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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF STANISLAUS

12 KEVIN DUANE WILLIAMS, individually, and
on behalf of all others similarly situated,

13 Plaintiff,

14 vs.
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16 SUPERIOR TRUCK LINES, INC., a California
corporation; and DOES 1 through 10, inclusive,

17 Defendants.
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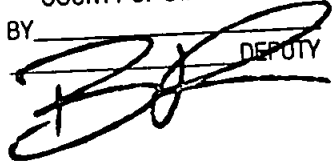
Case No.: CV-22-004257

[Hon. Stacy P. Speiller]

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR AN ORDER
APPROVING SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE PRIVATE
ATTORNEY GENERAL'S ACT OF 2004

Date: March 27, 2024
Time: 8:30 a.m.
Courtroom: Dept. 22
Judge: Hon. Stacy P. Speiller

Action Filed: September 21, 2022
Trial Date: Not Set

FILED
MAR 28 2024
CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS
BY  DEPUTY

1 **TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2 Plaintiff KEVIN DUANE WILLIAMS ("Plaintiff") and defendant SUPERIOR TRUCK LINES,
3 INC. ("Defendant") (Plaintiff and Defendant are the "Parties") have reached terms of settlement of this
4 action alleging a claim for relief pursuant to the Labor Code Private Attorneys General Act of 2004,
5 Labor Code § 2698, *et seq.* ("PAGA").

6 Pursuant to PAGA, Plaintiff, on behalf of the Parties, has filed a motion for approval of the
7 settlement of the claims against Defendant in this action. Specifically, Plaintiff moves for an order:

- 8 1. granting approval of the terms of the Agreement pursuant to the Labor Code Private
9 Attorneys General Act of 2004, Labor Code § 2698, *et seq.*, including the amount of the
10 settlement; the amount of distributions to the State and Aggrieved Employees; the amounts
11 allocated to attorney's fees and costs; and, the amount allocated to the settlement administrator;
12 and,
13 2. directing disbursement of the Gross Settlement Amount pursuant to the terms of the
14 Agreement.

15 On March 27, 2024, Plaintiff's Motion came on for hearing. The PAGA SETTLEMENT
16 AGREEMENT (referred to as the "Agreement," or "Settlement," and attached to the Declaration of H.
17 Scott Leviant as **Exhibit 1**) is conditioned upon the Court's approval. Capitalized terms in this Order
18 have the same meaning as in the Settlement unless indicated otherwise. A summary of the terms of the
19 Settlement is as follows:

- 20 (a) Aggrieved Employees: All current or former non-exempt employees who
21 worked for Defendant STL in the State of California at any time from September
22 1, 2021 through the date of approval of the parties' Labor Code Private Attorneys
23 General Act ("PAGA") [Lab. Code § 2698, *et seq.*] settlement by the Court.
24 (Agreement, ¶¶ 1.4 1.19).
25 (b) No Reversion: The Settlement is **non-reversionary**. (Agreement, ¶ 3.1.)
26 (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of
27 **\$320,000.00** (hereinafter referred to as the "Gross Settlement Amount" or
28 "GSA") for settlement of the PAGA Penalties, which shall be inclusive of

Plaintiff's Counsel's attorney's fees and costs, and the settlement administrator's fees and costs. (Agreement, ¶¶ 3.1, 3.2).

(d) Net Settlement Amount: At least **\$193,333.33** will be available for distribution to the Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at least **\$145,000.00** under the Agreement, and Aggrieved Employees will receive at least **\$48,333.33**. (Agreement, ¶¶ 1.15, 3.2).

(e) Attorney's Fees: Plaintiff's Counsel requests an award of attorney's fees in the amount of **\$106,666.67**, which is one-third of the GSA. (Agreement, ¶ 3.2.1.)

(f) Litigation Costs: Plaintiff's Counsel seeks reimbursement of actual litigation costs, to a maximum amount of \$14,000.00. Those actual costs are expected to be \$17,777.54, which is more than the actual amount. Therefore, **\$14,000.00** is requested. (Agreement, ¶ 3.2.1; Leviant Decl., ¶ 39, and Exh. 2.)

(g) Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator Phoenix Settlement Administrators, which has agreed to perform Administrator duties for a flat fee not to exceed **\$6,000.00**, which is reasonable, based on all of the services offered. (Agreement, ¶ 3.2.2; Leviant Decl., ¶ 41; Declaration of Michael Moore [Decl. of Moore], ¶ 7.)

(h) Uncashed Checks: Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the Unclaimed Property Fund. (Agreement, ¶¶ 4.4.2, 4.4.3.)

(i) Release: In exchange for the above settlement consideration, Defendant shall be entitled to a *limited* release from the LWDA and each and every Aggrieved Employee, including Plaintiff.¹ (Agreement, ¶ 5; Leviant Decl., Exh. 1.)

¹ This comports with settled California Supreme Court authority. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009) (concluding that "with respect to the recovery of civil penalties, nonparty employees as well as the government are bound by the judgment in an action brought under the act....").

(j) Notice to LWDA: The Declaration of H. Scott Leviant confirms that notice was provided to the LWDA and attaches the confirmatory submission documents. (Leviant Decl., ¶ 45 and Exh. 3.)

