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and all others similarly situated and aggrieved

FILED
Superior Court of California
County of Los Angeles
08/17/2023
David W. Slayton, Executive Officer / Clerk of Court
By: T. Le Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

DELVIN HINES, on behalf of himself and all
others aggrieved,

Plaintiff,

v.

CONSTELLIS INTEGRATED RISK
MANAGEMENT SERVICES, a Delaware
corporation; CENTERRA SERVICES
INTERNATIONAL, INC., a Delaware
corporation; CENTERRA GROUP, LLC, a
forfeited Delaware limited liability company;
MICHAEL CHANDLESS, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 20STCV26962

[Assigned to the Hon. Christopher K. Lui in
Dept. 76]

~~PROPOSED~~ **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT AND
CERTIFYING CLASS FOR
SETTLEMENT PURPOSES ONLY**

This Court, having considered the Motion of plaintiffs Delvin Hines, Gerald Francel, Robert
Andrews, Steven Cueto, Eric Fleming, Robert Franco, Tracie Grove, Joshua Mcmichael, Leticia
Falcon, Viet Truong, Carlos Ulloa, and Daniel Lange (collectively, the “Plaintiffs”) for Preliminary
Approval of the Class Action and Representative Action Settlement and Provisional Class

1 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations
2 of David D. Bibiyan, Vedang J. Patel, Plaintiffs, and Jodey Lawrence, the Joint Stipulation re: Class
3 Action and Representative Action Settlement (the “Settlement,” “Settlement Agreement” or
4 “Agreement”), the Notice of Proposed Class Action Settlement and Date for Final Approval Hearing
5 (“Class Notice”), and other documents submitted in support of the Motion for Preliminary Approval,
6 hereby **ORDERS, ADJUDGES AND DECREES THAT:**

7 1. The definitions set out in the Settlement Agreement are incorporated by reference
8 into this Order; all terms defined therein shall have the same meaning in this Order.

9 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
10 Class Members” or “Class Members”) for the purpose of settlement only: all current and former
11 non-exempt, hourly-paid employees who worked in California for defendant Centerra Services
12 International, Inc. (“CSI”), at any time during the period from May 28, 2016 through the earlier of:
13 (1) 90 days after execution of the Agreement; or (2) the date the Court grants preliminary approval
14 (“Class Period”), but expressly excludes anyone other than the Plaintiffs who, prior to the conclusion
15 of the Class Period, has filed their own legal action alleging the same or similar claims as pled in
16 the Action, although any excluded individuals may still be Aggrieved Employees under the terms
17 of the Settlement Agreement and if so, such individuals will still be entitled to share in a pro-rata
18 portion of the PAGA Payment and be bound to the PAGA releases in the Agreement. For any
19 Settlement Class Members who worked for defendant Centerra Group, LLC (“CG”), that are part
20 of the settlement class in *Duley v. Centerra Group, LLC* filed in Los Angeles County Superior Court,
21 Case No. 19STCV31908 (“*Duley*”) as defined therein, the Settlement shall have no effect on their
22 rights to participate in and receive any settlement proceeds in *Duley* for which they might be eligible
23 under the terms of the *Duley* settlement.

24 3. The Court preliminarily appoints named plaintiffs Delvin Hines, Gerald Francel,
25 Robert Andrews, Steven Cueto, Eric Fleming, Robert Franco, Tracie Grove, Joshua McMichael,
26 Leticia Falcon, Viet Truong, Carlos Ulloa, and Daniel Lange as Class Representatives, and David
27 D. Bibiyan and Diego Aviles of Bibiyan Law Group, P.C., as Class Counsel.

28 4. The Court preliminarily approves the proposed class settlement upon the terms and

1 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
2 settlement appears to be within the range of reasonableness of settlement that could ultimately be
3 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
4 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
5 probable outcome of further litigation relating to liability and damages issues. It further appears that
6 extensive and costly investigation and research has been conducted such that counsel for the parties
7 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
8 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
9 delay and risks that would be presented by the further prosecution of the Action. It further appears
10 that the settlement has been reached as the result of intensive, non-collusive and arms-length
11 negotiations utilizing an experienced third-party neutral.

12 5. The First Amended Complaint ("FAC"), attached to the Settlement Agreement as
13 Exhibit "A," is deemed filed on the date this order is signed. The FAC is the "Operative Complaint"
14 in this Action. Defendants are deemed to generally deny all the allegations set forth in the FAC
15 pending final approval of the Settlement, without any need to file a separate answer to the FAC.

16 6. The Court approves, as to form and content, the Class Notice that has been submitted
17 herewith.

18 7. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
19 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
20 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
21 with the requirements of law and appears to be the best notice practicable under the circumstances.

22 8. The Court hereby preliminarily approves the definition and disposition of the **Gross**
23 **Settlement Amount of \$1,025,000.00**, which is inclusive of: attorneys' fees of up to thirty-five
24 percent **(35%)** of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement
25 Agreement, amounts to **\$358,750.00**, in addition to actual costs incurred of up to \$50,000.00;
26 enhancement award of up to **\$10,000.00** to plaintiff Delvin Hines and **\$5,000.00** each to plaintiffs
27 Gerald Francel, Robert Andrews, Steven Cuoto, Eric Fleming, Robert Franco, Tracie Grove, Joshua
28 McMichael, Leticia Falcon, Viet Truong, Carlos Ulloa and Daniel Lange; costs of settlement

1 administration of no more than \$7,950.00; and Private Attorneys' General Act of 2004 ("PAGA")
2 penalties in the amount of \$100,000.00, of which \$75,000.00 (75%) will be paid to the Labor and
3 Workforce Development Agency ("LWDA") and \$25,000.00 (25%) to "Aggrieved Employees,"
4 defined as all non-exempt, hourly-paid employees of defendant CSI in California who received
5 wages for hours worked during the period from May 11, 2019 through the earlier of: (1) 90 days
6 after execution of the Agreement; or (2) the date the Court grants preliminary approval ("PAGA
7 Period").

8 9. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
9 paid separately and apart by Defendants on the wages portion of the Gross Settlement Amount.

10 10. Within ten (10) business days following the occurrence of the Effective Date of the
11 Settlement, Defendants shall remit payment of the Gross Settlement Amount (as the same may be
12 escalated pursuant to the Agreement) and Employer Taxes to the Settlement Administrator pursuant
13 to Internal Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement
14 account ("QSA") with an FDIC insured banking institution, for distribution in accordance with the
15 Agreement and the Court's Orders and subject to the conditions described in the Agreement.

16 11. Class Member's "Workweek" shall mean the number of weeks that a Settlement
17 Class Member or Aggrieved Employee (as applicable) was employed by and was paid wages for
18 hours worked for defendant CSI in a non-exempt, hourly-paid position during the Class Period or
19 PAGA Period (as applicable) in California, based on hire dates, re-hire dates (as applicable), and
20 termination dates (as applicable).

21 12. The Gross Settlement Amount is based on Defendants' representation that there were
22 no more than 20,498 Workweeks worked through the mediation date. In the event that it is
23 determined that the number of Workweeks worked by Class Members during the Class Period
24 increases by more than 10%, or 2,050 Workweeks, then the Gross Settlement Amount shall be
25 increased by one percent (1%) for every one percent (1%) increase in Workweeks over the 10%
26 threshold. Thus, for example, if the number of Workweeks worked during the Class Period increases
27 by 12%, or 2,460 Workweeks, for a total of 22,958 Workweeks (20,498 Workweeks + 2,460
28 Workweeks), then the Gross Settlement Amount shall be increased by 2%, or \$20,500.00

1 (\$1,025,000.00 x .02), for an increased Gross Settlement Amount of \$1,045,500.00 (\$1,025,000.00
2 + \$20,500.00).

3 13. The Court deems Phoenix Settlement Administrators (“Phoenix” or “Settlement
4 Administrator”), the Settlement Administrator, and payment of administrative costs, not to exceed
5 \$7,950.00, out of the Gross Settlement Amount for services to be rendered by Phoenix on behalf of
6 the class.

7 14. Within seven (7) calendar days after the Response Deadline, or soon thereafter, the
8 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
9 completion of the notice process, including the number of attempts to obtain valid mailing addresses
10 for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of
11 all Requests for Exclusion and Objections received by the Settlement Administrator, if any.

12 15. Within twenty (20) business days after the Preliminary Approval Date, Defendants’
13 Counsel shall provide the Settlement Administrator with information with respect to each Settlement
14 Class Member and/or Aggrieved Employee, including his or her: (1) name; (2) last known
15 address(es) currently in Defendants’ possession, custody, or control; (3) last known telephone
16 number(s) currently in Defendants’ possession, custody, or control; (4) last known Social Security
17 Number(s) in Defendants’ possession, custody, or control; (5) the dates of employment (*i.e.*, hire
18 dates, and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class Member
19 and/or Aggrieved Employee; and (6) the Workweeks for each Settlement Class Member for the
20 Class Period and Workweeks for each Aggrieved Employee for the PAGA Period, respectively
21 (“Class List”).

