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COHELAN KHOURY & SINGER

Michael D. Singer (SBN 115301)

msinger@ckslaw.com

Maggie K. Realin (SBN 263639)


mrealin@ckslaw.com

605 C Street, Suite 200

San Diego, CA 92101

Telephone: (619) 595-3001/Facsimile: (619) 595-3000

Filed
STEPHANIE BOHRER, CLERK

Erin Jordan
By  DEPUTY

D.LAW, INC.

Emil Davtyan (SBN 299363)

emil@d.law

400 N. Brand Blvd., 7th Floor

Glendale, CA 91203

Telephone: (818) 875-2008/Facsimile: (818) 722-3974

MARA LAW FIRM, PC

David Mara (SBN 230498)

dmara@maralawfirm.com

3160 Camino Del Rio South, Suite 207

San Diego, CA 92108

Telephone: (619) 234-2833/Facsimile: (619) 234-4048

Attorneys for Plaintiff Angel Cuellar

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] ORDER GRANTING
PLAINTIFF'S [UNOPPOSED] MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Date: TBD
Time: 9:00 a.m.
Dept.: 11B

Complaint filed: July 25, 2024
Trial Date: Not set

AW
[Proposed] Order Granting Plaintiff's [Unopposed] Motion for Preliminary Approval of Class
and Representative Action Settlement - Case No. STK-CV-UOE-2024-0008803

COHELAN KHOURY & SINGER
605 C Street, Suite 200
San Diego, CA 92101

FILE BY FAX

1 WHEREAS, this action is pending before this Court as a class action (the "Action"); and
2 WHEREAS, the Parties have jointly applied to this Court for an order preliminarily
3 approving the settlement of the Action in accordance with a Stipulation and Settlement of Class
4 Claims (the "Stipulation" or "Settlement"), which, together with the exhibits annexed thereto,
5 sets forth the terms and conditions for a proposed settlement and dismissal of the Action with
6 prejudice upon the terms and conditions set forth therein; and the Court having read and
7 considered the Stipulation and the exhibits annexed thereto;

8 NOW, THEREFORE, IT IS HEREBY ORDERED:

9 1. This Order incorporates by reference the definitions in the Stipulation, and all
10 terms defined therein shall have the same meaning in this Order as set forth in the Stipulation.

11 2. The Court recognizes that the Plaintiffs and Defendants stipulate and agree to
12 certification of a class for settlement purposes only. For settlement purposes only, the Court
13 conditionally certifies the following settlement class (the "Class"): "all hourly-paid, non-
14 exempt drivers employed by New Bern Transport Corporation in California at any time during
15 July 25, 2020, and ending on December 3, 2025, excluding any weeks covered by the
16 settlement in *Stevens v. PepsiCo, Inc. et al.*, Case No. 22-cv-00802 (S.D.N.Y)."

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

22 4. The Court finds, for settlement purposes only, the requirements of California
23 Code of Civil Procedure section 382 are satisfied. The term "Class Member" means a Plaintiff
24 who has not requested exclusion from the Settlement.

25 5. Named Plaintiff Angel Cuellar ("Named Plaintiff") is hereby appointed and
26 designated, for all purposes, as the representative of the class, and the following attorneys are
27 hereby appointed and designated as counsel for Named Plaintiff and the Class ("Class
28 Counsel"):

1 Michael D. Singer
2 Isam C. Khoury
3 Maggie K. Realin
4 COHELAN KHOURY & SINGER
5 605 C Street, Suite 200
6 San Diego, CA 92101
7 Email: msinger@ckslaw.com
8 Email: ikhoury@ckslaw.com
9 Email: mrealin@ckslaw.com

7 Emil Davtyan
8 D. LAW, INC.
9 400 N. Brand Blvd., 7th Floor
10 Glendale, CA 91203
11 Email: Emil@d.law

10 David Mara
11 Jill Vecchi
12 MARA LAW FIRM, PC
13 2650 Camino Del Rio North, Suite 302
14 San Diego, CA 92108
15 Email: dmara@maralawfirm.com
16 Email: jvecchi@maralawfirm.com

COHELAN KHOURY & SINGER
605 C Street, Suite 200
San Diego, CA 92101

15 Class Counsel is authorized to act on behalf of Class Members with respect to all acts or
16 consents required by, or which may be given pursuant to, the Settlement, and such other acts
17 reasonably necessary to consummate the Settlement.