After reviewing the Settlement and other related documents, and the filings submitted by Plaintiff, **IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Court hereby GRANTS approval of the PAGA settlement upon the terms and conditions set forth in the Settlement. The Court finds that the terms of the proposed settlement are reasonable. In granting approval of the settlement the Court has considered the factors identified in *Moniz v. Adecco USA, Inc.*, 72 Cal. App. 5th 56 (2021), *O'Connor v. Uber Technologies*, No. 13-CV-03826-EMC, 2016 WL 4398271 (N.D. Cal. Aug. 18, 2016), *Hanlon v. Chrysler Corp.*, 150 F.3d 1011 (9th Cir. 1998), *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996), and other authority providing a coherent framework for evaluating this Settlement.

2. The Court hereby identifies the Aggrieved Employees as:

All current or former non-exempt employees who worked for Defendant STL in the State of California at any time from September 1, 2021, through the date of approval of the parties' Labor Code Private Attorneys General Act ("PAGA") [Lab. Code § 2698, et seq.] settlement by the Court. (Agreement, ¶¶ 1.4 1.19).

3. The Court hereby finds the Settlement was the product of informed, non-collusive negotiations conducted at arms' length by the Parties. In making these findings, the Court considered Defendant's potential liability, the benefit to the State of California, allocation of settlement proceeds among Aggrieved Employees, and the fact that a settlement represents a compromise of the Parties' respective positions rather than the result of a finding of liability at trial. The Court further finds that the terms of the Settlement have no obvious deficiencies. The Court finds that risks of further prosecution are substantial and include the risks that (1) penalties would be reduced after evaluation of the totality of the circumstances, or (2) no penalties would be awarded for some or all of the alleged violations.

4. The Court hereby approves Phoenix Settlement Administrators to serve as the Administrator. The Administrator will be paid pursuant to the Agreement's terms for such distribution, in the requested amount of **\$6,000.00** out of the Gross Settlement Amount to effectuate Administration.

5. Pursuant to the Agreement, the amount distributed as penalties under PAGA shall be

1 **\$320,000.00**, less administration costs, attorney's fees, and costs awarded to Plaintiff's counsel. After
2 awards, the amount remaining to distribute as penalties is **\$193,333.33**. The LWDA shall receive 75%
3 of the penalties allocated, which is **\$145,000.00**. Aggrieved Employees shall receive 25% of the
4 penalties allocated, which is **\$48,333.33**.

5 6. The Court hereby awards Counsel attorneys' fees in the amount of **\$106,666.67**. The
6 Court finds that the attorneys' fees are reasonable compared to amounts routinely approved in similar
7 settlements and as guided by the California Supreme Court's decision concerning the awarding of fees
8 from monetary funds for class members. *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016).
9 Counsel proceeded on a contingency basis despite the uncertainty of any fee award. Counsel were
10 necessarily precluded from pursuing other potential sources of fees because of work in connection with
11 this Action. The Court observed that this is not a class action. It is more akin to contingent
12 representation with an additional requirement of Court review due to the qui tam nature of a PAGA
13 claim. Attorneys' fees that are fifty percent of a common fund are typically considered the upper limit,
14 with thirty to forty percent commonly awarded in cases where the settlement is relatively small. *See Van*
15 *Vranken v. Atlantic Richfield Company*, 901 F. Supp. 294 (N.D. Cal. 1995) (stating that most cases
16 where 30-50 percent was awarded involved "smaller" settlement funds of under \$10 million). Based on
17 these considerations, including the lodestar cross-check, a fee award of one third is reasonable.

18 7. The Court hereby awards Counsel litigation costs in the total amount of **\$14,000.00**.

19 8. Upon entry of this Order, the Parties shall effectuate all terms of the Settlement based on
20 the provisions and timelines set forth in the Agreement.

21 9. Pursuant to the terms of the Settlement, the released persons and entities include:
22 Defendant and its current or former agents, officers, employees, directors, owners,
23 subsidiaries, DBA's, affiliates, and parent companies (referred to in the Settlement as
the "Released Parties").

24 10. Upon entry of the Order approving this Settlement and the Judgment thereon, PAGA
25 claims are released as follows:

26 Effective on the date when Defendants fully fund the entire Gross Settlement Amount,
27 Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

28 Release by Aggrieved Employees: All Aggrieved Employees and the State of
California release all Released PAGA Claims. The "Released PAGA Claims" are all

claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, arising under PAGA, that each Aggrieved Employee and the State of California had, now has, or may hereafter claim to have against the Released Parties and that were asserted in the Action, or that arise from or could have been asserted under PAGA, based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in Plaintiff's operative Complaint and/or PAGA Notice through the date of approval of the parties' settlement.

Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

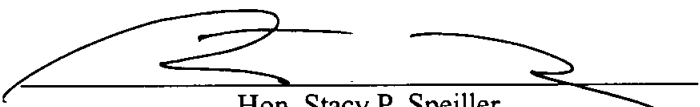
11. The action is DISMISSED WITH PREJUDICE.

12. The Court will enter Final Judgment in accordance with this Order.

13. The Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement, and any and all claims asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies relating thereto.

IT IS SO ORDERED.

Dated: 3/22/24


Hon. Stacy P. Speiller
STANISLAUS SUPERIOR COURT JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR AN ORDER APPROVING SETTLEMENT OF CLAIMS BROUGHT PURSUANT TO THE PRIVATE ATTORNEY GENERAL'S ACT OF 2004** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Marie Trimble Holvick
mholvick@grsm.com
John Ricca
jricca@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
275 Battery Street, Suite 2000
San Francisco, California 94111
Facsimile: (415) 986-8054

Counsel for Defendant

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

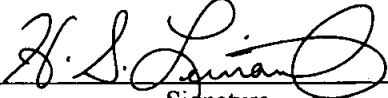
☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this **February 28, 2024** at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature