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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JUVENTINA MATA, et al.,
Plaintiffs,
v.
MANPOWER INC. / CALIFORNIA
PENINSULA, et al.,
Defendants.

Case No. 14-CV-03787-LHK
**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**
Re: Dkt. No. 195

This matter came before the Court on May 11, 2017 for a hearing on the Motion for Final Approval of Class Action Settlement. At the hearing, the parties requested that the Court delay its ruling on the motion until July 24, 2017 in order to allow time to fulfill the notice requirements of the Class Action Fairness Act (CAFA), 28 U.S.C. § 1715. The parties served supplemental CAFA notice on April 25, 2017, and 28 U.S.C. § 1715(d) requires that “[a]n order giving final approval of a proposed settlement may not be issued earlier than 90 days after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required” ECF No. 199.

Due and adequate notice having been given to Class Members as required by the Court’s January 24, 2017 Preliminary Approval Order, and the Court having considered all papers filed

1 and proceedings herein, and determining that the settlement is fair, adequate, and reasonable, and
2 otherwise being fully informed and good cause appearing therefore it is hereby

3 **ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

4 1. For the reasons set forth in the Preliminary Approval Order and in the transcript of
5 the proceedings of the Preliminary Approval hearing, which are adopted and incorporated herein
6 by reference, this Court finds that the settlement class meets the requirements of Federal Rule of
7 Civil Procedure 23.

8 2. This Order hereby adopts and incorporates by reference the terms and conditions of
9 the Amended Joint Stipulation of Class Action Settlement (“Settlement Agreement”), including
10 amendments ordered by this Court, together with the definitions and terms used and contained
11 therein.

12 3. The Court finds that it has jurisdiction over the subject matter of the action and over
13 all parties to the action, including all members of the Settlement Class.

14 4. The Class Notice fully and accurately informed Class Members of all material
15 elements of the proposed settlement and of their opportunity to opt out, object, or comment
16 thereon; was the best notice practicable under the circumstances; was valid, due, and sufficient
17 notice to all Class Members; and complied fully with the laws of the State of California, the United
18 States Constitution, and due process. The Class Notice fairly and adequately described the
19 settlement and provided Class Members adequate instructions and a variety of means to obtain
20 additional information.

21 5. Class Members were given a full opportunity to participate in the Final Approval
22 hearing, and all Class Members and other persons wishing to be heard have been heard.
23 Accordingly, the Court determines that all Class Members who did not timely and properly opt out
24 are bound by this Order.

25 6. The Court has considered all relevant factors for determining the fairness of the
26 settlement and has concluded that all such factors weigh in favor of granting final approval. In
27 particular, the Court finds that the settlement was reached following meaningful discovery and

1 investigation conducted by Plaintiffs’ counsel; that the settlement is the result of serious, informed,
2 adversarial, and arm’s length negotiations between the parties; and that the terms of the settlement
3 are in all respects fair, adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of the Plaintiffs’ case; the risk, expense, and complexity of the claims
6 presented; the likely duration of further litigation; the amount offered in settlement; the extent of
7 investigation and discovery completed; and the experience and views of Plaintiffs’ counsel.

8 8. The Court finds that Class Counsel has given sufficient notice pursuant to the Class
9 Action Fairness Act of the proposed settlement to the attorney general of each state in which any
10 class member resides. 28 U.S.C. § 1715. Each attorney general has had 90 days to consider and
11 comment on the proposed settlement, and no attorney general has submitted a comment. 28 U.S.C.
12 § 1715(d).

