

1 MOSS BOLLINGER, LLP
Ari E. Moss, Esq., State Bar No. 238579
2 Dennis F. Moss, State Bar No. 77512
15300 Ventura Boulevard, Suite 207
3 Sherman Oaks, California 91403
Tel.: (310) 982-2984
4 Fax: (310) 861-0389
5 LAW OFFICES OF SAHAG MAJARIAN, II
Sahag Majarian, II, State Bar No. 146621
6 18250 Ventura Blvd
Tarzana, CA 91356
7 Tel: (818) 609-0807
Fax: (818) 609-0892

FILED
Superior Court of California
County of Los Angeles
DEC 01 2017
Sherri R. Carter, Executive Officer/Clerk
By Roxanne Adraiga, Deputy

8 Attorneys for Plaintiffs Angy Bustillo and Daniella Bustillo

RECEIVED DEC 01 2017

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 **ANGY BUSTILLO and DANIELA**
14 **BUSTILLO**, individually and on behalf of
those similarly situated
15
16 Plaintiffs,
17 v.
18 **MATRIX AVIATION SERVICES, INC.**
and DOES 1-25,
19
20 Defendants.

Case No.: BC535618

**ORDER GRANTING
FINAL APPROVAL AND ENTRY OF
JUDGMENT**

Judge: Kenneth R. Freeman
Dept.: 310
Date: November 28, 2017
Time: 11:00 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

**ANGY BUSTILLO and DANIELA
BUSTILLO**, individually and on behalf of
those similarly situated

Plaintiffs,

v.

MATRIX AVIATION SERVICES, INC.
and DOES 1-25,

Defendants.

Case No.: BC535618

**ORDER GRANTING FINAL APPROVAL
AND ENTRY OF JUDGMENT**

Judge: Kenneth R. Freeman
Dept.: 310
Date: November 28, 2017
Time: 11:00 a.m.

On November 28, 2017, the Court heard Plaintiffs Angy Bustillo's and Daniela Bustillo's ("Plaintiffs") unopposed Motion for Final Approval of Class Action Settlement. The Court, having considered whether to order final approval of the settlement of the above-captioned action under the Amended Joint Settlement Agreement ("Settlement Agreement"), filed as Exhibit 2 to the Declaration of Ari Moss in Support of Motion for Final Approval, in this matter, having read and considered all of the papers of the parties and their counsel, having granted preliminary approval on April 25, 2017, and directed that notice be given to all Class Members of the preliminary approval of the Settlement Agreement, and having received no objections or opposition to the settlement, and good cause appearing,

F
S
C
L
E
C
T

1 **IT IS HEREBY ORDERED AS FOLLOWS:**

2 **Recital**

3 1. On April 25, 2017, the Court granted Preliminary Approval of the Settlement
4 Agreement which is attached and concurrently filed with the Declaration of Ari Moss in Support
5 of the Motion for Final Approval as Exhibit 2

6 2. As part of the April 25, 2017 Order, the Court ordered that a court-approved notice
7 be mailed to the class. The Court Approved the Notice was attached as Exhibit 2 to the
8 [Proposed] Order filed on March 23, 2017, and entered on April 25, 2017 (without exhibits, but
9 with reference to said Exhibits).

10 3. Terms used in this order have the meaning assigned to them in the Amended Joint
11 Settlement Agreement (“Settlement Agreement”), which was attached to the Declaration of Ari
12 Moss in Support of Motion for Final Approval as Exhibit 2, and approved on April 25, 2017.

13 4. The Court hereby makes final the conditional class certification contained in the
14 Order Granting Preliminary Approval (“Preliminary Approval Order”), and thus makes final for
15 purposes of the Settlement Agreement the certification of the classes defined as:

16 All of Matrix Aviation Services, Inc.’s hourly-paid, non-exempt employees
17 employed by Defendant in California who worked a guest or passenger services
18 position from February 6, 2010 through the date of preliminary approval, or
October 19, 2016

19 (collectively referred to herein as “Class Members”).

20 5. The Court appoints as Class Counsel for the purposes of settlement Dennis Moss,
21 Attorney at Law, Ari Moss and Jeremy Bollinger of Moss Bollinger, LLP, and Sahag Majarian, II
22 of the Law Offices of Sahag Majarian, II.

