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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
(UNLIMITED JURISDICTION)

MARGARITA PEREZ and MARIA DE LA LUNA HUERTA on behalf of themselves and all others similarly situated, and the general public, and as “Aggrieved Employees” on behalf of other “Aggrieved Employees” and the State of California under the Labor Code Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

WORKFORCE PERSONNEL, INC., California Corporation; DIAMOND WIPES INTERNATIONAL, INC., California Corporation; and DOES 1–50, inclusive,

Defendant(s).

Case No. CIVSB2220822

[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT

Action filed: September 19, 2022
Dept: 17, The Honorable Joseph T. Ortiz

The Motion of Plaintiff Maria De La Luna Huerta (hereafter referred to as “Plaintiff” or “Huerta”) for Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court, The Honorable Joseph T. Ortiz presiding. The Court having considered the Motion, the Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement

Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.

2. For purposes of this Preliminary Approval Order, the “Settlement Class” means all individuals Defendant Diamond Wipes International, Inc. (“Defendant”) employed directly at its Chino location as hourly, non-exempt employees during the Class Period (collectively “Class Members”). The “Class Period” shall mean the period of time from July 25, 2019, through the date of preliminary approval of this Settlement or the Alternate End Date.

3. Based on its records, Defendant estimates that, as of March 19, 2025, the date the Parties participated in mediation, there were 48,777 Total Work Weeks during the Class period. If the number of Work Weeks as of the date the Court approves the settlement exceeds the estimated 48,777 Work Weeks by more than 10.00%, the Gross Settlement Amount, including the Class Counsel Fees Payment would increase proportionally according to the number of additional Work Weeks. In the alternative, Defendant had the option to elect to end the Class Period and PAGA period on an earlier date at its discretion in order to limit the covered Work Weeks to no more than the 110% of Defendant’s estimates. According to Defendant’s records, the number of additional Work Weeks [did or did not] exceed Defendant’s estimates by more than 10%. Based thereon, Defendant has elected [an Alternate End Date of _____ or _____, the date the Court approved the settlement] as the Class Period and PAGA Period end date, [which does or which does not] result in an increase to the Gross Settlement Amount.

4. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

5. This action is provisionally certified pursuant to section 382 of the California Code of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for purposes of settlement only with respect to the proposed Settlement Class.

6. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under the Settlement Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

7. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Work Weeks, and PAGA Pay Periods in the Class Data.

8. Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified

1 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet
2 with Spanish translation, substantially in the forms attached to the Settlement Agreement as
3 **Exhibits A, B, C, and D.** The first page of the Class Notice shall prominently estimate the dollar
4 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
5 Member, and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate
6 these amounts. Before mailing Notice Packets, the Administrator shall update Class Member
7 addresses using the National Change of Address database.

8 9. Not later than three (3) business days after the Administrator’s receipt of any
9 Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
10 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
11 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
12 the Notice Packet to the most current address obtained. The Administrator has no obligation to
13 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
14 returned by the USPS a second time.

15 10. Class Counsel’s contact information is David Glenn Spivak, Esq., The Spivak Law
16 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel’s
17 contact information is Alfred Landegger, Evelyn Zarraga, and Joseph P. Sklar of Landegger
18 Verano & Davis, ALC, 15760 Ventura Boulevard, Suite 1200, Encino, California 91436.

19 11. The deadlines for Class Members’ written objections, Challenges to Work Weeks
20 and/or PAGA Pay Periods (disputes), and Requests for Exclusion will be extended an additional
21 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
22 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
23 with the re-mailed Notice Packet.

24 12. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
25 discovers any persons who believe they should have been included in the Class Data and should
26 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
27 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.

1 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
2 Members, and the Administrator will send, via email or overnight delivery, a Notice Packet
3 requiring them to exercise options under the Settlement Agreement not later than 14 days after
4 receipt of Notice Packet, or the deadline dates in the Notice Packet, which ever are later.

5 13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
6 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
7 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
8 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
9 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
10 the Class Member's election to be excluded from the Settlement and includes the Class Member's
11 name, address and email address or telephone number. To be valid, a Request for Exclusion must
12 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
13 in Settlement form, attached as Exhibit B to the Settlement Agreement, may be used for this
14 purpose but is not required.

15 14. The Administrator may not reject a Request for Exclusion as invalid because it
16 fails to contain all the information specified in the Class Notice. The Administrator shall accept
17 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
18 the person as a Class Member and the Class Member's desire to be excluded. The Administrator's
19 determination shall be final and not appealable or otherwise susceptible to challenge. If the
20 Administrator has reason to question the authenticity of a Request for Exclusion, the
21 Administrator may demand additional proof of the Class Member's identity. The Administrator's
22 determination of authenticity shall be final and not appealable or otherwise susceptible to
23 challenge.

