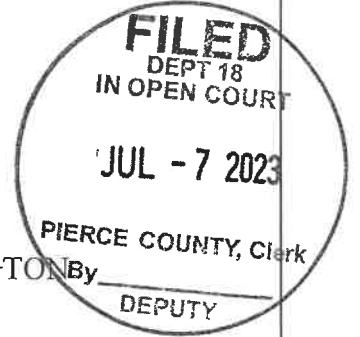


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The Honorable Stanley J. Rumbaugh



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

DAVID HOGAN and XIMENA DE LUCIA
VILLALPALANDO-MAILLIARD,
individually and on behalf of all those
similarly situated,

Plaintiff,

vs.

SCHNELLER ENTERPRISES LLC, a
Washington limited liability company,

Defendant.

No. 22-2-09964-5

Final *(SJR)*

~~PROPOSED~~ ORDER
CONDITIONALLY CERTIFYING
SETTLEMENT CLASS, GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT,
AUTHORIZING NOTICE, AND
SETTING FINAL FAIRNESS HEARING

(CLERK'S ACTION REQUIRED)

This matter came before the Court on Plaintiffs' Motion for Conditional Settlement Class Certification and Preliminary Approval of Class Action Settlement ("Plaintiffs' Motion"). In conjunction with Plaintiffs' Motion, Plaintiff has filed a copy of the Parties' signed Class Action Settlement Agreement and Release of Claims (the "Settlement Agreement"), attached as Exhibit 1 to the Declaration of James B. Pizl in support of Plaintiffs' Motion.

WHEREAS, the Court has considered Plaintiffs' Motion, the Parties' signed Settlement Agreement, and all of the other pleadings, papers, and filings herein;

WHEREAS, as used herein, all terms defined in the Parties' Settlement Agreement shall have the same meaning here; and

1 WHEREAS, good cause appearing that the Parties' Settlement Agreement is within the
2 range of reasonableness and is presumptively valid,

3 1. NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

4 Pursuant to Washington Superior Court Civil Rule 23(a) and (b)(3), and in conjunction
5 with the Settlement Agreement, the Court hereby certifies this case as a class action, solely for
6 purposes of implementing the Parties' Settlement Agreement, on behalf of the following Proposed
7 Settlement Class:

8 All individuals who were employed by Schneller in the State of Washington as
9 nonexempt, hourly restaurant employees at any time from November 3, 2019,
through November 30, 2022.

10 The Settlement Class shall exclude any persons who opt out of the Settlement Class in accordance
11 with the terms of the Settlement Agreement and Paragraph 14 of this Order.

12 2. The Court finds that the prerequisites of CR 23(a) and (b)(3) have been satisfied for
13 the Settlement Class. Specifically, the Court finds as follows:

14 a. The Settlement Class, which consists of approximately 792 individuals, is
15 so numerous that joinder of all members is impracticable. In reaching this conclusion, the
16 Court has considered not just the number of Class members, but the interests of judicial
17 efficiency, the relatively small value of many Settlement Class Member claims, and other
18 factors relevant to the interest and ability of employees to individually join or bring claims
19 against a current or former employer.

20 b. There are questions of law and fact common to the Settlement Class,
21 including, but not limited to: whether Defendant violated WAC 296-126-092 by failing to
22 provide adequate rest breaks and meal periods to Plaintiffs and members of the Settlement
23 Class; and whether Defendant was required to and failed to compensate Plaintiffs and
24 members of the Settlement Class with additional wages when rest breaks and meal periods
25 were not provided in compliance with Washington law
26

1 c. The claims of the Named Plaintiffs are typical of the claims of the
2 Settlement Class, and the Named Plaintiffs and Class Counsel will fairly and adequately
3 protect the interests of the Settlement Class.

4 d. Certification of a Settlement Class under CR 23(b)(3) is appropriate because
5 questions of law and fact common to all Settlement Class Members predominate over any
6 questions affecting only individual members, and a class action is superior to other
7 available means for the fair and efficient resolution of this controversy. Such common
8 questions of law and fact include, but are not limited to those identified in subparagraph
9 (b) above.

