

HAINES LAW GROUP, APC

Paul K. Haines (SBN 248226)
 phaines@haineslawgroup.com
 Fletcher W. Schmidt (SBN 286462)
 fschmidt@haineslawgroup.com
 Matthew K. Moen (SBN 305956)
 mmoen@haineslawgroup.com
 Susan J. Perez (SBN 329044)
 sperez@haineslawgroup.com
 2155 Campus Drive, Suite 180
 El Segundo, California 90245
 Tel: (424) 292-2350
 Fax: (424) 292-2355

Attorneys for Plaintiffs

[Additional counsel listed on following page]

FILED
 Superior Court of California
 County of Los Angeles

04/05/2023

David W. Slayton, Executive Officer / Clerk of Court

By: F. Rojas Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES**

DAMONTAE LEVINGSTON, KEVIN
 PEARSON, MARK GUTIERREZ, and
 PAUL RODRIGUEZ, as individuals and
 on behalf of all others similarly situated,

Plaintiffs,

v.

COMMERCE DISTRIBUTION
 COMPANY LLC., a California Limited
 Liability Company; SMART & FINAL
 LOGISTICS LLC, a Delaware limited
 liability company; SMART & FINAL
 STORES, LLC, a California limited
 liability company, and SMART & FINAL
 LLC, a Delaware limited liability company
 and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 22STCV05730

*[Assigned for all purposes to the Hon. Randolph
 M. Hammock; Dept. 49]*

**[PROPOSED] ORDER GRANTING
 PRELIMINARY APPROVAL OF CLASS
 ACTION SETTLEMENT**

Date: April 5, 2023
 Time: 8:30 a.m.
 Dept.: 49

Action Filed: February 15, 2022
 Trial Date: None Set

Larry W. Lee (State Bar No. 228175)

lwlee@diversitylaw.com

Shalom "Christine" Choo (State Bar No. 339947)

christine@diversitylaw.com

DIVERSITY LAW GROUP, P.C.

515 S. Figueroa St., Suite 1250

Los Angeles, California 90071

(213) 488-6555

(213) 488-6554 facsimile

William L. Marder (SBN 170131)

bill@polarislawgroup.com

POLARIS LAW GROUP

501 San Benito Street, Suite 200

Hollister, CA 95023

Telephone: (831) 531-4214

Facsimile: (831) 634-0333

Edward W. Choi, Esq. SBN 211334

LAW OFFICES OF CHOI & ASSOCIATES

515 S. Figueroa St., Suite 1250

Los Angeles, CA 90071

Telephone: (213) 381-1515

Facsimile: (213) 465-4885

Email: edward.choi@choiandassociates.com

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858) 551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)

Jackland K. Hom (State Bar #327243)

Julieann Alvarado (State Bar #334727)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 255-9047

Facsimile: (858) 404-9203

shani@zakaylaw.com

jackland@zakaylaw.com

julieann@zakaylaw.com

[Additional counsel listed on following page]

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)

Eduardo Garcia (State Bar #290572)

5440 Morehouse Drive, Suite 3600

San Diego, CA 92121

Telephone: (619) 599-8292

Facsimile: (619) 599-8291

jlapuyade@jcl-lawfirm.com

egarcia@jcl-lawfirm.com

Attorneys for Plaintiffs

~~PROPOSED~~ ORDER

The Motion of Plaintiffs Damontae Levingston, Kevin Pearson, Mark Gutierrez, and Paul Rodriguez (collectively, “Plaintiffs”) for Preliminary Approval of Class Action Settlement came regularly for hearing before this court on April 5, 2023, at 8:30 a.m. The Court, having considered Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, the memorandum of points and authorities in support thereof, and supporting declarations filed therewith; having considered the proposed Stipulation of Settlement (“Settlement Agreement” or “Settlement”), attached as Exhibit 1 to the Declaration of Matthew K. Moen filed concurrently with the Motion; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

1. The Court GRANTS preliminary approval of the class action settlement as set forth in the Settlement Agreement, and finds its terms to be within the range of reasonableness of a settlement that ultimately could be granted approval by the Court at a Final Fairness hearing.

2. The Court preliminarily approves the terms of the Settlement Agreement and finds that they fall within the range of approval as fair, adequate and reasonable. Based on a review of the papers submitted by Plaintiffs, the Court finds that the Settlement is the result of arms’-length negotiations conducted after Plaintiffs and/or Plaintiffs’ counsel adequately investigated the claims and became familiar with the strengths and weaknesses of the claims. The assistance of an experienced mediator in the settlement process supports the Court's conclusion that the Settlement is non-collusive and reasonable. The Settlement is presumptively valid, subject only to any objections that may be raised pursuant to the terms of the Settlement Agreement.

