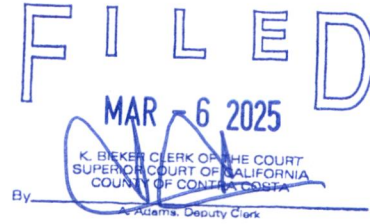


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Attorneys for Plaintiff STANLEY GLENN



SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

STANLEY GLENN, as an individual and
on behalf of all others similarly situated,

Plaintiff,

vs.

THE MCCOY GROUP, LLC., a
California limited liability company;
MCCOY GROUP, INC., a Wisconsin
corporation; FOODLINER, INC., a
Wisconsin corporation; and DOES 1-
100, inclusive,

Defendants.

CASE NO.: C23-00863

Assigned for All Purposes to:
Hon. Edward G. Weil
Dept 39

~~PROPOSED~~ ⁴⁶ **ORDER AFTER HEARING
GRANTING MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT
THEREON**

DATE: February 20, 2025
TIME: 8:30 a.m.
DEPT.: 39

1 The Court, having read the papers filed regarding Plaintiff's Motion for Final Approval of
2 Class Action Settlement and Request for Attorney's Fees and Costs, and having heard argument
3 regarding the Motion, hereby finds and ORDERS as follows:

4 1. The Court's summary of the case background, terms of the settlement, the
5 applicable law governing approval of class action settlement and settlement under the Private
6 Attorney's General Act, the award of attorney's fees and costs, the enhancement award to
7 Plaintiff, and the payment of settlement administration costs, and its discussion of these factors is
8 set forth in the tentative ruling attached hereto as Exhibit A, which ruling was adopted by the
9 Court as its final ruling and is incorporated herein by this reference as though fully set forth
10 herein.

11 2. The Court has jurisdiction over this matter and over all parties to the action,
12 including the members of the Settlement Class.

13 3. The Class Action and PAGA Settlement Agreement ("Settlement Agreement")
14 attached as Exhibit 1 to the Declaration of Nikki Trenner in support of Plaintiff's Motion for
15 Preliminary Approval of Class Action Settlement, filed on or about May 30, 2024, is the product
16 of arms-length negotiations between the parties and the terms of the Settlement Agreement are fair,
17 reasonable, adequate, and in the best interests of the Settlement Class. The Settlement Agreement
18 therefore is finally approved, and its terms incorporated herein. The Court orders the parties to the
19 Settlement Agreement to perform forthwith their respective duties and obligations thereunder.

20 4. The Settlement Class, which was provisionally certified by the Court in its October
21 10, 2024 Order Granting Preliminary Approval, hereby is certified under California Code of Civil
22 Procedure Section 382 for purposes of settlement only. The Class includes all current and former
23 non-exempt employees who worked either directly or via a staffing agency for any one or more of
24 the Defendants McCoy Group, Inc. and Foodliner, Inc. ("Defendants") at any location in California
25 at any time during the Class Period of August 16, 2020 to March 22, 2024.

26 5. The Court adjudges the Participating Class Members, on behalf of themselves and
27 their respective former and present representatives, agents, attorneys, heirs, administrators,
28 successors, and assigns, release the Released Parties (as defined in the Settlement Agreement) from

1 all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
2 Operative Complaint, including, all claims for (a) claims for minimum wages for failure to pay for
3 all time worked, rounding, automatic deductions for meal periods, off-the-clock/unpaid work, and
4 payment according to scheduled hours worked rather than actual hours; (b) all claims for untimely
5 payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor
6 Code; (c) all claims for unreimbursed expenses for expenses incurred for personal cell phones and
7 personal vehicles; (d) all claims for improper or inaccurate wage statements under Labor Code
8 section 226(a)(1)-(9) based upon allegations in the Action; and (e) all claims under Business &
9 Professions Code section 17200, et seq. premised on the facts, claims, and causes of action alleged
10 in the Action during the Class Period. Participating Class Members' only release these claims for
11 the duration of the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating
12 Class Members do not release any other claims, including claims for vested benefits, wrongful
13 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
14 disability, social security, workers' compensation, or claims based on facts occurring outside the
15 Class Period.

16 6. The Court further adjudges that all Aggrieved Employees are deemed to release, on
17 behalf of themselves and their respective former and present representatives, agents, attorneys,
18 heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA
19 penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the
20 Operative Complaint and the PAGA Notice, including, (a) failure to pay minimum wages;
21 (b) failure to reimburse expenses; (c) failure to furnish accurate itemized wage statements; and
22 (d) failure to timely pay all wages due upon separation of employment (e) failure to maintain
23 accurate records; (f) failure to provide meal periods; (g) failure to authorize and permit rest periods;
24 (h) failure to pay overtime; (i) failure to pay statutorily required wages; (j) refusal to pay wages due
25 and payable; (k) unlawful labor conditions; (l) failure to provide paid sick leave; (m) failure to
26 provide supplemental paid sick leave; (n) failure to pay vested vacation; and (n) unlawful criminal
27 inquiries during the PAGA Period. Aggrieved Employees only release these claims for the duration
28 of the PAGA Period.

