

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF STANISLAUS**

FRANCISCO RAMIREZ on behalf of
himself, all others similarly situated,
and on behalf of the general public,

Plaintiffs,

v.

MESSER LLC; and DOES 1-100,

Defendants.

Case No.: CV-23-002006

**[PROPOSED] ORDER GRANTING PLAINTIFF
FRANCISCO RAMIREZ'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT AND JUDGMENT**

Date: April 29, 2025

Time: 8:30 a.m.

Judge: Hon. John Freeland

Dept.: 23

Complaint Filed: April 14, 2023

Trial Date: None Set

1 **I. RECITALS**

2 This action is currently pending before this Court as a putative class action and representative
3 action (the “Action”). Plaintiff Francisco Ramirez has applied to this Court for an order finally
4 approving the settlement of the Action in accordance with the Joint Stipulation and Settlement
5 Agreement (“Agreement” or “Settlement Agreement”), which together with the exhibit annexed
6 thereto, sets forth the terms and conditions for a proposed settlement and entry of judgment upon the
7 terms and conditions set forth therein. The Court has read and considered the Memorandum of Points
8 and Authorities in Support of Plaintiff’s Motion for Final Approval of Class and PAGA Settlement,
9 and the declarations submitted therewith. For purposes of this Order, the Court adopts all defined terms
10 as set forth in the Agreement.

11 **II. FINDINGS**

12 After review and consideration of the Agreement and Plaintiff’s motion for final approval and
13 the papers in support thereof, the Court hereby finds and orders as follows:

14 1. The Court has jurisdiction over the claims of the Class Members asserted in this
15 proceeding and over all parties to the proceeding.

16 2. The “Class” or “Class Members” are defined to include all persons employed by
17 Messer LLC in California as a non-exempt driver from April 14, 2019, through August 15, 2024.

18 3. The “Aggrieved Employees” are defined to include all individuals employed by Messer
19 LLC in California at any time between April 10, 2022, through August 15, 2024.

20 4. The Class Notice was mailed by first-class U.S. mail to Class Members. The Class
21 Notice informed Class Members of the material terms of the settlement, of their right to receive a *pro*
22 *rata* portion of the Net Settlement Amount, of their right to request exclusion from the settlement, of
23 their right to comment upon or object to the settlement and to appear in person or through counsel at
24 the Final Approval Hearing and of the date set for the Final Approval Hearing. Adequate periods of
25 time were provided by each of these procedures.

26 5. In response to the Class Notice, no member of the Class submitted a written objection
27 to the settlement or stated an intention to appear at the Final Approval Hearing. No members of the
28 Class requested to be excluded from the settlement.

1 **III. ORDER**

2 The Court having considered the papers submitted in support of the motion for preliminary
3 approval, HEREBY ORDERS THE FOLLOWING:

4 1. The Court finds that the applicable requirements of California Code of Civil Procedure
5 section 382 and California Rule of Court 3.769, *et seq.* have been satisfied with respect to the Class
6 and the settlement. The Court hereby makes final its earlier provisional certification of the Class for
7 settlement purposes, as set forth in the Preliminary Approval Order.

8 2. The Court finds and determines that this notice procedure afforded adequate protections
9 to Class Members and provides the basis for the Court to make an informed decision regarding
10 approval of the settlement based on the Class Members' response. The Court finds and determines that
11 the Class Notice was the best notice practicable under the circumstances and satisfied the requirements
12 of law and due process.

13 3. The Court further finds and determines that the terms of the settlement are fair,
14 reasonable, and adequate to the Class and to each Class Member.

15 4. Pursuant to California law, the Court hereby grants final approval of the settlement.
16 The Court finds that the settlement was reached as a result of informed and non-collusive arm's-length
17 negotiations facilitated by a neutral mediator. The Court further finds that the Parties conducted
18 extensive investigation, research, and discovery and that their attorneys were able to reasonably
19 evaluate their respective positions. The Court also finds that settlement will enable the Parties to avoid
20 additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to
21 continue to litigate the case. The Court has considered the absence of objections and requests for
22 exclusion from the settlement, reviewed the monetary recovery provided as part of the settlement, and
23 recognizes the significant value accorded to the Class. Accordingly, the Court hereby approves the
24 terms set forth in the Settlement Agreement and finds that the settlement is, in all respects, fair,
25 adequate, and reasonable, and directs the Parties to effectuate the settlement according to its terms.