22 16. The Settlement Administrator shall perform an address search using the United States
23 Postal Service National Change of Address (“NCOA”) database and update the addresses contained
24 on the Class List with the newly-found addresses, if any.

25 17. Within seven (7) calendar days, or soon thereafter, of receiving the Class List from
26 Defendant, the Settlement Administrator shall mail the Class Notice in English and Spanish to the
27 Settlement Class Members via first-class regular U.S. Mail using the most current mailing address
28 information available.

1 18. “Response Deadline” means the deadline for Settlement Class Members to mail any
2 Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator, which
3 is forty-five (45) calendar days from the date that the Class Notice is first mailed in English and
4 Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an
5 instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing, or forty-
6 five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark
7 a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the
8 exclusive means for determining whether a Request for Exclusion, Objection, or Workweek Dispute
9 was submitted by the Response Deadline.

10 19. Any Settlement Class Member may request exclusion from (*i.e.*, to “opt out” of) the
11 Class Settlement by mailing a written request to be excluded from the Class Settlement (“Request
12 for Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline.
13 To be valid, a Request for Exclusion must be timely submitted and must include the following in
14 writing: (1) the Class Member’s name; (2) the Class Member’s Social Security Number; (3) the
15 Class Member’s signature; and (4) a statement that the Class Member seeks to be excluded from the
16 Settlement Class using the same or any other language standing for the proposition the Class
17 Member seeks to be excluded from the Settlement Class: “Please exclude me from the Settlement
18 Class in the *Hines v. Constellis Integrated Risk Management Services, et al.* matter. I understand
19 that by requesting exclusion, I will not participate in the class settlement and will not receive any
20 money from the class settlement.”

21 20. Any Settlement Class Member who does not opt out of the Settlement Class by
22 submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement,
23 including those pertaining to the Class Released Claims, as well as any Judgment that may be
24 entered by the Court if Final Approval of the Class Settlement is granted.

25 21. Participating Class Members may object only to the Class Settlement; neither
26 Participating Class Members nor PAGA Aggrieved Employees may object to the PAGA settlement.
27 In order for any Settlement Class Member to object to this Class Settlement in writing, or any term
28 of it, he or she must do so by mailing a written objection to the Settlement Administrator at the

1 address provided on the Class Notice, with such objection postmarked no later than the Response
2 Deadline.

3 22. Settlement Class Members need not object in writing to be heard at the Final
4 Approval Hearing; they may object or comment in person at the hearing at their own expense.

5 23. A Settlement Class Member cannot submit both a Request for Exclusion and an
6 objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
7 Request for Exclusion will control and the Objection will be overruled.

8 24. All papers filed in support of final approval, including supporting documents for
9 attorneys' fees and costs, shall be filed by ~~ETD~~ ~~DEG~~.

10 25. A Final Fairness and Approval Hearing shall be held with the Court on
11 ~~ETD~~ ~~DEG~~ at 1:00 p.m. in Department 76 of the above-entitled Court to determine:

12 (1) whether the proposed settlement is fair, reasonable and adequate, and should be finally approved
13 by the Court; (2) the amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the
14 amount of service award to the Class Representative; (4) the amount to be paid to the Settlement
15 Administrator; and (5) the amount to be apportioned to PAGA and/or paid to the LWDA and
16 Aggrieved Employees.

17 26. Within seven (7) calendar days after payment of the full Gross Settlement Amount
18 and Employer Taxes by Defendants, or as soon thereafter as practicable, the Settlement
19 Administrator shall distribute Payments from the QSA for: (1) the Service Award to Plaintiffs as
20 approved by the Court; (2) the Attorneys' Fees and Cost Award to be paid to Class Counsel, as
21 approved by the Court; (3) the Settlement Administrator Costs, as approved the Court; (4) the
22 LWDA Payment, as approved by the Court; and (5) Individual PAGA Payments as approved by the
23 Court. The balance remaining shall constitute the Net Settlement Amount from which Individual
24 Settlement Payments shall be made to Participating Class Members, less applicable taxes and
25 withholdings.

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1 27. Any checks from this distribution shall remain valid and negotiable for one hundred
2 eighty (180) calendar days after the date of their issuance. After expiration of the 180-day period,
3 checks for such payments shall be cancelled and funds associated with such checks shall be
4 transmitted to the **California Controller's Office Unclaimed Property Fund**, thereby leaving no
5 "unpaid residue," subject to the requirements of California Code of Civil Procedure Section 384.

6
7 **IT IS SO ORDERED.**

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9 Dated: 08/17/2023



A handwritten signature in black ink, appearing to read "C. Lui".

Christopher K. Lui / Judge

Judge of the Superior Court

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