1 7. The Settlement Administrator is ordered to distribute to the Participating Settlement
2 Class Members and to the Aggrieved Employees their respective settlement payments as provided
3 in the Settlement Agreement. Funds attributable to uncashed checks that remain after the check
4 void date shall be forwarded to the California State Controller's Unclaimed Property Fund. No
5 funds shall revert to Defendant.

6 8. The Court further orders that the Class Members be provided with notice of this
7 Judgment under California Rule of Court 3.771(b), and the Settlement Administrator shall post a
8 copy of this Order and Judgment on its website for a minimum of sixty (60) days.

9 9. The Court approves an award of attorney's fees to Class Counsel in the amount of
10 \$72,601.13, and an award of costs and expenses in the amount of \$16,770.19. Such amounts shall
11 be paid as provided in the Settlement Agreement, except that the Settlement Administrator shall
12 withhold five percent (5%) of the attorney's fee award in an interest bearing account, which funds
13 will be released to Class Counsel following the compliance hearing described in paragraph 11
14 below.

15 10. The Court approves a service payment to plaintiff and Class Representative
16 Stanley Glenn in the amount of \$7,500.00, and the Settlement Administrator is ordered to make
17 such payment consistent with the terms of the Settlement Agreement,

18 11. The Settlement Agreement provides the Settlement Administrator, Phoenix
19 Settlement Administrators, shall be paid from the Gross Settlement Amount for its services in
20 administering the Settlement. As set forth in the Declaration of Jarrod Salinas, the Settlement
21 Administrator is owed \$7,500 for services rendered and to be rendered in administering the
22 settlement. The Court therefore orders that Phoenix be paid the amount of \$7,500 from the Gross
23 Settlement Amount consistent with the terms of the Class Settlement Agreement.

24 12. The Court approves PAGA penalties in the amount of \$10,000, to be paid from the
25 Gross Settlement Amount, and finds that amount is fair, reasonable and adequate, and furthers the
26 purposes underlying PAGA. \$7,500.00 of this amount will be paid to the LWDA as the state's share
27 of the civil penalties, and the remainder of \$2,500.00 will be distributed to the Aggrieved
28 Employees consistent with the terms of the Settlement Agreement.

1 13. The Court hereby schedules a compliance hearing for February 20, 2026, at 9:00
2 a.m., and orders the Parties to file a joint compliance report at least seven (7) days before the
3 compliance hearing.

4 14. Under California Rule of Court 3.769(h), without affecting the finality of this Order
5 and Judgment in any way, the Court retains jurisdiction over: (1) implementation and enforcement
6 of the Settlement Agreement pursuant to further orders of this Court until the final judgment
7 contemplated becomes effective and each and every act agreed to be performed by the parties has
8 been performed under the terms of the Settlement Agreement; (2) any other action necessary to
9 conclude this settlement and to implement the Settlement Agreement; and (3) the enforcement,
10 construction, and interpretation of the Settlement Agreement.

11 15. Neither this Order and Judgment nor the Settlement Agreement upon which it is
12 based are an admission or concession by any party of any fault, omission, liability or wrongdoing.
13 This Order and Judgment is not a finding of the validity or invalidity of any claims in this action or
14 a determination of any wrongdoing by any party. The final approval of the parties' settlement will
15 not constitute any opinion, position or determination of this Court as to the merits of the claims or
16 defenses of any party.

17 16. Judgment is hereby entered as follows: Plaintiff Stanley Glen and the Participating
18 Class Members, consisting of all current and former non-exempt employees who worked either
19 directly or via a staffing agency for any one or more of the Defendants at any location in California
20 at any time during the Class Period of August 16, 2020 to March 22, 2024, who have not otherwise
21 opted out, shall take nothing from Defendants, except as set forth in the Settlement Agreement.

22 17. The Court shall retain jurisdiction over the parties to interpret, implement and
23 enforce this Judgment.

24 **IT IS SO ORDERED AND ADJUDGED.**

25
26 Dated: 3/5/25



Judge of the Superior Court
Edward G. Weil

EXHIBIT

A

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
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HEARING DATE: 02/20/2025

statement. 5% of the attorney's fees shall be withheld by the Administrator pending the compliance hearing.

