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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

MICHAEL SCHOENFELD, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

COOLSYS LIGHT COMMERCIAL
SOLUTIONS, INC., a California corporation; and
DOES 1 through 10, inclusive

Defendants.

Case No.: 32-2022-00051676-CU-OE-CTL

**[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: February 7, 2025
Time: 9:00 a.m.
Courtroom: C-60
Judge: Hon. Matthew Braner

Action Filed: December 27, 2022
Trial Date: Not Set

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

2 Plaintiff MICHAEL SCHOENFELD (“Plaintiff”) and Defendant COOLSYS LIGHT
3 COMMERCIAL SOLUTIONS, LLC¹ (“Defendant”) (Plaintiff and Defendant are the “Parties”) have
4 reached terms of settlement of this action alleging a claim for relief pursuant to the Labor Code Private
5 Attorneys General Act of 2004, 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 settlement;
10 the amount of distributions to the State and Aggrieved Employees; the amounts allocated to
11 attorney’s fees and costs; and, the amount allocated to the settlement administrator; and,
12 2. directing disbursement of the Gross Settlement Amount pursuant to the terms of the
13 Agreement.

14 On February 7, 2025, Plaintiff’s Motion came on for hearing. The PAGA SETTLEMENT
15 AGREEMENT (referred to as the “Agreement,” or “Settlement,” and attached to the Declaration of H.
16 Scott Leviant as **Exhibit 1**) is conditioned upon the Court’s approval. Capitalized terms in this Order
17 have the same meaning as in the Settlement unless indicated otherwise. A summary of the terms of the
18 Settlement is as follows:

- 19 (a) Aggrieved Employees: All persons employed by Defendant as hourly-paid or
20 non-exempt employees in the State of California during the PAGA Period (the
21 period between December 24, 2021 through the Effective Date of this
22 Agreement). (Agreement, ¶¶ 1.4, 1.18).
23 (b) No Reversion: The Settlement is *non-reversionary*. (Agreement, ¶ 3.1.)
24 (c) Gross Settlement Amount: Defendant agrees to pay the maximum sum of
25 **\$392,500.00** (hereinafter referred to as the “Gross Settlement Amount” or
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27 ¹ Defendant’s correct name is “CoolSys Light Commercial Solutions, LLC,” and is a Delaware
28 limited liability company—i.e., not “CoolSys Light Commercial Solutions, Inc., a California
corporation” as erroneously named in Plaintiff’s Complaint.

“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, and subject to the escalator clause. (Agreement, ¶¶ 3.1, 3.2, 8)

(d) Net Settlement Amount: At least **\$238,916.67** will be available for distribution to the Aggrieved Employees and the LWDA. Of this amount, the LWDA will receive at least **\$179,187.50** under the Agreement, and Aggrieved Employees will receive at least **\$59,729.17**. (Agreement, ¶¶ 1.14, 3.2.3.)

(e) Attorney’s Fees: Plaintiff’s Counsel requests an award of attorney’s fees in the amount of **\$130,833.33**, subject to the escalator clause, which is one-third of the GSA. (Agreement, ¶¶ 3.2.1, 8.1; Leviant Decl., ¶ 39, and Exh. 2.)

(f) Litigation Costs: Plaintiff’s Counsel seeks reimbursement of actual litigation costs, to a maximum amount of \$18,000.00. Those actual costs are expected to be \$20,456.00, which is more than the originally anticipated amount. Therefore, **\$18,000.00** is requested. (Agreement, ¶ 3.2.1; Leviant Decl., ¶ 40, and Exh. 2.)

(g) Settlement Administration: Payment to Aggrieved Employees and administration will be accomplished through third-party settlement administrator, Phoenix Settlement Administration, which has agreed to perform Administrator duties for a flat fee not to exceed **\$4,750.00**, which is reasonable, based on all of the services offered. (Agreement, ¶ 3.2.2; Leviant Decl., ¶ 41; Declaration of Jodey Lawrence [Decl. of Lawrence], ¶ 16.)

