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Attorneys for Plaintiff, Oscar Armando Maravilla

FILED
Superior Court of California
County of Alameda
01/22/2024
Clad Files, Executive Officer / Clerk of the Court
By: *A. Tumonong* Deputy
A. Tumonong

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

OSCAR ARMANDO MARAVILLA,
individually, and on behalf of all others similarly
situated,

Plaintiff,

vs.

EAST BAY LOGISTICS, INC.; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 22CV013883

[Honorable Brad Seligman,
Department 23]

~~[AMENDED PROPOSED]~~ ORDER
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT

[Filed with Declaration of Kane Moon]

CONTINUED PRELIMINARY APPROVAL
HEARING

Date: January 16, 2024
Time: 2:30 PM
Dept: 23

1 The Court has before it the unopposed Motion for Preliminary Approval of Class and
2 PAGA Action Settlement (“Motion”) of Plaintiff Oscar Armando Maravilla (“Plaintiff”).
3 Having reviewed the Notice of Motion, Motion, the Declarations of Kane Moon, including the
4 Declaration of Kane Moon in Support of Court Ordered Further Briefing in Support of
5 Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Action Settlement, the
6 Declaration of Plaintiff Oscar Armando Maravilla, the Declaration of Sean Hartranft on
7 Behalf of Apex Class Action LLC, and the Amended and Restated Class Action and PAGA
8 Settlement Agreement and Class Notice (“Settlement”), and good cause appearing, **THE**
9 **COURT HEREBY ORDERS AS FOLLOWS:**

10 1. The Settlement, which is attached as Exhibit 1 to the Declaration of Kane Moon
11 in Support of Court Ordered Further Briefing in Support of Plaintiff’s Motion for Preliminary
12 Approval of Class Action and PAGA Action Settlement, appears to be fair, adequate and
13 reasonable, and therefore, meets the requirements for preliminary approval. In particular, the
14 Settlement appears to be fair and reasonable in light of the good faith, non-collusive
15 negotiations between Plaintiff and Defendant East Bay Logistics, Inc. (together, the
16 “Parties”), which resulted in the Settlement; the significant informal discovery, investigation,
17 and analysis conducted by the Parties, which enabled them to intelligently evaluate, litigate
18 and mediate the alleged claims; the probable outcome of further litigation relating to class
19 certification, liability and damages issues; the substantial costs, delay and risks of further
20 litigation relating to the same; and the risk of potential appeal.

21 2. The Settlement provides that Defendant will pay a Gross Settlement Amount of
22 \$455,000.00, which will be used to pay the Individual Class Payments to Participating Class
23 Members; PAGA Penalties in the amount of \$40,000.00, with 75% (\$30,000.00) allocated to
24 the LWDA PAGA Payment, and 25% (\$10,000.00) allocated to the Individual PAGA
25 Payments; the Class Counsel Fees Payment, which is not to exceed one third of the Gross
26 Settlement Amount, or \$151,666.67; the Class Counsel Litigation Expenses Payment, which is
27 not to exceed \$20,000.00; the Class Representative Service Payment, which is not to exceed
28 \$7,500.00; and the Administration Expenses Payment, which is not to exceed \$10,000.00.

1 These terms appear to contain the requisite criteria for preliminary approval, pursuant to
2 *California Code of Civil Procedure* section 382 and other applicable law. Further, these terms
3 appear to fall within the range of reasonableness of a settlement which could ultimately be
4 granted final approval by this Court.

5 3. The Settlement Class, which includes all persons employed by Defendant in
6 California and classified as non-exempt who worked for Defendant in the period from July 6,
7 2018 through the earlier of (1) the date of preliminary approval of the settlement; (2) July 18,
8 2023; or (3) the date upon which the total number of workweeks from July 6, 2018 forward
9 equals 14,250 workweeks, and who do not timely opt out of the Settlement, is provisionally
10 certified for settlement purposes only. The Settlement Class is provisionally certified because
11 it appears to meet the following requirements for certification under *California Code of Civil*
12 *Procedure* section 382: (1) the Settlement Class is so numerous that joinder is impractical; (2)
13 there are questions of law and fact that are common, or of general interest, to all Settlement
14 Class Members which predominate over individual issues; (3) Plaintiff's claims are typical of
15 the claims of the Participating Class Members; (4) Plaintiff and Class Counsel will fairly and
16 adequately protect the interests of the Settlement Class Members; and (5) a class action is
17 superior to other available methods for the fair and efficient adjudication of the controversy.
18 The Court notes that Class Members who do not request exclusion from the Settlement may
19 object thereto and may raise their objections at the Final Fairness Hearing on the Settlement.

