

GRAHAM HOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

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FILED **ELECTRONICALLY RECEIVED**
Clerk of the Superior Court Superior Court of California,
County of San Diego
DEC 08 2023 **11/09/2023** at 11:04:57 AM
By: V. Secaur Clerk of the Superior Court
By Nora Lopez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

MARQUISE PHILLIPS, individually, and on behalf of other members of the general public similarly situated,

Plaintiff,

v.

PROVIDIEN THERMOFORMING, INC., a California corporation; PROVIDIEN LLC, a Delaware limited liability company; and DOES 1 through 100, inclusive,

Defendants.

PEPE MALVEDA, individually and on behalf of all similarly situated employees of Defendants in the State of California,

Plaintiff,

v.

PROVIDIEN LLC, a limited liability company; PROVIDIEN THERMOFORMING, INC., a corporation; and DOES 1 through 100, inclusive,

Defendants.

Lead Case No.: 37-2021-00006863-CU-OE-CTL
Consolidated Case No.: 37-2021-00017707-CU-OE-CTL

[Assigned for all purposes to the Hon. Marcella O. McLaughlin; Dept. C-72]

~~PROPOSED~~ ORDER GRANTING PLAINTIFFS' AMENDED MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

[IMAGED FILE]

Date: December 8, 2023
Time: 1:30 p.m.
Dept: C-72
Judge: Hon. Marcella O. McLaughlin

First Amended Complaint Filed: June 28, 2021
Complaint Filed: April 21, 2021
Trial Date: None set

Plaintiffs Marquise Phillips, Pepe Malveda, and Bruce Mason's ("Plaintiffs") Amended Motion for Preliminary Approval of Class and Representative Action Settlement ("Motion for Preliminary

1 Approval”) came before this Court on December 8, 2023. The Court, having considered the proposed
2 Stipulation of Class Action and PAGA Representative Action Settlement and Release and Class Notice
3 (“Settlement” or “Settlement Agreement”), Plaintiffs’ Motion for Preliminary Approval, and all papers
4 filed in support thereof, **HEREBY ORDERS THE FOLLOWING:**

5 1. The Court grants preliminary approval of the Settlement and preliminarily finds that: (1)
6 the Settlement is fair and reasonable to the Class when balanced against the possible risks of further
7 litigation, including issues relating to class certification, liability, calculating damages, and potential
8 appeals; (2) significant investigation, research, and litigation have been conducted, such that the Parties
9 are able to fairly evaluate their respective positions; (3) settlement at this time will avoid the substantial
10 cost, delay, and risk presented by further litigation of the action; and (4) the Settlement was reached after
11 serious, informed, and non-collusive negotiations, which were conducted at arm’s length by experienced
12 counsel and overseen by a neutral third-party mediator.

13 2. This Order Granting Plaintiffs’ Motion for Preliminary Approval (“Order”) incorporates
14 by reference all defined terms set forth in the Settlement Agreement, which is attached as Exhibit 1 to the
15 Declaration of Graham S.P. Hollis in Support of Plaintiffs’ Amended Motion for Preliminary Approval
16 of Class and Representative Action Settlement, filed on November 9, 2023.

17 3. The Court preliminarily finds that the terms of the Settlement Agreement appear to be
18 within the range of reasonableness of a settlement that could ultimately be given final approval by this
19 Court. Indeed, the Court has reviewed the monetary recovery that is being granted as part of the Settlement
20 and preliminarily finds that the monetary settlement awards made available to all Class Members are fair,
21 adequate, and reasonable when balanced against the probable outcome of further litigation relating to
22 liability and damages issues.

23 4. The Court hereby conditionally certifies the following Class for settlement purposes only:

24 All current and former non-exempt employees of Defendants in the State of
25 California at any time from February 17, 2017 to October 27, 2023 (the
“Class Period”).

26 5. The Court preliminarily approves the appointment of Plaintiffs Marquise Phillips, Pepe
27 Malveda, and Bruce Mason as the Class Representatives.

1 6. The Court preliminarily approves the appointment of Plaintiffs’ Counsel GrahamHollis,
2 APC and Justice Law Corporation as Class Counsel.

3 7. The Court preliminarily approves the definition and disposition of the Maximum
4 Settlement Amount of \$5,500,000.00, on a non-reversionary basis, which is inclusive of: (1) the Individual
5 Settlement Payments, (2) the Individual PAGA Payments, (3) the PAGA Payment of \$275,000.00 (75%
6 of which will be paid to the LWDA, and 25% of which will be distributed to Aggrieved Employees), (4)
7 Class Counsel’s Fees in an amount equal to 35% of the Gross Settlement Amount, (5) Class Counsel’s
8 Litigation Expenses in an amount not to exceed \$50,000.00, (6) the Class Representative Service Awards
9 in the amount of \$30,000.00 (\$10,000.00 to each Plaintiff), and (7) the Administration Costs Payment not
10 to exceed \$25,000.00.