13 9. At the May 11, 2017 hearing, the Court noted that ten objection forms did not
14 clearly state whether the Class Member intended to object to the settlement or to opt out of the
15 settlement. Therefore, the Court ordered Class Counsel to attempt to contact the following ten
16 Class Members to determine whether these Class Members intended to object to the settlement or
17 to opt out: Dyane Tori, Derrick Bailey, Kathy King, Phat Hong Le, Cynthia Pelston, Celia Haro,
18 Ruby Martinez, Jessica Lavenant, Jimmy Juarez, and Bruce Andrews. ECF No. 203. In response to
19 requests for clarification, Tori, Bailey, Pelston, Martinez, and Andrews indicated that they wished
20 to opt out of the settlement. *Id.* ¶¶ 12–18. Therefore, these individuals are not Class Members and
21 do not have standing to object to the settlement. *See, e.g., San Francisco NAACP v. San Francisco*
22 *Unified School Dist.*, 59 F. Supp. 2d 1021, 1032 (N.D.Cal.1999) (“[N]onclass members
23 have no standing to object to the settlement of a class action”). Haro indicated that she intended to
24 submit only an objection and did not wish to opt out of the class. *Id.* ¶ 10. King, Le, Lavenant, and
25 Juarez did not respond to these inquiries. *Id.* ¶ 10. The Court will therefore construe the comments
26 of King, Le, Lavenant, and Juarez as objections rather than requests to opt out of the settlement.

27 10. In total, the Court received 274 objection forms. After reviewing the objection
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1 forms, the Court concludes that only 6 of the 274 objection forms contain objections. The
2 remaining 268 objection forms contained no objection to the settlement. Specifically, (1) 127 of
3 the objection forms contained no text at all other than a signature; (2) 20 of the objection forms
4 either confirmed that the signatory class member desired to participate in the settlement or
5 expressed the signatory's satisfaction with settlement; (3) 5 of the objection forms were in fact opt
6 outs; and (4) 116 objection forms contained irrelevant information which often described the Class
7 Members' working conditions.

8 11. The Court has considered the objections of Florence Shirakawa, Celia Haro, and
9 Kimberley Rott. Each of these objectors state that Manpower did nothing wrong. ECF No. 198-2,
10 at 11, 57, 61, 151, 190. These objections oppose recovery for the class. Therefore, these objections
11 are adverse to the interests of the Class, and the objections are therefore overruled.

12 12. The Court has also considered the objection of Cheri Cruz, who objects that the
13 remaining funds left in the reserve fund will be given as a *cy pres* award to the California
14 Department of Industrial Relations. Cruz claims that California Department of Industrial Relations
15 does not deserve any money because "they suffered no hardship." ECF No. 198-2, at 229.
16 However, under the settlement agreement, the California Department of Industrial Relations will
17 only receive money if any funds remain from checks to Class Members that have not been cashed
18 six months after issuance. Additionally, the California Department of Industrial Relations works to
19 protect the rights of individuals such as the Class Members in the instant case, and therefore the
20 Court determines that this *cy pres* award is appropriate and will benefit the class. Cruz's objection
21 is therefore overruled.

22 13. The Court has also considered the objection of Jimmy Juarez and the objection of
23 Jessica Lavenant. Juarez objects that "the base payment is inappropriate due to the fact that I was
24 unable to pay bills that I would have otherwise been able to pay had I been paid appropriately at
25 the time my wages are due." ECF No. 198-2, at 62. Lavenant states, "I find the accounts to more
26 than a settlement wage of \$48.27. I believe there was hours not accounted for and insentives that
27 were not meet during my employeement." ECF No. 198-2, at 97. In essence, Juarez and Lavenant

1 object that the settlement does not fully compensate them. However, this objection fails to take
2 into account the risks, delays, and expenses of proceeding to trial. “[T]he very essence of a
3 settlement is compromise, a yielding of absolutes and an abandoning of highest hopes.” *Linney v.*
4 *Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir.1998) (quoting *Officers for Justice*, 688 F.2d
5 at 624) (affirming settlement approval). The Court finds that in light of the risk, delay, and expense
6 of proceeding to class certification and trial, the proposed settlement provides a substantial and
7 certain benefit for class members. These objections are therefore overruled.

8 14. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
9 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and
10 in the best interests of the entire Settlement Class and hereby directs implementation of all
11 remaining terms, conditions, and provisions of the Settlement Agreement. The Court also finds
12 that settlement now will avoid additional and potentially substantial litigation costs, as well as
13 delay and risks if the parties were to continue to litigate the case. Additionally, after considering
14 the monetary recovery provided as part of the settlement in light of the challenges posed by
15 continued litigation, the Court concludes that the settlement confers significant relief for Class
16 Members.

17 15. The Settlement Agreement is not an admission by Defendants or by any other
18 released party, nor is this Order a finding of the validity of any allegations or of any wrongdoing
19 by Defendants or any other released party. Neither this Order, the Settlement Agreement, nor any
20 document referred to herein, nor any action taken to carry out the Settlement Agreement, may be
21 construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession, or
22 liability whatsoever by or against Defendants or any of the other released parties.

23 16. Final approval shall be with respect to the following class, certification for which is
24 hereby granted: All current and former non-exempt hourly associates who worked for Defendant
25 Manpower, Inc./California Peninsula from April 12, 2009 through September 8, 2016 and all
26 current and former non-exempt, hourly associates who worked for Defendants Manpower Inc.,
27 ManpowerGroup Inc., and ManpowerGroup US Inc. from February 13, 2009 through September 8,

1 2016. Notwithstanding the foregoing, any person who performed work and/or suffered violations
2 of any law occurring while such person was in the employ of either Manpower US Inc. and/or
3 CPM LTD d/b/a Manpower of San Diego and Manpower Temporary Services shall not be
4 considered a Class Member with respect to such employment.

5 17. Claudia Padilla and Lesli Guido are suitable representatives for the Settlement Class
6 and are hereby appointed the Class Representatives. The Court finds that Padilla and Guido's
7 investment and commitment to the litigation and its outcome ensured adequate and zealous
8 advocacy for the Settlement Class, and that their interests are aligned with those of the Settlement
9 Class.

10 18. The Court finds that the attorneys at Fitzpatrick, Spini & Swanston and Wanger,
11 Jones, Helsley, PC, have the sufficient experience, knowledge, and skill to promote and safeguard
12 the interests of the Class. The Court therefore finds that Plaintiffs' counsel satisfy the professional
13 and ethical obligations attendant to the position of Class Counsel, and hereby appoints Plaintiffs'
14 counsel as Class Counsel for the Settlement Class.

15 19. Pursuant to the settlement, Defendants shall pay the gross settlement amount of
16 \$2,900,000 ("Gross Settlement Fund"). The Gross Settlement Fund shall be paid to Class Members
17 in the manner described in the Settlement Agreement.

18 20. The request for civil penalties under PAGA in the amount of \$25,000 is hereby
19 granted. Seventy-Five Percent (75%), or \$18,750, shall be paid to the California Labor and
20 Workforce Development Agency. The remaining Twenty-Five Percent (25%), or \$6,250, will
21 become part of the Net Settlement Amount.

22 21. The Court approves claims administration expenses in the amount of \$200,000 to
23 CPT Group, Inc.

24 22. Defendants shall pay Class Members pursuant to the procedure described in the
25 Settlement Agreement. Defendants shall have no further liability for costs, expenses, interest,
26 attorneys' fees, or for any other charge, expense, or liability, except as provided in the Settlement
27 Agreement.

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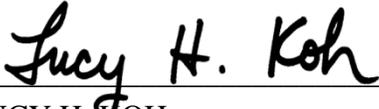
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23. All Class Members were given a full and fair opportunity to participate in the Approval Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order shall be forever binding on all Class Members who were mailed notice of the settlement and who did not timely opt out of the settlement. These Class Members have released and forever discharged the Defendants for any and all Released Claims as defined in the Settlement Agreement.

24. Class Counsel's request for an enhancement award of \$7,500.00 each for Plaintiffs Claudia Padilla and Lesli Guido is warranted, in light of their service to the Class. The request for an enhancement award of \$7,500.00 each to Plaintiffs Claudia Padilla and Lesli Guido is GRANTED.

IT IS SO ORDERED.

Dated: July 24, 2017



LUCY H. KOH
United States District Judge