24 15. Every Class Member who does not submit a timely and valid Request for Exclusion
25 is deemed to be a Participating Class Member under the Settlement Agreement, entitled to all
26 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
27 Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless whether the

1 Participating Class Member actually receives the Class Notice or objects to the Settlement.

2 16. Every Class Member who submits a valid and timely Request for Exclusion is a
3 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
4 right to object to the class action components of the Settlement. However, all Aggrieved
5 Employees, including those that are Non-Participating Class Members, will be deemed to release
6 all claims for civil penalties that could have been sought by the Labor Commissioner for the
7 violations identified in Plaintiff's pre-filing letter to the LWDA, including the Released PAGA
8 Claims under Paragraph 6.3 of the Settlement; Aggrieved Employees do not release claims for
9 wages or damages unless such Aggrieved Employee is a Participating Class Member.

10 17. Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days
11 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members
12 whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and/or PAGA
13 Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a
14 dispute. A Work Week Dispute form, attached as Exhibit C to the Settlement Agreement, may
15 be used for this purpose but is not required. The Class Member may challenge the allocation by
16 communicating with the Administrator via fax, email or mail. The Administrator must encourage
17 the challenging Class Member to submit supporting documentation. In the absence of any
18 contrary documentation, the Administrator is entitled to presume that the Work Weeks contained
19 in the Class Notice are correct so long as they are consistent with the Class Data. The
20 Administrator's determination of each Class Member's allocation of Work Weeks and/or PAGA
21 Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The
22 Administrator shall promptly provide copies of all challenges to calculation of Work Weeks
23 and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's
24 determination the challenges.

25 18. Objections to Settlement. Only Participating Class Members may object to the
26 class action components of the Settlement and/or this Agreement, including contesting the
27 fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
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1 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

2 19. Participating Class Members may send written objections to the Administrator, by
3 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
4 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
5 Participating Class Member who elects to send a written objection to the Administrator must do
6 so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional
7 14 days for Class Members whose Notice Packet was re-mailed). An The Objection form attached
8 to the Settlement Agreement as Exhibit D may be used for this purpose but is not required.

9 20. Non-Participating Class Members have no right to object to any of the class action
10 components of the Settlement.

11 21. Not later than 14 days before the date by which Plaintiff is required to file the
12 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
13 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and
14 compliance with all of its obligations under the Settlement Agreement, including, but not limited
15 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
16 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
17 from Settlement it received (both valid or invalid), the number of written objections and attach
18 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
19 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
20 declaration(s) in Court.

21 22. The Court approves, as to form and content, the Class Notice in substantially the
22 form attached as Exhibit A to the Settlement Agreement, the Election Not to Participate in
23 Settlement form in substantially the form attached as Exhibit B to the Settlement Agreement, the
24 Work Weeks Dispute form in substantially the form attached as Exhibit C to the Settlement
25 Agreement, and the Objection form in substantially the form attached as Exhibit D to the
26 Settlement Agreement.

27 23. The Court approves, for settlement purposes only, David Glenn Spivak of The
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1 Spivak Law Firm and Louis M. Benowitz of Benowitz Law Corporation as Class Counsel.

2 24. The Court approves, for settlement purposes only, Maria De La Luna Huerta as
3 the Class Representative.

4 25. The Court approves Apex Class Action as the Administrator.

5 26. The Court preliminarily approves Class Counsel's request for attorneys' fees and
6 costs subject to final review by the Court.

7 27. The Court preliminarily approves the estimated Administrator costs payable to the
8 Administrator subject to final review by the Court.

9 28. The Court preliminarily approves Plaintiff's Class Representative Service
10 Payment subject to final review by the Court.

11 29. A Final Approval Hearing shall be held on ____ at ____.m. in Department S17 of
12 the Superior Court for the State of California, County of San Bernardino, located at the San
13 Bernardino District – Civil Division, 247 West Third Street, Dept. S17, San Bernardino, CA
14 92415-0210 to consider the fairness, adequacy and reasonableness of the proposed Settlement
15 preliminarily approved by this Preliminary Approval Order, and to consider the application of
16 Class Counsel for attorneys' fees and costs and the Class Representative Service Payment to the
17 Class Representative. The notice of motion and all briefs and materials in support of the motion
18 for final approval of class action settlement and motion for attorneys' fees and litigation costs
19 shall be served and filed with this Court on or before _____. Plaintiff's counsel must give notice to
20 any objecting party of any continuance of the hearing of the motion for final approval.

21 30. If for any reason the Court does not execute and file a Final Approval Order and
22 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
23 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
24 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
25 litigation, as more specifically set forth in the Settlement.

26 31. The Court expressly reserves the right to adjourn or continue the Final Approval
27 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give

1 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

2 **IT IS SO ORDERED.**

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5 **DATE**

THE HONORABLE JOSEPH T. ORTIZ
SUPERIOR COURT JUDGE