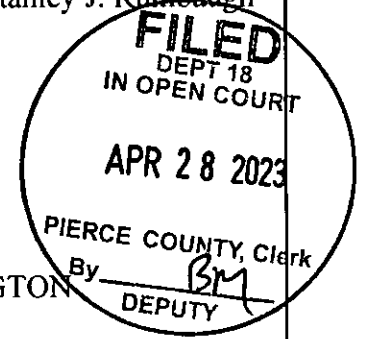




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The Honorable Stanley J. Rumbaugh



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

SAMANTHA D. DAVIS individually and on
behalf of all those similarly situated,

Plaintiff,

vs.

AVILA-SORENSEN INC., a Washington
Corporation,
JEFFREY SORENSON, individually and his
marital community if any, and
LYNDIA MCELROY, individually and her
marital community if any,

Defendants.

22-2-07296-8
No. ~~22-2-07550-9~~
Final
~~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 Plaintiff's Motion for Conditional Settlement Class Certification and Preliminary Approval of Class Action Settlement ("Plaintiff's Motion"). In conjunction with Plaintiff's 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 Plaintiff's Motion.

WHEREAS, the Court has considered Plaintiff's 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 Avila Sorenson Inc., Jeffrey Sorenson,
9 and/or Lydia McElroy in the State of Washington in positions providing restoration
10 and other services to their customers at any time between June 30, 2019, and March
11 30, 2023.

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

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

16 a. The Settlement Class, which consists of approximately 126 individuals, is
17 so numerous that joinder of all members is impracticable. In reaching this conclusion, the
18 Court has considered not just the number of Class members, but the interests of judicial
19 efficiency, the relatively small value of many Settlement Class Member claims, and other
20 factors relevant to the interest and ability of employees to individually join or bring claims
21 against a current or former employer.

22 b. There are questions of law and fact common to the Settlement Class,
23 including, but not limited to: (1) whether Defendants were required to and failed to pay
24 Plaintiff and members of the Settlement Class for travel time to and from public works jobs
25 at the applicable prevailing wage rate; (2) whether Defendants were required to and failed
26 to compensate Plaintiff and members of the putative class for time spent loading,
unloading, or processing materials used in public works jobs at applicable prevailing wage

1 rates; (3) whether Defendants took unlawful deductions from wages of Plaintiff and
2 members of the Settlement Class; (4) whether Defendants violated WAC 296-126-092 by
3 failing to provide adequate rest breaks and meal periods to Plaintiff and members of the
4 Settlement Class; and (5) whether Defendants were required to and failed to compensate
5 Plaintiff and members of the Settlement Class with additional wages when rest breaks and
6 meal periods were not provided in compliance with Washington law

7 c. The claims of the Named Plaintiff are typical of the claims of the Settlement
8 Class, and the Named Plaintiff and Class Counsel will fairly and adequately protect the
9 interests of the Settlement Class.

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

16 3. Pursuant to CR 23, Named Plaintiff Samantha D. Davis is hereby appointed and
17 designated, for all purposes, as the Class Representative of the Settlement Class, and James B. Pizl
18 and Entente Law PLLC are hereby appointed and designated as Class Counsel for the Settlement
19 Class.

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

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

25 6. The Court hereby appoints CPT Group Class Action Administrators as Settlement
26 Administrator responsible for establishing a Qualified Settlement Fund ("QSF") pursuant to IRC

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1 § 468B(g), mailing and/or emailing Class Notices and settlement awards to Settlement Class
2 Members, processing and filing all appropriate tax forms and documents including but not limited
3 to W2s, 1099s, 1120-SF, etc.

4 7. Consistent with the terms of the Settlement Agreement, the Settlement
5 Administrator is hereby directed to email and mail, or cause to be mailed, by first-class mail, a
6 copy of the Class Notice to each Settlement Class Member no later than forty (40) calendar days
7 following the date of this Order.

