

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

DEVIKA PATEL, Individually and on
behalf of all other current and former
similarly-situated and aggrieved
employees of Defendants in the State of
California,

Plaintiffs,

v.

APEX RECOVERY, LLC and DOES 1
through 50, inclusive,

Defendants.

Case No.: 37-2021-00044618-CU-OE-CTL

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

**[PROPOSED] ORDER RE PLAINTIFF
DEVIKA PATEL'S NOTICE OF
UNOPPOSED MOTION AND MOTION
FOR AN ORDER 1) PROVISIONALLY
CERTIFYING SETTLEMENT CLASS;
2) PRELIMINARILY APPROVING
CLASS SETTLEMENT; 3)
DIRECTING DISTRIBUTION OF
NOTICE OF SETTLEMENT TO THE
CLASS; 4) APPOINTING CLASS
COUNSEL AND CLASS
REPRESENTATIVE; AND 5)
SETTING A HEARING FOR FINAL
APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: March 17, 2023

Time: 9:30 A.M.

Date Complaint Filed: October 20, 2021

Judge: Hon. Kenneth Medel

Dept.: C-66

Plaintiff Devika Patel’s unopposed Motion for an Order preliminarily approving the class action settlement; provisionally certifying a class for settlement purposes only; directing distribution to the class of the notice to the class, appointing class counsel, appointing the claims administrator, and scheduling a final approval hearing was considered on March 17, 2023 at 9:30 a.m. at Dept.: C-66. The Court has considered the Stipulation of Class and PAGA Action Settlement and Release of Claims (“Agreement”), the submissions of counsel, and all other papers filed in this action. The matter having been submitted and good cause appearing therefore, the Court orders as follows:

1. The Court preliminarily approves of the settlement set forth in the Agreement as falling within the range of possible approval and meriting submission to potential Class Members for consideration, subject only to the consideration of objections of Class Members and the final review by the Court.

2. For purposes of, and solely in connection with, the settlement, the Court finds that each of the requirements for certification of the class set forth in Plaintiff’s unopposed Motion for Preliminary Approval of Class Action Settlement are met and hereby certifies the following Settlement Class:

“All individuals who are or were employed by Defendant as non-exempt employees in California from July 30, 2017 through February 21, 2022”

3. The Court approves, as to form and content, for dissemination and distribution to the Class Members, the proposed Notice of Proposed Class Action Settlement (“Notice”).

4. The Court hereby appoints Brian R. Short of ShortLegal, APC as counsel for the Final Settlement Class.

5. The following dates shall govern for purposes of this settlement:

Deadline	Activity
April 1, 2022 (or 15 calendar days after Prelim. Order)	Defendant shall provide the Claims Administrator with the requisite Class Member database.
April 21, 2022 (or 20 calendar days after Defendant provides class database to	Notices shall be mailed to Class Members.

1	Claims Administrator)	
2	30 days after initial mailing of Notice	All Requests for Exclusion must be postmarked no later than this date.
3	30 days after initial mailing of Notice	All objections to the settlement must be filed and served no later than this date.
4	16 court days prior to final approval hearing	Plaintiff's Counsel shall file their Motion for Final Approval of Class Action Settlement.
5	16 court days prior to final approval hearing	Plaintiff's Counsel shall file their Motion for Attorney's Fees and Costs.
6	10 calendar days prior to Final Approval Hearing	Plaintiff's Counsel shall provide to the Court a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice.
7	_____, 2023 at a.m./p.m.	Hearing on Plaintiff's Motion for Final Approval of Class Action Settlement and Plaintiff's Motion for Attorney's Fees and Costs.

11 6. The Court hereby appoints Phoenix Settlement Administrators as the Claims Administrator
12 of the settlement.

13 7. The Claims Administrator shall send the Notice by first class United States mail to the
14 Settlement Class on or before 35 calendar days after Preliminary Approval. Each Class Member shall
15 have until 30 days after initial mailing of Notice within which to postmark his or her request for exclusion
16 and return it to the Claims Administrator.

17 8. The Court finds that the mailing of the Notice attached to the Declaration of Brian R. Short
18 as Exhibit 2 constitutes the best notice practicable under the circumstances to the Settlement Class,
19 satisfies the requirements of California Code of Civil Procedure and due process, and shall constitute due
20 and sufficient notice to all persons entitled thereto.

21 9. Any Class Member may request to be excluded from the Settlement Class by submitting a
22 Request for Exclusion from the settlement within 30 days after initial mailing of Notice by following the
23 procedure as set forth in the Notice titled "What Are Your Rights a Class Member?" Any Request for
24 Exclusion must include the name, address, telephone number, last four digits of their social security
25 number and signature, and the dates of employment of the Class Member requesting exclusion. Any Class
26 Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights
27

1 under this settlement; (ii) shall not be entitled to receive any Settlement Payments under this settlement;
2 and (iii) shall not be bound by this settlement or the Court's Order and Final Judgment.

3 10. Any Class Member may object to the settlement either orally at the Final Approval Hearing
4 or by filing a written objection. To object, any Class Members have the option of orally objecting to the
5 settlement at the Final Approval Hearing or may file a written objection and a notice of intention to appear
6 at the Final Approval Hearing and must send copies to Class Counsel and Defendant's Counsel as set forth
7 in the Notice. Class Members may file and serve their written objections within 30 days after initial
8 mailing of Notice. Counsel for the parties may, at least 10 days before the Final Approval Hearing, file
9 responses to any written objections submitted to the Court.

10 11. Class Counsel shall provide to the Court, at least 10 calendar days prior to the Final
11 Approval Hearing, a declaration by the Claims Administrator of due diligence and proof of mailing with
12 regard to the mailing of the Notice.

13 12. Neither this Order nor the Agreement nor any of its terms or provisions, nor any of the
14 negotiations or proceedings connected with it, shall be construed as an admission or concession by
15 Defendant of the truth of any of the allegations in the complaint or of any liability, fault or wrongdoing of
16 any kind.

17 13. Upon final approval by the Court of the Agreement, and except as to such rights or claims
18 as may be created by the settlement, the Class Representative, the Settlement Class and each Class
19 Member who has not submitted a valid and timely Request for Exclusion, each fully release and will be
20 deemed to have forever released and discharged the Released Claims. In the event that the settlement
21 does not become final for any other reason, the settlement will be null and void.

22 14. Class Counsel shall file their motion for final approval at least 16 court days before the
23 date of the Final Approval Hearing.

24 15. Class Counsel shall file their application for attorney's fees and costs for the named
25 Plaintiff at least 16 court days before the date of the Final Approval Hearing.

26 16. On _____, 2023 at _____ a.m./p.m., or as soon thereafter as counsel may be heard in
27 Department C-66, a hearing will be held to determine whether the proposed settlement, including payment

1 of Class Counsel's attorney's fees and costs and the Class Representative's service payment, should be
2 finally approved as fair, reasonable, and adequate as to the members of the Settlement Class. The Court
3 may adjourn or continue the Final Approval Hearing without further notice to the Settlement Class.

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5 **IT IS SO ORDERED.**

6
7 Dated: _____

8 HON. KENNETH MEDEL
9 JUDGE OF THE CALIFORNIA SUPERIOR
10 COURT, COUNTY OF SAN DIEGO
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