10 3. Pursuant to CR 23, Named Plaintiffs David Hogan and Ximena De Lucia
11 Villalpalando-Mailliard are hereby appointed and designated, for all purposes, as the Class
12 Representatives of the Settlement Class, and James B. Pizl and Entente Law PLLC are hereby
13 appointed and designated as Class Counsel for the Settlement Class.

14 4. Class Counsel is authorized to act on behalf of the Settlement Class with respect to
15 all acts or consents required by or which may be required pursuant to the Settlement Agreement.

16 5. The Court approves the proposed form and content of the Notice of Proposed
17 Settlement of Class Action ("Class Notice") that is attached as Exhibit A of Exhibit 1 to the
18 Declaration of James B. Pizl.

19 6. The Court hereby appoints CPT Group Class Action Administrators as Settlement
20 Administrator responsible for establishing a Qualified Settlement Fund ("QSF") pursuant to IRC
21 § 468B(g), mailing and/or emailing Class Notices and settlement awards to Settlement Class
22 Members, processing and filing all appropriate tax forms and documents including but not limited
23 to W2s, 1099s, 1120-SF, etc.

24 7. Consistent with the terms of the Settlement Agreement, the Settlement
25 Administrator is hereby directed to email and mail, or cause to be mailed, by first-class mail, a
26

1 copy of the Class Notice to each Settlement Class Member no later than forty (40) calendar days
2 following the date of this Order.

3 8. Pursuant to CR 23, the Court hereby finds and concludes that the form and manner
4 of giving notice by mailing a Class Notice to each individual Settlement Class Member, as required
5 by the Settlement Agreement and by this Order, is the best notice practicable under the
6 circumstances. Said notice procedures fully satisfy the requirements of CR 23(c)(2) and CR 23(e)
7 and the requirements of due process.

8 9. The Court conditionally approves Class Counsel's request for an attorneys' fees
9 award of 135,000.00 or 30% of the gross Settlement Fund, plus actual and projected litigation costs
10 of \$5,000.00. This approval is preliminary and is subject to modification at the time of final
11 settlement approval upon a showing of appropriate cause.

12 10. The Court preliminarily approves up to \$20,000 to be paid from the settlement fund
13 to compensate CPT Group Class Action Administrators for its services provided in the
14 administration of the settlement. This approval is preliminary and is subject to modification at the
15 time of final settlement approval upon a showing of appropriate cause.

16 11. The Court preliminarily approves an award of an incentive payment of \$7,500.00
17 each to David Hogan and Ximena de Lucia Villalpalando-Mailliard in recognition of their role in
18 this case and service to the Settlement Class. This approval is preliminary and is subject to
19 modification at the time of final settlement approval.

20 12. On November 3, 2023, at 9:00 a.m., a Final Settlement Approval Hearing shall be
21 held before the Honorable Stanley J. Rumbaugh at the Pierce County Superior Court in Tacoma,
22 Washington, to determine whether the Court should approve the fairness, adequacy, and
23 reasonableness of the terms and conditions of the Settlement Agreement and whether the Court
24 should enter the Parties' proposed Final Order and Judgment.

25 13. Pursuant to Pierce County Local Court Rules, Plaintiffs shall file memoranda or
26 other papers they may wish to submit in support of the proposed Settlement Agreement no later

1 than seven (7) court days before the Final Settlement Approval Hearing. The memoranda shall
2 confirm that the mailing of the Class Notice was completed in accordance with the requirements
3 of this Order and provide information concerning the individuals that have opted out of the
4 settlement and any objections received. A draft copy of these pleadings shall be provided to
5 Defendant before filing.

6 14. Any person who is eligible to exclude him or herself from the Settlement Class
7 under the terms of the Settlement Agreement must do so by following the instructions for
8 requesting exclusion as set forth in the Class Notice. All requests for exclusion from the Settlement
9 Class must be postmarked, hand-delivered, or emailed to the Settlement Administrator no later
10 than 60 days after the date of mailing of the Class Notice, in accordance with the instructions in
11 the Class Notice and the terms and requirements of the Settlement Agreement, or they shall be
12 deemed void and ineffective.