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

13 9. The Court conditionally approves Class Counsel's request for an attorneys' fees
14 award of 115,500.00 or 30% of the gross Settlement Fund, plus actual and projected litigation costs
15 of \$7,000.00. This approval is preliminary and is subject to modification at the time of final
16 settlement approval upon a showing of appropriate cause.

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

21 11. The Court preliminarily approves an award of an incentive payment of \$7,500.00
22 to Samantha D. Davis in recognition of her role in this case and service to the Settlement Class.
23 This approval is preliminary and is subject to modification at the time of final settlement approval.

24 12. On July 21, 2023, at ^{1:30 PM.} ~~9:00 am.~~ ^{SJT}, a Final Settlement Approval Hearing shall be held
25 before the Honorable Stanley J. Rumbaugh at the Pierce County Superior Court in Tacoma,
26 Washington, to determine whether the Court should approve the fairness, adequacy, and

1 reasonableness of the terms and conditions of the Settlement Agreement and whether the Court
2 should enter the Parties' proposed Final Order and Judgment.

3 13. Pursuant to Pierce County Local Court Rules, Plaintiff shall file memoranda or
4 other papers they may wish to submit in support of the proposed Settlement Agreement no later
5 than seven (7) court days before the Final Settlement Approval Hearing. The memoranda shall
6 confirm that the mailing of the Class Notice was completed in accordance with the requirements
7 of this Order and provide information concerning the individuals that have opted out of the
8 settlement and any objections received. A draft copy of these pleadings shall be provided to
9 Defendants before filing.

10 14. Any person who is eligible to exclude him or herself from the Settlement Class
11 under the terms of the Settlement Agreement must do so by following the instructions for
12 requesting exclusion as set forth in the Class Notice. All requests for exclusion from the Settlement
13 Class must be postmarked, hand-delivered, or emailed to the Settlement Administrator no later
14 than 45 days after the date of mailing of the Class Notice, in accordance with the instructions in
15 the Class Notice and the terms and requirements of the Settlement Agreement, or they shall be
16 deemed void and ineffective.

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

22 16. Any Settlement Class Member who has not validly requested exclusion may submit
23 written objections to the Settlement Agreement by mailing to the Settlement Administrator, at the
24 addresses provided in the Settlement Notice, a written statement containing the Settlement Class
25 Member's name, current address, and the substance of his or her objection (including any briefs
26 and supporting papers) no later than 45 days after the date of mailing of the Class Notice. Any

1 Settlement Class Member who presents written objections in the manner prescribed above may
2 also appear personally or through counsel at the Final Settlement Approval Hearing to express the
3 Settlement Class Member's views regarding the Settlement Agreement. Only Settlement Class
4 Members who object to the Settlement Agreement in writing, in person, or by appearance through
5 counsel, in accordance with the procedures set forth in this Order, shall be permitted to appeal or
6 otherwise seek review of this Court's decision approving or rejecting the Settlement Agreement.
7 Failure to follow the procedures for objecting set forth herein shall constitute a waiver of a
8 Settlement Class Member's right to object to the Settlement Agreement.

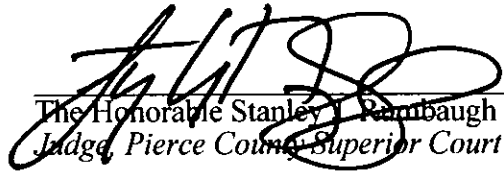
9 17. Pending this Court's ruling on final approval of the Settlement Agreement, the
10 Named Plaintiff and all Settlement Class Members are enjoined from filing or prosecuting any
11 claims, suits or administrative proceedings regarding claims released in the Settlement Agreement,
12 unless and until the Court's final settlement approval hearing.

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 Defendants' 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 28 day of April, 2023

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

5 Presented by:

6 ENTENTE LAW PLLC

7 s/ James B. Pizl

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

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

12 SEBRIS BUSTO JAMES P.S.

13 s/ Darren A. Feider {with permission}

14 Darren A. Feider, WSBA #22430
15 Tina M. Aiken, WSBA #27792
Attorneys for Defendants

