

FILED
Clerk of the Superior Court

AUG 11 2023

By: C. Beutler, Deputy

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

ANGELA OHLER *et al.*,

Plaintiff,

v.

CLUCKIN, INC. *et al.*,

Defendants.

Case No. 37-2021-00053292-CU-OE-CTL

Hon. Katherine A. Bacal
Dept. 69

CLASS ACTION

**[Proposed] Order Granting Preliminary
Approval of Class Action Settlement**

Motion for Prelim. App. Hearing

Date: August 11, 2023

Time: 1:30 p.m.

[Filed concurrently with Notice of Motion and
Motion for Preliminary Approval of Class Action
Settlement, Memorandum of Points and Authorities,
and Declaration Nicholas J. Ferraro]

Action Filed: December 21, 2021

1 This matter came on for hearing on August 11, 2023 at 1:30 p.m. in Department 69 of the above-
2 captioned Court on Plaintiff's Motion Preliminary Approval of Class Action Settlement ("Motion").

3 Having fully reviewed the Motion, the supporting Memorandum of Points and Authorities,
4 Declaration of Nicholas J. Ferraro (and its exhibits), including the class action settlement agreement
5 ("Settlement"), and the class notice attached as an exhibit to the Settlement ("Class Notice"), and in
6 recognition of the Court's duties (to make a preliminary determination as to the reasonableness of any
7 proposed class action settlement; to ensure proper notice is provided to all class members in accordance
8 with due process requirements; and to set a Final Approval Hearing to consider the good faith, fairness,
9 adequacy and reasonableness of the proposed Settlement), the Court makes the following
10 determinations and orders:

11 1. The Court conditionally finds, for the purposes of approving this settlement only, the
12 proposed Class meets the requirements for certification under § 382 of the California Code of Civil
13 Procedure: (a) the proposed class is ascertainable and so numerous joinder of all class members is
14 impracticable; (b) there are questions of law or fact common to the proposed class, and a well-defined
15 community of interest among members of the proposed class with respect to the subject matter of the
16 class action; (c) the claims of the class representative are typical of the claims of the members of the
17 proposed class; (d) the class representative appears to be adequate to serve in that role; (e) a class action
18 is superior to other available methods for an efficient adjudication of this controversy in the context of
19 settlement; and (f) counsel of record for the Plaintiff are qualified to serve as class counsel.

20 2. The Court finds, on a preliminary basis, the Settlement, incorporated by this reference
21 in full, and made a part of this Order, appears to be within the range of reasonableness of a settlement
22 which could ultimately be given final approval by this Court.

23 3. The Court further finds, on a preliminary basis: (a) the non-reversionary Gross
24 Settlement Amount is fair and reasonable to the class when balanced against the probable outcome of
25 further litigation relating to class certification, liability and damages issues, and potential appeals;
26 (b) significant investigation, research, and informal discovery, have been conducted such that counsel
27 for the Parties are able to reasonably evaluate their respective positions; (c) settlement at this time will
28 avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and (d) the

1 proposed Settlement was reached through intensive, serious, and non-collusive negotiations facilitated
2 by an experienced mediator.

3 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
4 Approval of Class Action Settlement is **GRANTED**.

5 5. Class members are therefore defined pursuant to the terms set forth in the Settlement.

6 6. The Court further finds the proposed Class Notice fairly and adequately advises Class
7 Members of (a) pendency of the Settlement; (b) conditional class certification for settlement purposes
8 only; (c) preliminary Court approval of the proposed Settlement; (d) the date, time and place of the
9 Final Approval Hearing; (e) the terms of the proposed Settlement and the benefits available to the class
10 under the Settlement; (f) their right to receive a proportionate share of the Net Settlement Amount
11 without the need to return a claim form; (g) their right to request exclusion, and the procedures and
12 deadline for doing so; (h) their right to object to the Settlement, and the procedure and deadline for
13 doing so; and (i) their right to appear at the Final Approval Hearing.

14 7. The Court further finds the proposed Class Notice provides the best practicable notice
15 to the Class and comports with all constitutional requirements, including those of due process.

16 8. The Court further finds that mailing of the Class Notice to the last known address of all
17 Class Members with measures taken for verification of an address and skip tracing of bad addresses, as
18 specifically described within the Settlement, constitutes an effective method of notifying class members
19 of their rights with respect to the class action and the Settlement.

20 9. Accordingly, for good cause, the Court **APPROVES** the Class Notice for distribution
21 to the Class pursuant to the notice procedures set forth in full in the Settlement.

22 Accordingly, it is **ORDERED** that:

23 a. CPT Group be appointed the Administrator of the Settlement, as more
24 specifically set forth in the Settlement;

25 b. Ferraro Vega Employment Lawyers, Inc. be appointed as class counsel;

26 c. Plaintiff Angela Ohler be appointed as class representative;

27 d. All deadlines, terms, and conditions set forth in the Settlement incorporated by
28 reference into this Order shall apply and govern the notice procedure and response deadlines;

1 e. Any class member who desires to object may appear in Court at the Final
2 Approval Hearing to present oral objections;

3 f. If for any reason the Court does not execute and file an Order Granting Final
4 Approval of Class Action Settlement, or if the Effective Date, as defined in the Settlement, does not
5 occur for any reason whatsoever, the Settlement and the proposed Settlement that is the subject of this
6 Order, and all evidence and proceedings had in connection therewith, shall be restored without
7 prejudice to the *status quo ante*, pursuant to the terms set forth in the Settlement.


8 10. **IT IS FURTHER ORDERED** that the Final Approval Hearing shall be held before the
9 undersigned at 1:30 PM [hearing time] on 12/1/2023 [hearing date], in this
10 Department.

11 11. At the Final Approval Hearing, the Court will consider the fairness, adequacy, and
12 reasonableness of the proposed Settlement preliminarily approved in his Order and notice process to
13 be effectuated, and to consider the application for a class representative service payment to the class
14 representative, the administration expenses, attorneys' fees, and costs.

15 12. The Court reserves the right to continue the Final Approval Hearing without further
16 notice to the class. However, if written objections are submitted, class counsel is ordered to serve
17 notice on any such objecting class member of the new date and time of the Final Approval Hearing.

18
19 **IT IS SO ORDERED.**

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21 Date: 8/4/23


22 Hon. Katherine A. Bacal
23 Judge of the Superior Court
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