(h) Uncashed Checks: Uncashed checks will be cancelled, and the funds will, pursuant to Unclaimed Property laws, be directed to the California State Controller’s Office in the name of the Aggrieved Employee who did not cash the check. (Agreement, ¶ 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.² (Agreement, ¶ 5; Leviant Decl. ¶ 24, Exh. 1.)

- (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, 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 persons employed by Defendant as hourly-paid or non-exempt employees in the State of California during the PAGA Period (the period between December 24, 2021 through the Effective Date of this Agreement). (Agreement, ¶¶ 1.4, 1.18).

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 Administration ("Phoenix") to serve as

² 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....").

1 the Administrator. The Administrator will be paid pursuant to the Agreement's terms for such
2 distribution, in the requested amount of \$4,750.00 out of the Gross Settlement Amount, to effectuate
3 Administration.

4 5. Pursuant to the Agreement, the amount distributed as penalties under PAGA shall be
5 \$392,500.00, less administration costs, attorney's fees, and costs awarded to Plaintiff's counsel. After
6 awards, the amount remaining to distribute as penalties is \$238,916.67. The LWDA shall receive 75%
7 of the penalties allocated, which is \$179,187.50. Aggrieved Employees shall receive 25% of the
8 penalties allocated, which is \$59,729.17.

9 6. The Court hereby awards Counsel attorneys' fees in the amount of \$130,833.33. The
10 Court finds that the attorney's fees are reasonable compared to amounts routinely approved in similar
11 settlements and as guided by the California Supreme Court's decision concerning the awarding of fees
12 from monetary funds for class members. *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016).
13 Counsel proceeded on a contingency basis despite the uncertainty of any fee award. Counsel were
14 necessarily precluded from pursuing other potential sources of fees because of work in connection with
15 this Action. The Court observed that this is not a class action. It is more akin to contingent
16 representation with an additional requirement of Court review due to the qui tam nature of a PAGA
17 claim. Attorneys' fees that are fifty percent of a common fund are typically considered the upper limit,
18 with thirty to forty percent commonly awarded in cases where the settlement is relatively small. *See Van*
19 *Vranken v. Atlantic Richfield Company*, 901 F. Supp. 294 (N.D. Cal. 1995) (stating that most cases
20 where 30-50 percent was awarded involved "smaller" settlement funds of under \$10 million). Based on
21 these considerations, including the lodestar cross-check, a fee award of one-third is reasonable.

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

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

25 9. Pursuant to the terms of the Settlement, the released persons and entities include:

26 Defendant, and any of its predecessors, successors, subsidiaries, parents, and affiliates
27 as defined by Corporations Code § 150, and each of its supervisory/managerial
28 employees, managing agents, managers, shareholders, directors, and/or officers.
(referred to in the Settlement as the "Released Parties"). (Agreement, ¶ 1.25.)

10. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

Release by Aggrieved Employees: Upon tender of the Gross Settlement Amount to the settlement administrator, the State of California, and anyone purporting to act on its behalf, will release all claims for civil penalties under PAGA, based on the facts and Labor Code sections alleged in Plaintiff's PAGA letter. The release will be as to the Released Parties. (Agreement, ¶ 5.2.)

Release by Plaintiff and PAGA Counsel: Upon tender of the Gross Settlement Amount to the settlement administrator, the State of California, and anyone purporting to act on its behalf, including Plaintiff, will release all claims for civil penalties under PAGA, based on the facts and Labor Code sections alleged in Plaintiff's PAGA letter. The release will be as to the Released Parties. ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. (Agreement, ¶ 5.1.)

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: _____

Hon. Matthew Braner
SAN DIEGO 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 725 S. Figueroa St., 31st Floor, 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:

Ellen Bronchetti
Priya Singh
GREENBERG TRAURIG, LLP
101 Second Street, Suite 2200
San Francisco, California 94105-3668
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Attorneys for Defendant

☒ **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.

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 **January 15, 2025** at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature