintiff,*

20 vs.

21 TESCO CONTROLS, LLC, a limited liability
22 company; TESCO CONTROLS, INC., a
23 California corporation; and DOES 1 through 10,
24 inclusive,

25 *Defendants.*

Case No.: 34-2022-00323172

CLASS AND REPRESENTATIVE ACTION

[Hon. Lauri A. Damrell, Dept. 22]

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

[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities, and
the Declarations of Kane Moon, Plaintiff
Leroy Merced Torres, and Nick Castro in
Support of Motion]

FINAL APPROVAL HEARING:

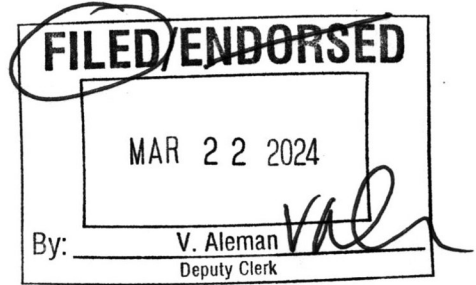
Date: March 22, 2024

Time: 9:00 a.m.

Dept.: 22

Action Filed: July 11, 2021

Trial Date: None Set



1 **[PROPOSED] FINAL ORDER AND JUDGMENT**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 On November 14, 2023, the Court entered an Order Granting Plaintiff's Motion for
4 Preliminary Approval of Class and PAGA Action Settlement, which granted conditional class
5 certification and approval of Class Notice, and set a Final Approval Hearing (the "Preliminary
6 Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the
7 "Action") that was reached between Plaintiff Leroy Merced Torres ("Plaintiff") and Defendants
8 Tesco Controls, LLC and Tesco Controls, Inc. ("Defendants," and together with Plaintiff, the
9 "Parties"), in accordance with the Parties' Joint Stipulation of Class and PAGA Action Settlement
10 (the "Settlement"). The Settlement was attached as Exhibit 1 to the Declaration of Kane Moon in
11 Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement that was filed on
12 September 20, 2023. The Court now has before it a Proposed Final Order and Judgment to finally
13 approve the Settlement.

14 Due and adequate notice having been given to Class Members, and the Court having reviewed
15 the Settlement and duly considered Plaintiff's Motion for Final Approval of Class Action Settlement,
16 the supporting declarations and exhibits thereto, all other papers filed and proceedings had hereto,
17 the record in this Action, and any oral argument, and good cause appearing,

18 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

19 1. The Court, for purposes of this Final Order and Judgment, refers to all terms and
20 definitions as set forth in the Settlement and confirmed below.

21 2. Plaintiff's Motion for Final Approval of Class Action Settlement, including a motion
22 for payment of attorneys' fees and costs, Class Representative service payment, settlement
23 administration costs, and the PAGA allocation (collectively "Motion for Final Approval"), and
24 whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class
25 Members, came before Department 22 of this Court, the Honorable Lauri A. Damrell presiding, on
26 March 22, 2024.

27 3. The Court finds that the Settlement appears to have been made and entered into in
28 good faith, the terms of which are fair, reasonable, and adequate; was reached following meaningful

1 discovery and investigation conducted by Plaintiff and his counsel of record ("Class Counsel"); is
2 the result of serious, informed, adversarial, and arms-length negotiations between the Parties; and
3 therefore, meets the requirements for final approval. In so finding, the Court has considered all the
4 evidence presented, including evidence regarding the strength of Plaintiff's claims; the risk, expense,
5 and complexity of the claims presented; the likely duration of further litigation; the settlement amount
6 offered; the extent of investigation and discovery completed; and the experience and views of Class
7 Counsel. The Court has further considered the absence of any objections to, and the absence of any
8 requests for exclusion from, the Settlement. Accordingly, the Court hereby **GRANTS** Plaintiff's
9 Motion for Final Approval and **ORDERS** Judgment to be entered in accordance with the terms
10 herein.

11 4. The Court certifies, for settlement purposes only, the following Class (the "Settlement
12 Class"): All non-exempt employees employed by Defendants in California at any time between July
13 11, 2018 through November 14, 2023. Excluded from the Settlement Class are all persons who
14 properly and timely elected to opt out from the Settlement.

15 5. The deadline to request exclusion from or to submit written objections to the
16 Settlement was January 29, 2024. No requests for exclusion or written objections were received.
17 Notwithstanding the submission of a timely request for exclusion, Class Members are still bound by
18 the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant
19 to *Arias v. Superior Court* (2009) 46 Cal. 4th 969, as requests to be excluded from the Settlement do
20 not apply to the Released PAGA Claims.

21 6. The Court-approved Notice to Class Members (the "Class Notice"), which was
22 attached to the Supplemental Declaration of Kane Moon in Support of Plaintiff's Motion for
23 Preliminary Approval of Class and PAGA Action Settlement in Response to October 19, 2023
24 Tentative Ruling filed on October 20, 2023 as Exhibit B and provided to the Class pursuant to the
25 plan for distribution described under the Settlement Agreement, conformed with the requirements of
26 California Rules of Court 3.766 and 3.769, and constituted the best notice practicable under the
27 circumstances, by providing individual and adequate notice of the proceedings and of the matters set
28 forth therein to Class Members. The Class Notice fully satisfied the requirements of due process and

1 provided the Class Members with adequate instructions and a variety of means to obtain additional
2 information.

3 7. A full opportunity has been afforded to Class Members to participate in the Final
4 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard
5 and/or had an opportunity to be heard. Class Members have had a full and fair opportunity to exclude
6 themselves from the Settlement or object to the Settlement. Accordingly, the Court determines that
7 all Class Members who did not request exclusion from the Settlement (“Settlement Class Members”)
8 are bound by this Final Order and Judgment.

9 8. The Class Representative, Settlement Class Members, and Aggrieved Employee,
10 regardless of whether he or she is a Settlement Class Member, will release claims in accordance with
11 the terms of the Settlement upon final approval by the Court of this Settlement and Defendants’
12 payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may
13 be created by this Settlement. With the exception of the Class Representative, who will be subject to
14 a broader release in accordance with the terms of the Settlement, the Settlement Class Members and
15 Aggrieved Employees will be subject to the following release terms:

16 a. **Released Parties.** “Released Parties” means Defendants, all entities affiliated with
17 it, and all officers, directors, representatives, owners, partners, subsidiaries, parent
18 and affiliated companies, joint venturers, clients, joint employers, predecessors,
19 managers, servants, successors-in-interest, assigns, current and former employees
20 of Defendants, including but not limited to agents, insurers, attorneys and all
21 persons or entities acting in concert with or affiliated with any of them (collectively
22 “Releasees”). *Settlement*, ¶ 42(a).

23 b. **Claims Released by Settlement Class Members.** Plaintiff and the members of the
24 Settlement Class who do not opt out of the settlement will release Releasees from
25 all claims as pled in the Operative Complaint, and any further amended pleadings
26 as necessary, including claims for (1) Failure to Pay Minimum Wages; (2) Failure
27 to Pay Overtime Compensation; (3) Failure to Provide Meal Periods; (4) Failure to
28 Authorize and Permit Rest Breaks; (5) Failure to Indemnify Necessary Business

1 Expenses; (6) Failure to Timely Pay Final Wages at Termination; (7) Failure to
2 Provide Accurate Itemized Wage Statements; (8) Unfair Business Practices; and (9)
3 Civil Penalties Under PAGA based on the allegations in the operative Complaint,
4 as well as any and all wage and hour claims that were asserted or could have been
5 asserted based on the factual allegations contained in the Complaint, or any
6 amended complaints. This also includes, but is not limited to, any and all claims
7 alleged or that could have been alleged based on the facts of the Complaint or any
8 amended complaint for unpaid wages, and all other associated damages and/or
9 penalties, including but not limited to claims under Labor Code sections 201, 202,
10 203, 204, 210, 226, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2 1197,
11 1197.1, 1198, 2800, 2802, 2699 et seq. all applicable IWC Wage Orders, and
12 Business and Professions Code section 17200 et seq. For Plaintiff and the members
13 of the Settlement Class who do not opt out of the settlement, the Settlement Class
14 Release shall include all released claims which arose during the Class Period.
15 *Settlement*, ¶ 42(c).