20 4. The Aggrieved Employees, which include all persons employed by Defendant in
21 California and classified as a non-exempt employee who worked for Defendant in the period
22 from July 2, 2021 through the date of preliminary approval of the settlement or July 18, 2023,
23 whichever is later, are provisionally approved for settlement purposes only.

24 5. The Class Representative, Participating Class Members, and LWDA, will release
25 claims in accordance with the terms of the Settlement upon final approval by the Court of this
26 Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as
27 to such rights or claims as may be created by this Settlement. With the exception of the Class
28 Representative, who will be subject to a broader release in accordance with the terms of the

1 Settlement, the Participating Class Members and LWDA will be subject to the following release
2 terms:

- 3 a. **Released Parties.** “Released Parties” means: Defendant and each of its former
4 and present parents, directors, officers, employees, agents, principals, heirs,
5 representatives, accountants, auditors, consultants, shareholders, owners,
6 members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and
7 affiliates (Settlement, ¶ 1.41).
- 8 b. **Release by Participating Class Members Who Are Not Aggrieved Employees:**
9 All Participating Class Members, on behalf of themselves and their respective
10 former and present representatives, spouses, agents, attorneys, heirs, executors,
11 administrators, successors, and assigns, release Released Parties from any and all
12 claims and damages arising from any of the facts alleged in Plaintiff’s operative
13 complaint for damages, including Defendant’s alleged violation of the California
14 Business and Professions Code sections 17200, *et seq.* for, *inter alia*, failure to
15 pay overtime and minimum wages, provide meal and rest periods and associated
16 premium payments, timely pay wages during employment and upon termination,
17 provide compliant wage statements, maintain complete and accurate payroll
18 records, and reimburse necessary business-related expenses, as well as all claims
19 for failure to pay minimum wage, failure to pay overtime wages, failure to
20 provide meal and rest periods and associated premium payments, timely pay
21 wages during employment and upon termination, failure to issue accurate itemized
22 wage statements, and Defendant’s alleged unfair business practices stemming
23 from these alleged Labor Code violations. Except as set forth in Section 5.3 of this
24 Agreement, Participating Class Members do not release any other claims,
25 including claims for vested benefits, wrongful termination, violation of the Fair
26 Employment and Housing Act, unemployment insurance, disability, social
27 security, workers’ compensation, or claims based on facts occurring outside the
28 Class Period. (Settlement, ¶ 5.2).

1 c. **Release by the LWDA:** The LWDA, whether directly or through Aggrieved
2 Employees acting as agents or proxies for the LWDA, are deemed to release the
3 Released Parties from all claims and damages arising under Private Attorneys'
4 General Act of 2004 ("PAGA") during the PAGA Period, as alleged in the First
5 Amended Complaint filed by Plaintiff and Plaintiff's notice letter to the LWDA. As
6 a result of this release, the LWDA, whether directly or through Aggrieved
7 Employees acting as agent or proxy for the LWDA will be unable to bring a claim
8 under, or recover in any other claim brought under, the California Private Attorneys
9 General Act, California Labor Code § 2698 *et seq.*, for any violations of the claims
10 arising under PAGA that took place during the PAGA Period. If any Aggrieved
11 Employee does bring a claim for penalties brought on behalf of the LWDA,
12 Defendant can assert this Settlement as a defense. The Settlement has claim
13 preclusion, issue preclusion, or other effects if an Aggrieved Employee were to bring
14 a subsequent claim on behalf of the LWDA concerning the same primary rights that
15 were at issue in this case. Any such defense would exist because of the claim and
16 issue preclusion effect against the LWDA. (See *Lacour v. Marshalls of CA,*
17 *LLC* (2021) 2021 WL 22111953 [addressing "claim preclusion effect of settlements
18 of claims brought as an agent or proxy of the LWDA under PAGA"]. (Settlement, ¶
19 5.3).

20 d. **Effective Date.** "Effective Date" means the date by when both of the following
21 have occurred: (a) the Court enters a Judgment on its Order Granting Final
22 Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as
23 of the latest of the following occurrences: (a) if no Participating Class Member
24 objects to the Settlement, the day the Court enters Judgment; (b) if one or more
25 Participating Class Members objects to the Settlement, the day after the deadline for
26 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment
27 is filed, the day after the appellate court affirms the Judgment and issues a
28 remittitur. (Settlement, ¶ 1.18).

1 6. For settlement purposes only, the Class Representative appointed for this matter
2 is Plaintiff Oscar Armando Maravilla. The Class Representative Settlement Payment, which is
3 not to exceed \$7,500.00, is preliminarily approved.

