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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN JOAQUIN

ANGEL CUELLAR, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

NEW BERN TRANSPORT
CORPORATION, a Delaware Corporation;
PEPSI-COLA SALES AND
DISTRIBUTION, INC., a Delaware
Corporation; PEPSICO, INC., a North
Carolina Corporation; and Does 1-10,
Inclusive,

Defendants.

Case No. STK-CV-UOE-2024-0008803
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Robert T. Waters
Department 11B

CLASS ACTION

**[PROPOSED] FINAL JUDGMENT AND
ORDER APPROVING CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Final Approval Hearing:

Date: September 17, 2026

Time: 9:00 a.m.

Dept.: 11B

Complaint filed: July 25, 2024

Trial Date: Not set

1 This matter having come before the Court for hearing pursuant to the Order Granting
2 Preliminary Approval of Plaintiff's Motion for Preliminary Approval of Class and
3 Representative Action Settlement dated April 14, 2026 ("Preliminary Approval Order"), for
4 final approval of the settlement set forth in the Joint Stipulation and Settlement of Class and
5 Representative Claims ("Stipulation" or "Settlement"), and due and adequate notice having
6 been given to Plaintiffs as required in said Order, and the Court having considered all papers
7 filed and proceedings had herein and otherwise being fully informed of the premises and good
8 cause appearing therefor, it is ORDERED, ADJUDGED AND DECREED THAT:

9 1. All terms used herein shall have the same meaning as defined in the Stipulation.

10 2. This Court has jurisdiction over the subject matter of this litigation and over all
11 Parties to this litigation, including all Plaintiffs.

12 3. Distribution of the Notice directed to the Plaintiffs as set forth in the Stipulation
13 and the other matters set forth therein has been completed in conformity with the Preliminary
14 Approval Order, including individual notice to all Plaintiffs who could be identified through
15 reasonable effort, and was the best notice practicable under the circumstances. This Notice
16 provided due and adequate notice of the proceedings and of the matters set forth therein,
17 including the proposed settlement set forth in the Stipulation, to all persons entitled to such
18 Notice, and the Notice fully satisfied the requirements of due process. Zero Plaintiffs objected
19 to the Settlement. Two (2) Plaintiffs opted out of the Settlement.

20 4. This Court hereby approves the settlement set forth in the Stipulation and finds
21 that the Settlement is, in all respects, fair, adequate and reasonable and directs the Parties to
22 effectuate the Settlement according to its terms. The Court finds that the Settlement has been
23 reached as a result of intensive, serious and non-collusive arms-length negotiations; that the
24 Parties have conducted extensive and costly investigation and research and counsel for the
25 Parties are able to reasonably evaluate their respective positions; and that settlement at this time
26 will avoid additional substantial costs, as well as avoid the delay and risks that would be
27 presented by the further prosecution of these Actions. The Court has reviewed the monetary
28 recovery that is being granted as part of the Settlement and recognizes the significant value to

1 the Class of that monetary recovery. The Court finds that the Class is properly certified as a
2 class for settlement purposes only.

3 5. For purposes of this Judgment, the term “Class” means “all hourly-paid, non-
4 exempt drivers employed by New Bern Transport Corporation in California at any time during
5 July 25, 2020, and ending on December 3, 2025, excluding any weeks covered by the
6 settlement in *Stevens v. PepsiCo, Inc. et al.*, Case No. 22-cv-00802 (S.D.N.Y).”

7 6. For settlement purposes only, the Court conditionally certifies the following
8 PAGA settlement class (the “PAGA Class”): “all hourly-paid, non-exempt drivers employed by
9 New Bern Transport Corporation in California at any time during July 25, 2023, and ending on
10 December 3, 2025, excluding any weeks covered by the settlement in *Stevens v. PepsiCo, Inc.*
11 *et al.*, Case No. 22-cv-00802 (S.D.N.Y).”

12 7. The term “Class Member” means a Plaintiff who has not requested exclusion
13 from the Settlement.

14 8. As of the Effective Date, each and every Released Claim of each and every
15 Class Member is and shall be deemed to be conclusively released as against the Released
16 Parties. All Class Members as of the Effective Date are hereby forever barred and enjoined
17 from prosecuting the Released Claims against the Released Parties.

18 9. The Final Judgment shall bind each Class Member (including Named Plaintiff)
19 and shall operate as a full release and discharge of claims. The Final Judgment shall have a res
20 judicata effect and bar all Class Members from bringing any action asserting Released Claims
21 as specified in the Settlement against Defendants and the Released Parties, and it shall further
22 bar Named Plaintiff only from bringing any action asserting any claims against Defendants and
23 the Released Parties that were released as part of the “General Release” agreed to by Named
24 Plaintiff in the Settlement. Class Members who timely cash or otherwise negotiate their
25 Settlement checks will be deemed to have opted into the Actions for purposes of the FLSA, and
26 their Released Claims shall include any and all claims they may have for unpaid overtime or
27 minimum wages under the FLSA arising during the Class Period.
28