11 8. The Court approves the form and content of the Court Approved Notice of Class and PAGA
12 Settlement and Hearing Date for Final Court Approval (“Class Notice”), in substantially the form attached
13 as Exhibit A to the Parties’ Settlement Agreement, and finds that the proposed method of disseminating
14 the Class Notice to the Class meets all the due process requirements, provides the best notice practicable
15 under the circumstance, and constitutes due and sufficient notice to all Class Members.

16 9. Any Request for Exclusion shall be submitted to the Administrator rather than to the Court.
17 Class Members shall not be required to send any Request for Exclusion to counsel for either Party, but
18 counsel for either Party may request the forms from the Administrator. The Administrator shall provide a
19 declaration for Class Counsel to file concurrently with the Motion for Final Approval which shall
20 authenticate each Request for Exclusion form received.

21 10. Any Notice of Objection Forms shall be submitted to the Administrator rather than the
22 Court. Class Members shall not be required to send any Objection Forms to counsel for either Party, but
23 counsel for either Party may request the forms from the Administrator. The Administrator shall provide a
24 declaration for Class Counsel to file concurrently with the Motion for Final Approval which shall
25 authenticate each Notice of Objection received, and shall submit any timely Notice of Objection Forms to
26 the Court at the time of Final Approval. Counsel for the Parties has the right to respond to any objection
27 raised by a Participating Class Member, including the right to file responsive documents in Court no later
28 than five court days prior to the Final Approval Hearing, or as otherwise ordered.

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1 11. The Court approves the retention of CPT Group, Inc. ("CPT Group" or the
2 "Administrator") to serve as the Settlement Administrator, and hereby directs CPT Group to provide the
3 approved Class Notice to the Class and administer the Settlement in accordance with the procedures
4 described in the Settlement Agreement and the schedule set forth below in this Order.

5 12. In the event the Settlement does not become effective in accordance with the terms of the
6 Settlement Agreement, or the Settlement is not finally approved by this Court, is not approved in whole
7 or in part by the Court or any appellate court and/or other court of review, is terminated, cancelled or fails
8 to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and
9 the Parties shall revert to their respective positions as of the commencement of the litigation, and the
10 Settlement Agreement and the fact that it was entered into shall not be offered, received, or construed as
11 an admission or as evidence for any purposes, including, but not limited to, an admission by any Party of
12 liability or non-liability or of the certifiability of a litigation class or the appropriateness of maintaining a
13 class or representative action.

14 13. The Court orders the following implementation schedule for further proceedings:

<u>EVENT</u>	<u>DATE</u>
Preliminary Approval Date	December 8, 2023
Deadline for Defendant to provide the Administrator with the Class Data and the information necessary to calculate the number of Workweeks and PAGA Pay Periods	Within 10 days after the Court grants Preliminary Approval (December 18, 2023)
Deadline for Administrator to mail the Class Notice to Class Members	Within 14 days after receiving the Class Data (January 2, 2024)
Deadline for Class Members to submit any objections to the Settlement or requests for exclusion from the Settlement (the "Response Deadline")	45 days from the date the Administrator mails the Class Notice (plus an additional 14 days from Class Members whose Class Notice is re-mailed) (February 16, 2024)
Deadline for the Administrator to provide a declaration attesting to the completion of the Class Notice process and the number of valid requests for exclusion and/or objections	7 days before the date by which Plaintiff is required to file the Motion for Final Approval

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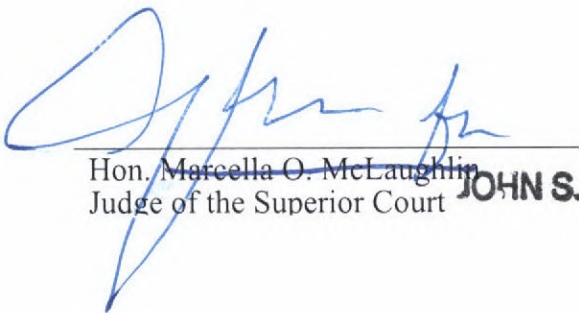
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14. The Court hereby sets a hearing date for Plaintiffs' Motion for Final Approval of Class Action Settlement on ~~March 29~~, ^{April 12,} 2024 at 9:00 a.m. in Department C-72 of this Court.

15. The Court reserves the right to adjourn or continue the date of the Final Approval Hearing and all dates provided for in the Settlement without further notice to the Class and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement. If the Final Approval Hearing is continued in any way, however, Class Counsel and/or the Administrator shall provide notice of the continued hearing to any Objector or their counsel.

IT IS SO ORDERED.

Dated: 12-8-23



Hon. ~~Marcella O. McLaughlin~~
Judge of the Superior Court **JOHN S. MEYER**