4 7. For settlement purposes only, Class Counsel appointed for this matter is Moon
5 Law Group, PC. The Class Counsel Fees Payment, which is not to exceed \$151,666.67; and
6 Class Counsel Litigation Expenses Payment, which is not to exceed \$20,000.00, are
7 preliminarily approved.

8 8. For settlement purposes only, the Administrator appointed for this matter is
9 Apex Class Action LLC. The Administration Expenses Payment, which is not to exceed
10 \$10,000.00, is preliminarily approved.

11 9. For settlement purposes only, the Class Notice to be sent to Class Members, as
12 to form and content, is adequate. Further, on a preliminary basis, the plan for distribution of
13 the Class Notice to Class Members satisfies Due Process, provides the best notice practicable
14 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
15 thereto. The Class Notice is attached hereto as Exhibit A.

16 10. A Final Fairness Hearing on the question of whether the Settlement terms,
17 including the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and
18 Class Representative Service Payment, should be finally approved as fair, adequate and
19 reasonable as to the Participating Class Members is hereby set in accordance with the
20 following Implementation Schedule:

21 Defendant to provide Class Data to the 22 Administrator	Within thirty (30) calendar days from the date of preliminary approval by the Court
23 Administrator to mail the Class Notices by 24 First Class Mail	Within fourteen (14) days after the Administrator receives the Class Data
25 Response Deadline	Within sixty (60) days after the Administrator initially mails the Class 26 Notices to Class Members and 27 Aggrieved Employees

1 2	Deadline to file Motion for Final Approval	No later than sixteen (16) court days prior to the Final Fairness Hearing
3 4	Final Fairness Hearing	April 30, 2024 at 3:00 p.m. in EDC 400A Department 23 of the Alameda County Superior Court

5 11. If any of the dates in the above schedule fall on a weekend, or bank or court
6 holiday, the time to act shall be extended to the next business day.

7 12. Pending further order of this Court, all proceedings in this lawsuit, except those
8 contemplated herein and in the Settlement, are stayed.

9 13. To facilitate the administration of the Settlement pending final approval, the
10 Court hereby enjoins the Plaintiff and all Settlement Class Members from filing or prosecuting
11 any claims, suits or administrative proceedings, including filing claims with the Division of
12 Labor Standards Enforcement of the California Department of Industrial Relations, regarding
13 claims released by the Settlement, unless and until such Class Members have filed valid
14 Requests for Exclusion with the Administrator and the time for filing claims with the
15 Administrator has lapsed.


16 14. The Settlement is preliminarily approved but is not an admission by the
17 Defendant of the validity of any claims in the instant Class and PAGA action, or of any
18 wrongdoing or violation of law by Defendant.

19 15. Neither the Settlement nor any related document shall be offered or received in
20 evidence in any civil, criminal, or administrative action or proceeding other than such
21 proceedings as may be necessary to consummate or enforce the Agreement and Settlement.

22 16. The obligations set forth in the Settlement are deemed part of this Order. The
23 Parties are to carry out the Settlement in accordance with its terms.

24 **IT IS SO ORDERED.**

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26 DATE: 01/22/2024

27 
28 Honorable Brad Seligman
Judge of the Alameda County Superior Court
Tara Desautels / Judge

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880, Los Angeles, California 90017. On January 3, 2024, I served the foregoing document described as:

[AMENDED PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

X by E-mailing ___ the original X a true copy to the following:

Hieu T. Williams
Michelle C. Freeman
Hirschfeld Kraemer LLP
456 Montgomery Street, Suite 2200
San Francisco, California 94104
Telephone: (415) 835-900
Facsimile: (415) 834-0443
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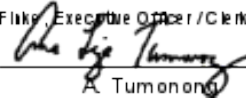
Attorney for Defendant East Bay Logistics, Inc.

BY E-MAIL: I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 3, 2024, at Los Angeles, California.

Noelia Alonso Esteban /S/ Noelia Alonso Esteban
Name Signature

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 01/23/2024
PLAINTIFF/PETITIONER: Oscar Armando Maravilla	Chad Finke, Executive Officer / Clerk of the Court By:  Deputy
DEFENDANT/RESPONDENT: EAST BAY LOGISTICS, INC., a California corporation	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 22CV013883

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order AMENDED ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Kane Moon
MOON LAW GROUP, PC
kmoon@moonlawgroup.com

Michelle C. Freeman
HIRSCHFELD KRAEMER LLP
mfreeman@hkemploymentlaw.com

Dated: 01/23/2024

Chad Finke, Executive Officer / Clerk of the Court

By:



A. Tumonong, Deputy Clerk