

FILED
KERN COUNTY SUPERIOR COURT
5/23/2024
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DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

ANITA MILLER and YVETTE SANCHEZ,
individually, and on behalf of other members of
the general public similarly situated, and as
aggrieved employees pursuant to the Private
Attorneys General Act ("PAGA"),

Plaintiffs,

vs.

RACK ROOM SHOES, INC., a North Carolina
corporation; OFF BROADWAY SHOES, INC.,
a North Carolina corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No.: BCV-22-101870

Assigned to the Hon. Gregory Pulskamp

**~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: April 23, 2024
Time: 8:30 a.m.
Place: Division J

Complaint Filed: July 28, 2022
Trial Date: None Set

ORDER AND JUDGMENT

This matter came before the Court for a hearing on the Motion for Final Approval of the Class Action and PAGA Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Enhancement Payments (collectively, the "Motions"). Due and adequate notice having been given to Class Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

2. This Order hereby adopts and incorporates by reference the terms and conditions of the Joint Stipulation of Class and PAGA Action Settlement and Release ("Settlement Agreement" or "Settlement"), together with the definitions and terms used and contained therein.

3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.

4. The Class Notice fully and accurately informed Class Members of all material elements of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.

5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.

6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiffs' Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendants or by any other Released
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants
21 or any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
24 whatsoever by or against Defendants or any of the other Released Parties.

25 10. Final approval shall be with respect to: All current and former California non-exempt
26 hourly employees of Defendants who worked at any time during the period from July 28, 2018 to
27 October 24, 2023.

28 11. Plaintiffs Anita Miller and Yvette Sanchez are adequate and suitable representatives and

1 are hereby appointed the Class Representatives for the Settlement Class. The Court finds that Plaintiffs'
2 investment and commitment to the litigation and its outcome ensured adequate and zealous advocacy for
3 the Settlement Class, and that their interests are aligned with those of the Settlement Class.

4 12. The Court hereby awards Plaintiffs Class Representative Enhancement Payments of
5 \$10,000, each, for their service on behalf of the Settlement Class, and for agreeing to general releases of
6 all claims arising out of their employment with Defendants.

7 13. The Court finds that the attorneys at Capstone Law APC have the requisite
8 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
9 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
10 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

11 14. The settlement of civil penalties under PAGA in the amount of \$50,000 is hereby
12 approved. Seventy-Five Percent (75%), or \$37,500, shall be paid to the California Labor and Workforce
13 Development Agency. The remaining Twenty-Five Percent (25%), or \$12,500, will be paid to PAGA
14 Members.

15 15. The Court hereby awards \$358,333 in attorneys' fees and \$14,345.72 in costs and
16 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is
17 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created
18 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
19 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
20 fair and reasonable.

21 16. The Court approves settlement administration costs and expenses in the amount of
22 \$17,250 to CPT Group, Inc.

23 17. All Class Members were given a full and fair opportunity to participate in the Approval
24 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
25 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
26 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
27 and Judgment shall be forever binding on all Participating Class Members. These Participating Class
28 Members have released and forever discharged the Released Parties for any and all Released Class

1 Claims during the Class Period:

2 All claims, rights, demands, liabilities, and causes of action, reasonably arising
3 from, or reasonably related to, the same set of operative facts as those set forth in
4 the operative complaint during the Class Period, including claims for violation of:
5 (1) Sections 510 and 1198 (unpaid overtime); (2) Sections 1182.12, 1194, 1197,
6 1197.1, and 1198 (unpaid minimum wages); (3) Sections 226.7, 512(a), 516, and
7 1198 (failure to provide meal periods); (4) Sections 226.7, 516, and 1198 (failure
8 to authorize and permit rest periods); (5) Sections 226(a), 1174(d), and 1198
(noncompliant wage statements and failure to maintain payroll records); (6)
Sections 201 and 202 (wages not timely paid upon termination); (7) Section 204
(failure to timely pay wages during employment); (8) Section 2802 (unreimbursed
business expenses); (9) California Business & Professions Code sections 17200,
et seq. (unlawful business practices); and (10) California Business & Professions
Code sections 17200, *et seq.* (unfair business practices).

9 18. Additionally, all PAGA Members and the LWDA have released and forever discharged
10 the Released Parties for any and all Released PAGA Claims during the PAGA Period: All claims for
11 civil penalties under California Labor Code §§ 2698, *et seq.*, that were brought or could reasonably have
12 been brought based on the facts alleged in Plaintiffs' LWDA letters during the PAGA Period.

13 19. Judgment in this matter is entered in accordance with the above findings.

14 20. Without affecting the finality of the Judgment, the Court shall retain exclusive and
15 continuing jurisdiction over the above-captioned action and the parties under Cal. Civ. Proc. Code §
16 664.6, including all Participating Settlement Members and PAGA Members, for purposes of enforcing
17 the terms of the Judgment entered herein.

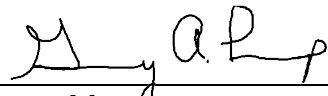
18 21. This document shall constitute a judgment (and separate document constituting said
19 judgment) for purposes of California Rules of Court, Rule 3.769(h).

20 22. Plaintiffs shall file a declaration from the Settlement Administrator confirming the
21 disbursement of settlement funds no later than ~~February 18, 2025~~ **March 18, 2025**, as well as an amended judgment
22 regarding the distribution of unclaimed residuals to Two Ten Footwear Foundation.

23
24 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

25 Dated: Signed: 5/23/2024 09:09 AM

26 BCV-22-101870

27 
28 Hon. Gregory Pulskamp
Kern County Superior Court Judge