26 5. A full opportunity has been afforded to the Class Members to participate in the Final
27 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard. The
28 Class Members also have had a full and fair opportunity to exclude themselves from the settlement.

1 Accordingly, the Court determines that all Class Members who did not submit a timely and valid
2 request for exclusion from the settlement to the Settlement Administrator (“Participating Class
3 Members”) are bound by this Order Granting Plaintiff’s Motion for Final Approval of Class and
4 PAGA Action Settlement (“Final Approval Order and Judgment”).

5 6. In exchange for a portion of the Net Settlement Amount, all Participating Class
6 Members will be bound by the following release: “The Released Class Claims include all claims under
7 state, federal and local law that were or could have been asserted based on the facts and allegations
8 made in the Actions, and any amendments thereto, as to the Class Members, including without
9 limitation, California Labor Code sections 201, 202, 203, 204, 210, 213, 218, 218.5, 222, 223, 224,
10 226, 226.3, 226.7, 233, 234, 510, 512, 515, 558, 1174, 1174.5, 1194, 1194.2, and 1197, California
11 Industrial Welfare Commission Wage Orders, California Code of Regulations, Title. 8, section 11040,
12 11090, and 3395 *et seq.*, Business and Professions Code sections 17200 *et seq.*, California Code of
13 Civil Procedure section 1021.5, and including all claims for or related to alleged unpaid wages,
14 minimum wages, hours worked, overtime or double time wages, regular rate of pay, bonus and
15 incentive pay, timely payment of wages during employment, timely payment of wages at separation,
16 wage statements, payroll records and recordkeeping, meal periods and meal period premiums, rest
17 breaks and rest break premiums, failure to pay additional 401(k) benefits and/or deferred
18 compensation benefits and/or matching benefits for payments received under the Settlement, unfair
19 competition, unfair business practices, unlawful business practices, fraudulent business practices, class
20 actions, representative actions, aggrieved party claims, declaratory relief, penalties of any nature
21 (including but not limited to civil penalties, waiting-time penalties, and PAGA penalties), interest,
22 fees, costs, as well as all other claims and allegations alleged in the Actions (collectively “Released
23 Class Claims”), during the Class Period. Expressly excluded from the release are claims for retaliation,
24 discrimination, unemployment insurance, disability, workers compensation, and claims outside the
25 Released Class Claims.”

26 7. In exchange for a portion of the PAGA Payment, all Aggrieved Employees will be
27 bound by the following release: “PAGA Aggrieved Employees are deemed to release all claims arising
28 during the PAGA Period seeking civil penalties under PAGA, that Plaintiff as proxy for the State of

1 California and/or the LWDA, to the maximum extent permitted by law, and as a private attorney
2 general acting on behalf of Plaintiff and the PAGA Members, asserted or could reasonably have
3 asserted based on the facts alleged in the Actions and/or the LWDA letter, including but not limited
4 to all claims arising under the California Labor Code including, but not limited to sections 201, 202,
5 203, 204, 210, 213, 218, 221, 222, 223, 224, 226, 226.3, 226.7, 233, 234, 246, 246.5, 510, 512, 515,
6 558, 1174, 1174.5, 1194, 1194.2, 1197, and 1197.1, as alleged in the PAGA Action complaint, and
7 the California Industrial Welfare Commission Wage Orders based on the facts alleged in the Actions
8 (collectively “Released PAGA Claims”). The Settlement shall release, and bar, all Released PAGA
9 Claims by or on behalf of Plaintiff and all PAGA Members during the PAGA Period. PAGA Members
10 cannot and do not have the right to opt out of the release of their PAGA claims against the Released
11 Parties.”

12 8. The Court hereby confirms David Mara, Jill Vecchi, and Carter Cordura of Mara Law
13 Firm, PC as Class Counsel in this action.

14 9. The Court hereby confirms Plaintiff Francisco Ramirez as the Class Representative in
15 this action.

16 10. The Court finds and determines that the Individual Settlement Payments provided for
17 by the terms of the Settlement Agreement to be paid to the Participating Class Members are fair and
18 reasonable. The Court hereby grants final approval to and orders the payment of those amounts be
19 made to the Participating Class Members in accordance with the terms of the Settlement Agreement.