1 10. The Stipulation and Settlement are not an admission by Defendants or any of the
2 other Released Parties, nor is this Judgment a finding, of the validity of any claims in the
3 Action or of any wrongdoing by Defendants or any of the other Released Parties. Neither this
4 Judgment, the Stipulation, nor any document referred to herein, nor any action taken to carry
5 out the Stipulation is, may be construed as, or may be used as an admission by or against
6 Defendants or any of the other Released Parties of any fault, wrongdoing or liability
7 whatsoever. The entering into or carrying out of the Stipulation, and any negotiations or
8 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of,
9 an admission or concession with regard to the denials or defenses by Defendants or any of the
10 other Released Parties and shall not be offered in evidence in any action or proceeding against
11 Defendants or any of the Released Parties in any court, administrative agency or other tribunal
12 for any purpose whatsoever other than to enforce the provisions of this Judgment, the
13 Stipulation, or any related agreement or release. Notwithstanding these restrictions, any of the
14 Released Parties may file in the Action or in any other proceeding the Judgment, Stipulation, or
15 any other papers and records on file in the Action as evidence of the Settlement to support a
16 defense of res judicata, collateral estoppel, release, or other theory of claim or issue preclusion
17 or similar defense as to the Released Claims.

18 11. The Court hereby dismisses the Action on the merits and with prejudice against
19 the Named Plaintiff and all Class Members in favor of Plaintiffs and without costs or attorneys'
20 fees to any of the Parties as against any other settling party, except as provided for in the
21 Stipulation. Without affecting the finality of this Judgment in any way, this Court hereby
22 retains continuing jurisdiction over the interpretation, implementation and enforcement of the
23 Settlement and all orders and judgments entered in connection therewith.

24 12. The Court hereby approves a Service Award/General Release Payment to the
25 Named Plaintiff Angel Cuellar in the amount of \$10,000.00.

26 13. The Court approves payment to the California Labor Workforce Development
27 Agency ("LWDA") in the amount of \$32,500.00.

28 14. The Court approves the payment of claims administration expenses to APEX

1 Class Action LLC, in the amount of \$16,990.00.

2 15. With respect to attorneys' fees, the Court approves the amount of \$329,999.67
3 based on a percentage of the recovery method. *See Laffitte v. Robert Half International Inc.*
4 (2016) 1 Cal.5th 480, 503 ("when class action litigation establishes a monetary fund for the
5 benefit of class members, and the trial court in its equitable powers awards class counsel a fee
6 out of that fund, the court may determine the amount of a reasonable fee by choosing an
7 appropriate percentage of the fund created."). The Gross Settlement Amount of \$999,999.00
8 represents a true common fund, as Defendants are obligated to pay this entire amount, and no
9 portion of the Settlement Fund will revert to Defendants. In addition, the Court finds that
10 \$329,999.67, which represents one-third of the Gross Settlement Amount, is reasonable and
11 appropriate. *See In re Consumer Privacy Cases* (2009) 175 Cal. App. 4th 545, 558 n.13
12 ("Empirical studies show that, regardless whether the percentage method or the lodestar
13 method is used, fee awards in class actions average around one-third of the recovery."); *Chavez*
14 *v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 (recognizing that fee awards in class actions
15 average around one-third of the recovery"). Cross-checking the reasonableness of this amount
16 against Class Counsel's lodestar further supports the reasonableness of the \$329,999.67
17 attorneys' fees award. *See Laffitte*, 1 Cal.5th at 506 (trial courts have "discretion to conduct a
18 lodestar cross-check on a percentage fee."). Based on Class Counsel's lodestar, which the Court
19 finds is reasonable, an award of \$329,999.67 is reasonable and appropriate.

20 16. The Court also finds that the \$25,000.00 in litigation costs incurred by Class
21 Counsel were necessary and appropriate.

22 17. Accordingly, Court hereby approves payment of \$329,999.67 in attorneys' fees
23 and \$25,000.00 in litigation costs to Class Counsel.

24 18. After administration of the Settlement has been completed in accordance with
25 the Stipulation and all amounts calculated, and in no event later than one hundred and eighty
26 (180) days after the Check Stale Date, Defendants shall file a report with this Court setting
27 forth the total of the Gross Settlement Amounts for the Class Members and certifying
28 compliance with the terms of the Settlement.

19. Plaintiff's Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Costs and Class Representative Service Award is hereby granted, and the Court directs that a judgment shall be entered in accordance with the terms of this Order.

20. Judgment in this matter is entered in accordance with the terms of the Settlement Agreement, the Court's Preliminary Approval Order, and this Final Approval Order against Defendants in favor of Plaintiffs and the Settlement Class. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). This Judgment is intended to be a final disposition of the above captioned action in its entirety, and is intended to be immediately appealable.

21. The Court finds that the Stipulation is in good faith and constitutes a fair, reasonable and adequate compromise of the Released Claims.

22. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement, to enforce the terms of the judgment, 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.

23. If the Settlement does not become final and effective in accordance with the terms of the Stipulation, resulting in the return and/or retention of the Settlement Fund to Defendants consistent with the terms of the Settlement, then this Judgment and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

IT IS SO ORDERED.

Date: _____

Honorable Robert T. Waters
Judge of the Superior Court