- 16 c. **Claims Released by the PAGA Group.** Plaintiff and the members of the PAGA
17 Group will release Releasees from all claims as pled in the Operative Complaint,
18 and any further amended pleadings as necessary, for violation of California Labor
19 Code section 2698, et seq. ("PAGA") based on the allegations in the operative
20 Complaint, as well as any and all PAGA claims that were asserted or could have
21 been asserted based on the factual allegations contained in the Complaint, or any
22 amended complaints. This also includes, but is not limited to, any and all PAGA
23 claims alleged or that could have been alleged based on the facts of Plaintiff's
24 Complaint or any amended complaint, including but not limited to claims for civil
25 penalties under Labor Code section 2698, et seq., for alleged violations of Labor
26 Code sections 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 558, 1174,
27 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 2800, 2802, and all applicable IWC
28 Wage Orders. There shall be no right to opt-out of the PAGA Release for members

1 of the PAGA Group and the Judgment on this Settlement will have res judicata
2 effect as to the PAGA claim for all members of the PAGA Group. Moreover, this
3 Agreement shall be effective to adjudicate and release the claims and/or rights of
4 the LWDA to recover civil penalties against Defendants for Labor Code or Wage
5 Order violations suffered by any of the PAGA Group members which are premised
6 upon the facts and allegations in the Complaint, or any amended complaint, as well
7 as any and all claims for civil penalties that were asserted or could have been
8 asserted based on the factual allegations contained in the Complaint, or any
9 amended complaint (i.e., the Judgment on this Settlement will have res judicata
10 effect as to those claims of the LWDA, whether pursued directly by the LWDA or
11 by a representative pursuant to PAGA). For Plaintiff, the members of the PAGA
12 Group, and the LWDA, the PAGA Release shall include all released claims from
13 July 1, 2021 through the date of preliminary approval of the settlement ("PAGA
14 Group Release Period"). *Settlement*, ¶ 42(d).

- 15 d. **Effective Date.** "Effective Date" means the last date to occur of the following: (a)
16 if there are no objections to the Settlement, then the date of Final Approval by the
17 Court; (b) if there are objections to the Settlement, and if an appeal, review, or writ
18 is not sought from the Order granting Final Approval of the settlement, the thirty-
19 first (31st) day after service of notice of entry of the Court's order granting its final
20 approval to this class action and PAGA settlement; or (c) if an appeal, review, or
21 writ is sought from the Final Approval Order, the day after the Final Approval Order
22 is affirmed or the appeal, review, or writ is dismissed or denied, and the order is no
23 longer subject to judicial review. Prior to the Effective Date, Defendants will not
24 be required to fund this Settlement, in whole or in part, through the Settlement
25 Administrator or any third party. Defendants will fund this Settlement within thirty
26 (30) days of the Effective Date, and the Settlement Administrator will distribute the
27 fund installments within twenty-one (21) days of receipt. *Settlement*, ¶ 32(b)

- 28 9. The Parties shall bear their own respective attorneys' fees and costs, except as

1 otherwise provided for in the Settlement and approved by the Court.

2 10. The Court finds that the Gross Settlement Amount ("GSA"), the Net Settlement
3 Amount, and the methodology used to calculate Settlement Class Payments and PAGA Settlement
4 Payments to Settlement Class Members and PAGA Employees, respectively, are fair and reasonable.
5 The Court thus authorizes the Settlement Administrator to pay settlement allocations in accordance
6 with the terms of the Settlement. Defendant shall wire to the Settlement Administrator the GSA and
7 Defendant's employer's share of payroll taxes no later than fourteen (30) calendar days of the
8 Effective Date, as that term is defined under the Settlement. Within fourteen (14) calendar days after
9 receipt of the wired settlement funds, the Settlement Administrator shall disburse, in the amounts
10 approved by the Court as provided below: (1) the Net Settlement Amount to be paid to Settlement
11 Class Members in Settlement Class Payments; (2) the Attorneys' fees and costs to Class Counsel; (3)
12 the Enhancement Award to Plaintiff; (4) the Settlement Administration Costs to the Settlement
13 Administrator; (5) the PAGA Penalty Payment to the LWDA; and (6) PAGA Settlement Payments
14 to the PAGA Employees.

15 11. A total amount of \$100,000.00 shall be allocated from the GSA to resolution of claims
16 under the Private Attorneys General Act of 2004 ("PAGA") and distributed as follows: 25%
17 (\$25,000.00) to PAGA Employees and 75% (\$75,000.00) to the LWDA. The LWDA's claims for
18 the Released PAGA Claims are hereby extinguished.