13 15. Any Settlement Class Member may enter an appearance through counsel of such
14 Settlement Class Member's own choosing and at such Settlement Class Member's own expense.
15 Any Settlement Class Member who does not personally appear or otherwise enter an appearance
16 at the Final Settlement Approval Hearing shall be deemed to be represented by Class Counsel in
17 this litigation as provided above.

18 16. Any Settlement Class Member who has not validly requested exclusion may submit
19 written objections to the Settlement Agreement by mailing to the Settlement Administrator, at the
20 addresses provided in the Settlement Notice, a written statement containing the Settlement Class
21 Member's name, current address, and the substance of his or her objection (including any briefs
22 and supporting papers) no later than 60 days after the date of mailing of the Class Notice. Any
23 Settlement Class Member who presents written objections in the manner prescribed above may
24 also appear personally or through counsel at the Final Settlement Approval Hearing to express the
25 Settlement Class Member's views regarding the Settlement Agreement. Only Settlement Class
26 Members who object to the Settlement Agreement in writing, in person, or by appearance through

1 counsel, in accordance with the procedures set forth in this Order, shall be permitted to appeal or
2 otherwise seek review of this Court's decision approving or rejecting the Settlement Agreement.
3 Failure to follow the procedures for objecting set forth herein shall constitute a waiver of a
4 Settlement Class Member's right to object to the Settlement Agreement.

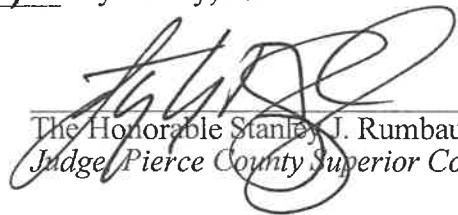
5 17. Pending this Court's ruling on final approval of the Settlement Agreement, the
6 Named Plaintiffs and all Settlement Class Members are enjoined from filing or prosecuting any
7 claims, suits or administrative proceedings regarding claims released in the Settlement Agreement,
8 unless and until the Court's final settlement approval hearing. As detailed in the Settlement, the
9 released claims specifically include any claims arising out of any alleged missed, interrupted,
10 shortened, untimely, unpaid, and/or non-compliant rest breaks and/or meal periods, and any
11 attendant claims for unpaid wages, overtime payments, premium payments, interest, exemplary
12 damages, and attorney's fees and costs relating to any of the foregoing.

13 18. The Final Settlement Approval Hearing, and all dates provided for herein, may,
14 without further notice to the Settlement Class, be continued or adjourned by order of this Court.

15 19. Consistent with the Settlement Agreement, neither this Order, nor the fact or
16 substance of the Settlement Agreement, shall be considered a concession or admission, nor shall
17 they be used as evidence in any proceeding for the purpose of establishing Defendant's liability or
18 wrongdoing.

19 20. In the event the Settlement Agreement does not become effective in accordance
20 with the terms of the Settlement Agreement, or the Settlement Agreement is not finally approved,
21 or the Settlement Agreement is terminated, canceled, or fails to become effective for any reason,
22 this Order shall be vacated and rendered null and void, the Settlement Class shall be decertified,
23 and all claims and defenses previously asserted by the Parties shall be reinstated and the Court
24 shall enter further appropriate orders governing the proceedings and establishing a revised case
25 schedule in this matter.
26

1 IT IS SO ORDERED this 7 day of July, 2023

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3 
4 The Honorable Stanley J. Rumbaugh
Judge, Pierce County Superior Court

5 Presented by:

6 ENTENTE LAW PLLC

7 

8 James B. Pizl, WSBA #28969
9 Justin O. Abbasi, WSBA #53582
10 Ari Robbins Greene, WSBA #54201
Attorneys for Plaintiff

11 Copy Received; Approved as to Form;
12 Notice of Presentation Waived:

13 JACKSON LEWIS PC

14 *s/ Peter H. Nohle {with permission}*

15 
16 Peter H. Nohle, WSBA #35849
17 *Attorney for Defendant*