18 6. The Court hereby approves on a preliminary basis the Stipulation and settlement
19 contained therein, including the definition and disposition of the Settlement Fund and related
20 matters provided for in the Stipulation. It appears to the Court on a preliminary basis that the
21 settlement amount and terms are fair, adequate and reasonable as to all potential Class
22 Members when balanced against the probable outcome of further litigation relating to liability
23 and damages issues. It further appears that extensive and costly investigation and research
24 have been conducted such that counsel for the Parties at this time are able to reasonably
25 evaluate their respective positions. It further appears to the Court that settlement at this time
26 will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
27 would be presented by further prosecution of the Action. It further appears that the Settlement
28 has been reached as the result of intensive, serious and non-collusive, arms-length negotiations.

1 Notice. Any such person who chooses to opt out of and be excluded from the Class will not be
2 entitled to any recovery under the Settlement and will not be bound by the Settlement or have
3 any right to object, appeal or comment thereon. Any written request to opt out must be signed
4 by each such person opting out. Class Members who have not timely and validly requested
5 exclusion shall be bound by all determinations of the Court, the Stipulation and Judgment.

6 11. Any Class Member may appear at the Settlement Hearing and may object or
7 express his or her views regarding the Settlement, and may present evidence and file briefs or
8 other papers, that may be proper and relevant to the issues to be heard and determined by the
9 Court as provided in the Notice.

10 12. To the extent permitted by law, pending final determination as to whether the
11 settlement contained in the Stipulation should be approved, the Plaintiffs, whether directly,
12 representatively, or in any other capacity, whether or not such persons have appeared in the
13 Action, shall not institute or prosecute any Released Claims against the Released Parties. The
14 Settlement is not a concession or admission, and shall not be used against Defendants or any of
15 the Released Parties as an admission or indication with respect to any claim of any fault or
16 omission by Defendants or any of the Released Parties. Whether or not the Settlement is
17 finally approved, neither the Settlement, nor any document, statement, proceeding or conduct
18 related to the Settlement, nor any reports or accounts thereof, shall in any event be:

- 19 a. Construed as, offered or admitted in evidence as, received as or deemed to
20 be evidence for any purpose adverse to the Released Parties, including, but
21 not limited to, evidence of a presumption, concession, indication or
22 admission by Defendants or any of the Released Parties of any liability,
23 fault, wrongdoing, omission, concession or damage; or
24 b. Disclosed, referred to, or offered or received in evidence against any of the
25 Released Parties in any further proceeding in the Action, or in any other
26 civil, criminal or administrative action or proceeding, except for purposes
27 of settling the Action pursuant to the Stipulation.
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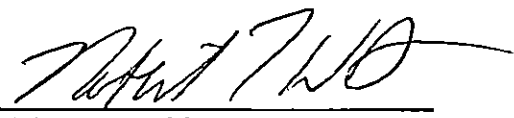
1 13. As of the date this Order is signed, all dates and deadlines associated with the
2 Action shall continue to be stayed, other than those related to the administration of the
3 Settlement of the Action.

4 14. In the event the Settlement does not become effective in accordance with the
5 terms of the Stipulation, or the Settlement is not finally approved, or is terminated, canceled or
6 fails to become effective for any reason, this Order shall be rendered null and void and shall be
7 vacated, and the Parties shall revert to their respective positions as of before entering into the
8 Stipulation.

9 15. The Court reserves the right to adjourn or continue the date of the Settlement
10 Hearing and all dates provided for in the Stipulation without further notice to Plaintiffs, and
11 retains jurisdiction to consider all further applications arising out of or connected with the
12 proposed Settlement

13 **IT IS SO ORDERED.**

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15 Dated: April 14, 2026


The Honorable Robert T. Waters
Judge of the Superior Court

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