

FILED
Superior Court of California
County of Los Angeles

AUG 17 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By Dejane Wortham, Deputy
Dejane Wortham

RECEIVED
LOS ANGELES SUPERIOR COURT

JAN 17 2020

S. DREW

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DEMAR APARICIO, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

LINEAGE LOGISTICS, LLC, a limited liability
company; LINEAGE LOGISTICS HOLDINGS,
LLC, a limited liability company; U.S.
GROWERS COLD STORAGE, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: BC722764

Hon. Ann I. Jones - Dept. SST-11

CLASS ACTION

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

8/17/2020

Date: ~~February 13, 2020~~
Time: 10:00 a.m.
Courtroom: SST-11
Judge: Hon. Ann I. Jones

Action Filed: September 21, 2018
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Plaintiff DEMAR APARICIO (“Plaintiff”) and Defendant U.S. GROWERS COLD STORAGE,
3 INC. (“Defendant”) have reached terms of settlement for a putative class action.

4 Plaintiff has filed a motion for preliminary approval of a class action settlement of the claims
5 asserted against Defendant in this action, memorialized in the JOINT STIPULATION OF CLASS AND
6 PAGA RELEASE BETWEEN PLAINTIFF DEMAR APARICIO, ON BEHALF OF HIMSELF AND
7 ALL OTHERS SIMILARLY SITUATED, AND DEFENDANT U.S. GROWERS COLD STORAGE,
8 INC. (see Declaration of H. Scott Leviant In Support of Plaintiff’s Motion for Preliminary Approval of
9 Class Action Settlement [“Leviant Decl.”], at Exh. 1). The JOINT STIPULATION OF CLASS AND
10 PAGA RELEASE BETWEEN PLAINTIFF DEMAR APARICIO, ON BEHALF OF HIMSELF AND
11 ALL OTHERS SIMILARLY SITUATED, AND DEFENDANT U.S. GROWERS COLD STORAGE,
12 INC. is referred to herein as the “Agreement” or “Settlement.”

13 After reviewing the Agreement and the Notice process, and other related documents, and having
14 heard the argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS FOLLOWS:**

15 1. The Court preliminarily finds that the terms of the proposed class action Settlement are
16 fair, reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. In granting
17 preliminary approval of the class action settlement the Court has considered the factors identified in
18 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer,*
19 *Inc.*, 91 Cal. App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706(2006).

20 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
21 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
22 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
23 their respective positions. The Court also finds that settlement at this time will avoid additional
24 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
25 of the action. The Court finds that the risks of further prosecution are substantial.

26 3. The parties’ Settlement is granted preliminary approval as it meets the criteria for
27 preliminary settlement approval. The settlement falls within the range of possible approval as fair,
28 adequate, and reasonable, and appears to be the product of arm’s-length and informed negotiations and

1 to treat all Class Members fairly. The Court finds that it is appropriate to notify the members of the
2 proposed settlement Class of the terms of the proposed settlement.

3 4. The parties' proposed notice plan is constitutionally sound because individual notices
4 will be mailed to all Class Members whose identities are known to the parties, and such notice is the
5 best notice practicable. The parties' proposed Class Notice, attached to the Agreement as **Exhibit A**, is
6 sufficient to inform Class Members of the terms of the Settlement, their rights under the settlement,
7 their rights to object to the Settlement in multiple ways, their right to receive a payment under the
8 settlement or elect not to participate in the settlement, and the processes for doing so, and the date and
9 location of the final approval hearing, and is therefore approved.

10 5. The following persons are certified as Class Members solely for the purpose of entering
11 a settlement in this matter:

12 All current and former hourly non-exempt persons that worked for
13 Defendant in California during the Class Period (the "Class Period" is September 21,
2014 through November 17, 2017). (Settlement, ¶ 6.)

14 6. Plaintiff DEMAR APARICIO is appointed the Class Representative. The Court finds
15 Plaintiff's counsel are adequate, as they are experienced in wage and hour class action litigation and
16 have no conflicts of interest with absent Settlement Class Members, and that they adequately
17 represented the interests of absent class members in the Litigation. Moon & Yang, APC, Kane Moon,
18 H. Scott Leviant, and Lilit Ter-Astvatsatryan are appointed Class Counsel.

19 7. The Court appoints Phoenix Settlement Administrators to act as the Settlement
20 Administrator, pursuant to the terms set forth in the Agreement.

21 8. Defendant is directed to provide the Settlement Administrator the names and most
22 recent known mailing addresses of Settlement Class Members, and any other information required in
23 accordance with the Agreement no later than 14 days after entry of this Order.

24 9. The Settlement Administrator is directed to mail the approved Class Notice by first-
25 class mail to the Class Members in accordance with the Agreement, no later than 28 days after entry of
26 this Order.

27 10. A final approval hearing will be held on January 11, 2020¹, at
28 11:00 a.m. Via LA Court Connect in Department SSC-11, to determine whether the settlement should be granted

1 final approval as fair, reasonable, and adequate as to the Class Members. At that time, the Court will
2 hear all evidence and arguments necessary to evaluate the Settlement. Class Members and their
3 counsel may support or oppose the Settlement, if they so desire, in accordance with the procedures set
4 forth in the Class Notice and this Order. No later than ~~16 Court days~~ ^{December 15, 2020} ~~days~~ prior to the Final
5 Approval Hearing, Plaintiff shall file a motion for final approval of the settlement, including any
6 request for an award of fees, costs, and an Enhancement Award to Plaintiff.

7 11. The response deadline for the submission of requests for exclusion and written
8 objections is 60 days after the Settlement Administrator mails out Notices, or such later date as
9 authorized by the Court or the Agreement.

10 12. As set forth in the Agreement, any Class Member may request exclusion from the
11 Settlement. Any exclusion request shall be submitted to the Settlement Administrator rather than filed
12 with the Court. Class members are not required to send copies of an exclusion request to counsel. The
13 Settlement Administrator shall file a declaration concurrently with the filing of any motion for final
14 approval, authenticating a copy of every exclusion request received by the administrator.

15 13. Any Class Member may appear at the final approval hearing in person or through his or
16 her own attorney and show cause why the Court should not approve the settlement, or object to the
17 motion for awards of the Class Representative Enhancement Award and Attorney's Fees and Costs.

18 14. Any written objection shall be submitted to the Settlement Administrator rather than
19 filed with the Court. Class members are not required to send copies of the Objection Form to counsel.
20 The Settlement Administrator shall file a declaration concurrently with the filing of any motion for final
21 approval, authenticating a copy of every Objection Form received by the administrator.

22 15. The Court reserves the right to continue the date of the final approval hearing without
23 further notice to Class Members. The Court retains jurisdiction to consider all further applications
24 arising out of or in connection with the settlement.


25 16. Class Counsel shall give notice to any objecting party of any continuance of the hearing
26 of the motion for final approval.

27 ///

1 17. The Court retains jurisdiction to consider all further applications arising out of or in
2 connection with the settlement.

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4 **IT IS SO ORDERED.**

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6 Dated: 8-17-20



Hon. Ann I. Jones
LOS ANGELES COUNTY SUPERIOR COURT JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

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Attorneys for Defendants LINEAGE

LOGISTICS, LLC and LINEAGE

LOGISTICS HOLDINGS, LLC

☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service CASEANYWHERE. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this **January 17, 2020** at Los Angeles, California.

Angel Reyes

Type or Print Name



Signature