5. 9:00 AM CASE NUMBER: C22-02125
CASE NAME: SAVANNAH THOMPSON VS. JOHN MUIR HEALTH
***HEARING ON MOTION IN RE: CLASS CERTIFICATION**
FILED BY:
TENTATIVE RULING:

On the Court's own motion the hearing on this matter is continued to Thursday, March 6, 2025.

6. 9:00 AM CASE NUMBER: C22-02172
CASE NAME: TORRES VS. HORNIK
***HEARING ON MINOR'S COMPROMISE FOR XIMENA STEPHANYA MOLINA ESPINOZA**
FILED BY: ESPINOZA TORRES, DELMY DE LOS ANGELES
TENTATIVE RULING:

On January 30, 2025, the Court issued an order continuing the hearing on the petition to February 20, 2025, 9:00 a.m. in order for petitioner to file an amended petition addressing the following issues: (1) how the attorney's fee of \$67,500 out of \$150,000 (45%) is justified under CRC 7.955(b), given that the matter was not thoroughly litigated. Moreover, the Chang Declaration (Par. 6), refers to the justification for a 40% attorney's fee, but the fee exceeds 40%; (2) The petition seeks to have the proceeds deposited in a blocked account (Section 18(b)(2)), but does not include the attachment identifying the financial institution into which the funds will be deposited. (3) Attachment 12 includes summaries of two other minors (Delmy and Oscar), but not Ximena.

Petitioner has filed an Amended petition. It adequately addresses (2) and (3). As to issue (1), concerning the percentage attorney's fee, the Court finds that the 45% fee is not justified under CRC 7.955(b), based on the nature of the work done, the risk, or the typical percentage fee charged in the Bay Area. The fee is reduced to 40% (\$60,000, with the difference to be deposited in the fund for the benefit of the minor. With that change, the petition will be granted.

7. 9:00 AM CASE NUMBER: C23-00863
CASE NAME: STANLEY GLENN VS. MCCOY GROUP, INC.
***HEARING ON MOTION IN RE: FINAL APPROVAL**
FILED BY:
TENTATIVE RULING:

Plaintiff Stanley Glenn moves for final approval of his class action and PAGA settlement with defendants McCoy Group, LLC and Foodliner, Inc.

A. Background and Settlement Terms

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Defendants are in the business of transportation services to the food industry. Plaintiff worked at McCoy as a truck driver from July 2020 to May 2022.

The original complaint was filed on April 13, 2023, as a class action. PAGA claims were added by later amendment.

The settlement would create a gross settlement fund of \$217,803.39 (after application of an escalator clause). The class representative payment to the plaintiff would be \$10,000. Attorney's fees would be \$72,601.13 (one-third of the "escalated" settlement amount). Litigation costs, which were not to exceed \$20,000, will actually be \$16,770.19. The settlement administrator's costs are estimated at \$7,500. PAGA penalties would be \$10,000, resulting in a payment of \$7,500 to the LWDA. The net amount paid directly to the class members would be about \$100,932, not including distribution of PAGA penalties. The fund is non-reversionary. There are an estimated 164 class members. Based on the estimated class size, the average net payment for each class member is approximately \$615. The individual payments will vary considerably, however, because of the allocation formula prorating payments according to the number of weeks worked during the relevant time. The number of aggrieved employees for PAGA purposes is smaller, because the starting date of the relevant period is later.

The entire settlement amount will be deposited with the settlement administrator within 14 days after the effective date of the settlement.

The proposed settlement would certify a class of all current and former non-exempt employees employed at Defendants' California facilities between August 16, 2020 and March 22, 2024. For PAGA purposes, the period covered by the settlement is April 13, 2022 to March 22, 2024.

The class members will not be required to file a claim. Class members may object or opt out of the settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.) Funds would be apportioned to class members based on the number of workweeks worked during the class period.

A list of class members was provided to the settlement administrator, and notices were mailed to the class on November 8, 2024. Of 164 notices sent, none were returned as undeliverable. No requests for exclusion from the class or objections to the settlement were received. No disputes of the calculation of individual amounts were received.

Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to the controller's unclaimed property fund.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are

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outside the scope of the allegations of the complaint.”) “Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint’ is impermissible.” (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. For example, much of plaintiff’s allegations centers on possible off-the-clock work, including missed or skipped meal breaks and rest breaks. In particular, plaintiff alleges that drivers were required to clock out while waiting, loading, and offloading cargo. He also alleges that they were required to watch over their equipment during shifts, thus effectively remaining on the clock during break times. Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks. As to unreimbursed employee expenses (such as cell phone use), plaintiff would have been called on to show that such expenses were in fact incurred, were reasonably necessary to job performance, and were unreimbursed. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include “stacking” of violations, the law may only allow application of the “initial violation” penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where “based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.”)) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, *e.g.*, *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion for preliminary approval.

B. Legal Standards

The primary determination to be made is whether the proposed settlement is “fair, reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
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presence of a governmental participant, and the reaction ... to the proposed settlement.” (See also *Amaro*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal’s decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the “fair, reasonable, and adequate” standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess “the fairness of the settlement’s allocation of civil penalties between the affected aggrieved employees”. (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “The court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because “Where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutary purpose.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

The settlement agreement includes an escalator provision, to be triggered in the event that the number of covered employees or work weeks turns out to be materially higher than now estimated. If the clause is triggered and the defendant elects to increase the total payment, no further approval will be needed. At preliminary approval, the Court cautioned the parties, however, that in the event the clause would result in a significant modification of the settlement (such as cutting back the covered period), it would be prudent to seek further approval from the Court. The escalator clause was triggered, but defendant opted to increase the amount of the gross payment. (*Salinas Dec.*, Par. 12.) Thus, the Court has no further concern with that issue.

C. Attorney Fees and other costs

Plaintiff seeks one-third of the total settlement amount as fees, relying on the “common fund” theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: “If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment.” (*Id.*, at 505.) Since preliminary approval, counsel have estimated the lodestar fee at \$101,685, based on a total of 142.3 hours, at a blended hourly rate

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of \$715 (based on individual rates ranging from \$600 to \$800), yielding an implied multiplier of 0.71. No adjustment is necessary.

Plaintiff seeks a representative payment of \$10,000. Criteria for evaluation of representative payment requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07. Mr. Glenn attested (in connection with the motion for preliminary approval), that he had spent approximately 20 hours working on the case. He also notes that he granted a general release as part of the settlement, but does not indicate that he had any other claims of particular value. A representative payment of \$7,500 is approved.

Litigation costs of \$16,770.19 are reasonable and are approved.

Settlement administration costs of \$7,500 to Phoenix are approved.

D. Discussion and Conclusion

The Court finds that the settlement is fair, reasonable, and adequate and is approved, with an amendment reducing the representative payment from \$10,000 to \$7,500.

Counsel will be directed to prepare an order reflecting this tentative ruling, the other findings in the previously submitted proposed order. The ultimate judgment must provide for a compliance hearing after the settlement has been completely implemented. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

8. 9:00 AM CASE NUMBER: C23-01204
CASE NAME: FABIAN BARAJAS VS. BRUCE LANCE
***HEARING ON MINOR'S COMPROMISE**
FILED BY: BARAJAS, FABIAN CEJA
TENTATIVE RULING:

Granted. For good cause, the Court waives the appearance of the minor, the guardian ad litem, and counsel.

9. 9:00 AM CASE NUMBER: C23-02179
CASE NAME: DMITRIY SHORNIKOV VS. LAKE ALHAMBRA PROPERTY OWNERS ASSOCIATION
HEARING ON DEMURRER TO: RE 3RD AMENDED ANSWER
FILED BY: SHORNIKOV, DMITRIY
TENTATIVE RULING:

Before the Court is Plaintiff Dmitriy Shornikov's Demurrer. The Demurrer relates to Defendant Lake Alhambra Property Owners' Association II's Third Amended Answer to Plaintiff's Complaint. Plaintiff demurs to the eighth affirmative defense pursuant to CCP § 430.20(a) and (b).

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PROOF OF SERVICE
Stanley Glenn vs. The Mccoy Group LLC et al.
Contra Costa Court Case No. C23-00863

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 9440 Santa Monica Blvd., Ste. 301, Beverly Hills, CA 90210.

On February 21, 2025, I served true copies of the following document(s) described as

**[PROPOSED] ORDER AFTER HEARING GRANTING MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND JUDGMENT
THEREON**

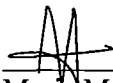
on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

☒ BY ELECTRONIC TRANSMISSION. I transmitted copies of the above-referenced document(s) from the email address maria@crosnerlegal.com to the interested parties in this action by electronic transmission. Said electronic transmission was reported as complete and without error. Court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 21, 2025, at Los Angeles, California.



Maria Monterrey

1 SERVICE LIST

2 *Stanley Glenn vs. The Mccoy Group LLC et al.*
3 *Contra Costa Court Case No. C23-00863*

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THE MCCOY GROUP LLC;
MCCOY GROUP, INC.;
FOODLINER, INC

11 **VIA ONLINE FILING ONLY:**

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