3. For purposes of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-defined community of interest among the members of the Settlement Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following Settlement Class:

All current and former non-exempt employees of Defendants Smart & Final Logistics, LLC, Commerce Distribution Company, LLC, and Smart & Final Stores, LLC (“Defendants”) who worked for Defendants in California at any time from February 2, 2018, through February 7, 2023 (the “Class Period”).

1 4. For purposes of the Settlement, the Court designates named Plaintiffs Damontae
2 Levingston, Kevin Pearson, Mark Gutierrez, and Paul Rodriguez as Class Representatives, and
3 designates Haines Law Group, APC, Diversity Law Group, P.C., Polaris Law Group, Law Offices
4 of Choi & Associates, JCL Law Firm, Zakay Law Group, APLC, and Blumenthal Nordrehaug
5 Bhowmik De Blouw LLP as Class Counsel.

6 5. The Court designates ILYM Group, Inc. as the third-party Settlement
7 Administrator for mailing notices.

8 6. The Court approves, as to form and content, the Notice of Class Action Settlement
9 (“Class Notice”) and the Notice of Settlement Award (collectively, the “Notice Packet”) attached
10 as Exhibit 2 to the Declaration of Matthew K. Moen.

11 7. The Court finds that the form of notice to the Settlement Class regarding the
12 pendency of the action and of the Settlement, and the methods of giving notice to Settlement Class
13 members, constitute the best notice practicable under the circumstances, and constitute valid, due,
14 and sufficient notice to all Settlement Class members. The form and method of giving notice
15 complies fully with the requirements of California Code of Civil Procedure section 382, California
16 Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other
17 applicable law.

18 8. The Court further approves the procedures for Settlement Class members to opt-
19 out of or object to the Settlement, as set forth in the Class Notice and the Settlement Agreement.

20 9. The procedures and requirements for submitting objections in connection with the
21 Final Approval Hearing are intended to ensure the efficient administration of justice and the
22 orderly presentation of any Settlement Class member’s objection to the Settlement, in accordance
23 with the due process rights of all Settlement Class members.

24 10. The Court directs the Settlement Administrator to mail the Notice Packet to the
25 Settlement Class members in English and Spanish, in accordance with the terms of the Settlement.

26 11. The Class Notice shall provide at least 45 calendar days’ notice for Settlement
27 Class members to submit disputes, opt-out of, or object to the Settlement.

12. The Final Approval Hearing on the question of whether the Settlement Agreement should be finally approved as fair, reasonable and adequate is scheduled on August 3, 2023 at 8:30 a.m. / p.m. in Department 49 of this Court, located at 111 North Hill Street, Los Angeles, CA 90012. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to the Settlement Class members. The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement Agreement.

13. At the Final Approval Hearing, the Court will consider: (a) whether the Settlement Agreement should be approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiffs' applications for Class Representative Service Awards, settlement administration costs, payment to the California Labor and Workforce Development Agency ("LWDA") for its 75% share of civil penalties under the Private Attorneys General Act ("PAGA"), Labor Code section 2698 *et seq.*, and attorneys' fees and costs to Plaintiffs' counsel should be granted.

14. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of the Settlement and Plaintiffs' applications for Class Representative Service Awards, settlement administration costs, payment to the LWDA for its share of PAGA penalties, and attorneys' fees and costs to Plaintiffs' counsel prior to the Final Approval Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

15. An implementation schedule is provided below (assuming the Court grants preliminary approval of the Settlement on April 5, 2023):

Event	Date
Defendant to provide class contact information to Settlement Administrator no later than:	May 5, 2023
Settlement Administrator to mail the Notice Packet to the Settlement Class members no later than:	May 19, 2023

Deadline for Settlement Class members to submit disputes, request exclusion from, or object to the Settlement:	July 3, 2023
Deadline for Plaintiffs to file the Motion for Final Approval of Class Action Settlement:	At least 16 court days prior to Final Approval Hearing 8:30
Final Approval Hearing	☐ August 3, 2023 at ___ a.m./ p.m. ☒ _____, 2023

16. Pending the Final Approval Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

17. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

18. In the event the Settlement is not finally approved, or otherwise does not become effective in accordance with the terms of the Settlement, this Order shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of before entering into the Settlement.

IT IS SO ORDERED.

Dated: 04/05/2023, 2023



Honorable Randolph M. Hammock
Judge of the Superior Court