19 12. The Court confirms the appointment of Plaintiff as the Class Representative, for
20 settlement purposes only. In addition to any recovery that Plaintiff is eligible to receive as a
21 Settlement Class Member, the Court approves and orders a service payment to Plaintiff in the amount
22 of \$10,000 from the GSA for his role and service as the Class Representative, for the risks and work
23 attendant to that role, and for his general release of claims, both known and unknown, and waiver of
24 section 1542 rights.

25 13. The Court confirms the appointment of Moon Law Group, PC as Class Counsel, for
26 settlement purposes only. The Court approves and orders the payments to Class Counsel from the
27 GSA in the amounts of \$666,666.67, for reasonable attorneys' fees, and \$18,488.59, for
28 reimbursement of actual litigation costs. The Court finds that these amounts are reasonable

1 considering the benefits provided to the Class.

2 14. The Court confirms the appointment of ILYM Group, Inc. as the Settlement
3 Administrator, who has fulfilled its initial notice and reporting duties. The Court approves and orders
4 the payment to the Settlement Administrator in the amount of \$15,350.00 from the GSA for its
5 services and costs of administration.

6 15. Pursuant to California Code of Civil Procedure section 384, following the expiration
7 of the 180-day check-cashing deadline, should there be any uncashed checks, the Settlement
8 Administrator shall transmit those amounts to the California State Controller's Office for Unclaimed
9 Property in the name of each Settlement Class Member and/or PAGA Employee who failed to cash
10 their individual check prior to the void date.

11 16. In accordance with California Rule of Court 3.771(b), notice of this Final Order and
12 Judgment will be given to the Settlement Class by the Settlement Administrator, who will provide
13 a copy of this Final Order and Judgment to each Settlement Class Member and/or Aggrieved
14 Employee with their individual settlement check.

15 17. This Final Order and Judgment is intended to be a final disposition of the Action in
16 its entirety and is intended to be immediately appealable.

17 18. The obligations set forth in the Settlement are deemed part of this Final Order and
18 Judgment, and the Parties are ordered to carry out the Settlement according to its terms and
19 provisions.

20 19. Following entry of this Final Order and Judgment, and without affecting the finality
21 thereof, the Court shall retain continuing jurisdiction over the Action and the Settlement, until all
22 payments and obligations contemplated by this Settlement have been fully carried out, solely for
23 purposes of (i) enforcing this Settlement, (ii) addressing settlement administration matters, and (iii)
24 addressing such post-Judgment matters may be appropriate under court rules or applicable law.

25 20. The Settlement is finally approved but is not an admission by Defendants of the
26 validity of any claims in this Action, or of any wrongdoing by Defendants or of any violation of
27 law. Neither the Settlement nor any related document shall be offered or received in evidence in
28 any civil, criminal, or administrative action or proceeding other than such proceedings as may be

1 necessary to consummate or enforce the Settlement.

2 21. The Court sets a Non-Appearance Case Review Hearing re: Distribution on
3 December 20, 2024 at 10:30 a.m./p.m. in Department 22. Class Counsel are ordered to file
4 a final report and declaration by the Settlement Administrator regarding settlement distribution no
5 later than five court days prior to the Case Review. No appearance is required at the Case Review
6 if the Settlement Administrator's declaration filed prior to the hearing reports that all the distributions
7 under the Settlement Agreement are complete.

8 **IT IS SO ORDERED.**

9 DATE: 3/22/24



The Honorable Lauri A. Damrell
Judge of the Superior Court, Sacramento County



LAURI A. DAMRELL

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite
7 1880, Los Angeles, California 90017. On February 28, 2024, I served the foregoing document
8 described as:

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

11 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
12 addressed as follows:

13 Kevin D. Finley
14 Marissa Alguire
15 Carmen Chavez
16 **AKERMAN LLP**
17 601 West Fifth Street, Suite 300
18 Los Angeles, CA 90071
19 kevin.finley@akerman.com
20 marissa.alguire@akerman.com
21 carmen.chavez@akerman.com

22 *Attorney for Defendants TESCO CONTROLS, LLC et al.*

23 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
24 California, by e-mail delivery on the parties listed herein at their most recent known e-
25 mail address or e-mail of record in this action.

26 X (State) I declare under penalty of perjury under the laws of the State of California
27 that the above is true and correct.

28 Executed on February 28, 2024, at Los Angeles, California.

29 Janelle Jickain
30 Name

31 
32 Signature