

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MIGUEL ROSALES, ELIO RUBEN ALONSO,
JOHNNY MARQUEZ, and LEO PATINO,
individually, and on behalf of all others similarly
situated, and on behalf of the State of California
and other aggrieved persons,

Plaintiff,

v.

HARBOR DISTRIBUTING, L.L.C., a Delaware
limited liability company,

Defendant.

Case No. 30-2023-01300842-CU-OE-CXC

**REPRESENTATIVE AND CLASS
ACTION**

*[Assigned for all purposes to Hon. Layne
Melzer]*

**[REVISED ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS,
FLSA COLLECTIVE, AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

PRELIMINARY APPROVAL HEARING

Date: March 27, 2025

Time: 2:00 p.m.

Dept: CX102

Complaint filed: January 9, 2023

Trial date: Not set

~~PROPOSED~~ ORDER

Having reviewed Plaintiffs Miguel Rosales, Johnny Marquez, Leo Patino, and Elio Ruben Alonso's Motion for Preliminary Approval of Class Action Settlement ("Motion"), the Declarations of John G. Yslas and Jose Garay, Plaintiffs' declarations, and the Amended Class, FLSA Collective, and PAGA Representative Action and Class Notice ("Settlement Agreement"), and good cause appearing, the Court finds and orders as follows:

1. The Court finds on a preliminary basis that the Settlement Agreement appears to be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval. The Court grants preliminary approval of the Settlement and the Settlement Class based on the terms set forth in the Settlement Agreement between Plaintiff and Defendant Harbor Distributing L.L.C. ("Defendant"), attached to the Supplemental Declaration of Samantha A. Smith in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement as **Exhibit 2** (ROA # 116).

2. The Settlement falls within the range of reasonableness of a settlement which could ultimately be given final approval by this Court, and appears to be presumptively valid, subject only to any objections that may be raised at the Final Approval Hearing and final approval by this Court. The Court notes that Defendant has agreed to create a common fund of **\$2,285,000.00** to cover (a) settlement payments to Class Members who do not validly opt out; (b) a **\$100,000.00** allocation toward civil penalties under the Labor Code Private Attorneys General Act of 2004, 75% of which (**\$75,000.00**) will be paid to the State of California, Labor & Workforce Development Agency and 25% of which (**\$25,000.00**) will be paid to eligible Aggrieved Employees; (c) up to **\$115,000.00** for FLSA damages; (d) Class Representative service payment of up to **\$15,000.00** to each Plaintiff; (e) Class Counsel's attorneys' fees, not to exceed 1/3 of the Gross Settlement Amount (i.e., **\$761,666.67**), and up to **\$39,000.00** in costs for actual litigation expenses incurred by Class Counsel; and (f) Settlement Administration Costs of up to **\$26,000.00**.

3. The Court preliminarily finds that the terms of the Settlement appear to be within the range of possible approval, pursuant to California Code of Civil Procedure § 382

1 and applicable law. The Court finds on a preliminary basis that: (1) the Settlement amount is
2 fair and reasonable to the Class Members when balanced against the probable outcome of
3 further litigation relating to class certification, liability and damages issues, and potential
4 appeals; (2) significant informal discovery, investigation, research, and litigation have been
5 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
6 respective positions; (3) settlement at this time will avoid substantial costs, delay, and risks
7 that would be presented by the further prosecution of the litigation; and (4) the proposed
8 Settlement has been reached as the result of intensive, serious, and non-collusive negotiations
9 between the Parties with the assistance of a well-respected class action mediator. Accordingly,
10 the Court preliminarily finds that the Settlement Agreement was entered into in good faith.

11 4. A final fairness hearing on the question of whether the proposed Settlement,
12 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
13 Workforce Development Agency for its share of the settlement of claims for penalties under
14 the Private Attorneys General Act, and the class representatives' enhancement awards should
15 be finally approved as fair, reasonable and adequate as to the members of the Class is hereby
16 set in accordance with the Implementation Schedule set forth below.

17 5. The Court provisionally certifies for settlement purposes only the following
18 class (the "Class"): "'Class' refers to all individuals who were employed by Harbor as non-
19 exempt employees in positions as warehouse workers or merchandisers in California during
20 the Settlement Period. The Class does not include individuals who have previously executed
21 releases that cover the claims covered by [the Parties' Settlement] Agreement."

22 6. "Class Period" means the period from November 11, 2020 through May 27,
23 2024.

24 7. The Court finds, for settlement purposes only, that the Settlement Class meets
25 the requirements for certification under California Code of Civil Procedure § 382 in that: (1)
26 the Settlement Class Members are so numerous that joinder is impractical; (2) there are
27 questions of law and fact that are common, or of general interest, to all Settlement Class
28 Members, which predominate over individual issues; (3) Plaintiffs' claims are typical of the

claims of the Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect the interests of the Settlement Class Members; and (5) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

8. The Court appoints as Class Representatives, for settlement purposes only, Plaintiffs Miguel Rosales, Johnny Marquez, Leo Patino, Elio Ruben Alonso. The Court further preliminarily approves each Plaintiffs' ability to request an incentive award up to **\$15,000.00**.

9. The Court appoints, for settlement purposes only, John G. Yslas, Jeffrey C. Bils, Aram Boyadjian and Andrew Sandoval, of Wilshire Law Firm, PLC, and Jose Garay as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to 1/3 of the Total Settlement Amount (i.e., **\$761,666.67**), and costs not to exceed **\$39,000**.

10. The Court appoints Atticus Administration as the Settlement Administrator with reasonable administration costs estimated not to exceed **\$26,000.00** except for a showing of good cause and as approved by the Court.

11. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that the plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

12. The Parties are ordered to carry out the Settlement according to the terms of the Settlement Agreement. The Court will have the final authority to determine the validity or non-validity of any Request for Exclusion.

13. Any Class Member who does not timely and validly request exclusion from the Settlement may object to the Settlement Agreement.

14. The Court orders the following Implementation Schedule:

Defendant to provide Class List to the	April 11, 2025 (15 business days after
--	--

Settlement Administrator	preliminary approval hearing, assuming preliminary approval is granted on hearing date)
Settlement Administrator to mail the Notice Packets	April 20, 2025 (No later than 30 days after preliminary approval)
Class Member Response Deadline	June 19, 2025 (60 days after sending Notice to Class)
Class Member Deadline to Object	June 19, 2025 (60 days after sending Notice to Class)
Deadline for Administrator to Submit Report	July 11, 2025 (14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement)
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Awards to Plaintiff	July 2, 2025 (16 court days before the calendared Final Approval Hearing)
Final Approval Hearing	July 24, 2025

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

16. Pursuant to CCP § 664.6 and CRC 3.769(h), the Court will, retain jurisdiction over the Parties, Action, and the Settlement for purposes of (i) enforcing the Settlement and Judgment, (ii) addressing Settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.

IT IS SO ORDERED.

DATE: April 10, 2025



Hon. Layne Melzer
Orange County Superior Court