20 11. The Court finds and determines the Class Representative Enhancement Payment in the
21 sum of \$5,000 to Plaintiff Francisco Ramirez is fair and reasonable. The Court hereby orders the
22 Settlement Administrator to make the payment to the Plaintiff/Class Representative Francisco Ramirez
23 in the amount of \$5,000 for the Class Representative Enhancement Payment in accordance with the
24 terms of the Settlement Agreement.

25 12. The Court finds and determines that the payment to the Settlement Administrator,
26 Simpluris, in the sum of \$7,000 for its fee and expenses incurred and to be incurred for the notice and
27 settlement administration process is fair and reasonable. The Court hereby orders the Settlement
28 Administrator to make payment to itself in the amount of \$7,000 for Administration Costs in

1 accordance with the terms of the Settlement Agreement.

2 13. Pursuant to the terms of the settlement, and the authorities, evidence and argument
3 submitted by Class Counsel, the Court hereby approves of an Attorney Fee Award in the sum of
4 \$150,000 and a Cost Award of \$18,765.04 to Class Counsel. The Court finds such amounts to be fair
5 and reasonable. The Court hereby orders the Settlement Administrator to make payment to Class
6 Counsel in the amount of \$150,000 for attorneys' fees and \$18,765.04 for litigation expenses in
7 accordance with the terms of the Settlement Agreement.

8 14. The Court finds and determines that the payment to the Labor and Workforce
9 Development Agency ("LWDA"), in the sum of \$15,000 (which is 75% of the \$20,000 allocated to
10 claims under the Private Attorneys General Act of 2004 ("PAGA")), is fair and reasonable. The Court
11 hereby orders the Settlement Administrator to make the payment to the LWDA in the amount of
12 \$15,000 for the PAGA payment in accordance with the terms of the Settlement Agreement.

13 15. Neither Defendant nor any related persons or entities shall have any further liability for
14 costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as
15 provided for by the Settlement Agreement.

16 16. The Court finds and determines that the release contained in the Settlement Agreement
17 is appropriate and shall bind all Participating Class Members.

18 17. Nothing in this Final Approval Order and Judgment shall preclude any action to enforce
19 the Parties' obligations pursuant to the Settlement Agreement or pursuant to this Final Approval Order
20 and Judgment, including the requirement that Defendant make payments to Settlement Class Members
21 in accordance with the Settlement Agreement.

22 18. The Court finds and determines that nothing in the Settlement Agreement or this Final
23 Approval Order and Judgment (1) is intended or will be construed as an admission of liability or
24 wrongdoing by Defendant or (2) may be offered in evidence against Defendant (other than solely in
25 connection with this settlement).

26 19. The Court hereby enters final judgment in this action in accordance with the terms of
27 the Settlement Agreement, Preliminary Approval Order, and this Final Approval Order and Judgment.

28 20. The Parties shall bear their own costs and attorneys' fees except as otherwise provided

1 for by the Settlement Agreement and this Final Approval Order and Judgment.

2 21. Without affecting the finality of this Final Approval Order and Judgment in any way,
3 the Court retains jurisdiction of all matters relating to the interpretation, administration,
4 implementation, effectuation and enforcement of this order and the Settlement.

5 **IV. JUDGMENT**

6 This Final Approval Order and Judgment shall constitute a judgment for purposes of California
7 Rule of Court 3.769(h). In accordance with, and for the reasons stated in this Final Approval Order
8 and Judgment, judgment shall be entered within the meaning and for purposes of Code of Civil
9 Procedure sections 577, 904.1(a), and California Rules of Court 3.769 and 8.104 whereby the Named
10 Plaintiff/Class Representative and all Settlement Class Members shall take nothing from Defendant
11 except as expressly set forth in the Settlement Agreement, in conjunction with Plaintiff's Motion for
12 Preliminary Approval of the Class Action Settlement. The Court, pursuant to California Rule of Court
13 3.769(h), shall retain jurisdiction over the Parties to enforce the terms of the judgment.

14 **IT IS SO ORDERED.**

15
16 Dated:

17 Honorable John Freeland
Superior Court Judge
18
19
20
21
22
23
24
25
26
27
28