23 **Findings**

24 6. The Court hereby finds that the notice of settlement (“Class Notice”), as approved
25 for mailing by the Court on April 25, 2017, and subsequently mailed to Class Members, fairly and
26 adequately described the terms of the proposed settlement and the manner in which Class
27 Members could participate in, opt out of, or object to the settlement.

28 7. The Court hereby finds, that the Class Notice was the best practicable notice under

1 the circumstances, was valid and sufficient notice to all Class Members, complied fully with Civil
2 Code § 1781(e), Rule of Court 3.769, due process, and all other applicable laws.

3 8. The Court further finds that a full and fair opportunity has been afforded to the
4 Class Members to participate in the proceedings convened to determine whether the proposed
5 Settlement Agreement should be given final approval.

6 9. The Court also finds that no Class Member objected to the Settlement Agreement.

7 **Order**

8 10. The Court hereby determines and orders that all Class Members who did not file
9 timely a proper request to be excluded from the settlement are bound by this final order.

10 11. The Court hereby determines and orders that the Settlement Agreement is fair,
11 reasonable, and adequate as to the Class, Plaintiff, and Defendants, and is the product of good-
12 faith, arm's-length negotiations between the parties, and further that the Settlement Agreement is
13 consistent with public policy, and fully complies with all applicable provisions of law.
14 Accordingly, the Court hereby finally and unconditionally approves the Settlement Agreement, is
15 consistent with public policy, and fully complies with all applicable provisions of law.
16 Accordingly, the Court hereby orders and hereby finally approves the Settlement Agreement, and
17 specifically

- 18 a. Approves the Settlement Amount of \$450,000, Defendant shall not be required to pay
19 anything more than \$450,000 in relation to this litigation;
- 20 b. Approves the appointment of Daniela Bustillo as one of the Class Representatives;
- 21 c. Approves the appointment of Angy Bustillo as one of the Class
22 Representatives;
- 23 d. Approves the application for a service award (class representative
24 enhancements) of \$5,000 each;
- 25 e. Approves Class Counsel's fee request of \$150,000;
- 26 f. Approves repayment of costs to Moss Bollinger, LLP of \$9,252.67;
- 27 g. Approves repayment of costs to the Law Offices of Sahag Majarian, II of
28 \$1,536.00;

F
J
C
C
L
E
D

1 g. Approves payment to the California Labor & Workforce Development Agency of
2 \$750; and

3 h. Approves payment to the Settlement Administrator (Phoenix) of \$10,000.

4 12. The Court hereby determines and orders that the releases contained in the
5 Settlement Agreement are consistent with law and appropriate in resolving this lawsuit.

6 13. The Court orders, that upon the "Effective Date" (December 5, 2017) and pursuant
7 to California Rule of Court, Rule 3.771(d), the Administrator is to post this Order and Judgment
8 on its website for a period of no less than 30 days.

9 14. The Court orders the following schedule for implementing the Final Approval
10 Order:

11	November 28, 2017	Final Approval Hearing
12	December 5, 2017	The "Effective Date"
13	February 3, 2018	Final day for Defendant to send to Claims Administrator Court Approved Settlement Amount 14 (\$450,000)
15	February 17, 2018	Administrator is to mail payments to Class Members
16	February 17, 2018	Administrator is to mail class representative enhancement payments to Class Representatives
17	February 17, 2018	Administrator is to mail payment to LWDA
18	February 17, 2018	Administrator is to tender payment to Class Counsel for Attorneys' Fees and Costs
19	August 16, 2018	Date on which Administrator is to mail unclaimed 20 payments to the "Unclaimed Wages Fund" of the Department of Industrial Relations
21	August 29, 2018	Class Counsel to file supplemental report on 22 distribution of funds, if required, by 12:00 p.m., delivered directly to Department 310
23	August 31, 2018	Final Compliance Hearing (a Non-Appearance Case 24 Review); alternatively, Class Counsel and Defendants may stipulate to a short for continuance, if required 25 due to distribution of payments or other delays; or neither a report or stipulation is filed, the Court will 26 conduct a hearing on an Order to Show Cause with 27 respect to the filing of the final distribution report.

28 ///

1 15. The Court orders that the Settlement Agreement shall not be construed as an
2 admission or evidence of liability, as set forth in the Settlement Agreement.

3 16. In furtherance of this Order, the Court determines that the payments of unpaid
4 wages are not "a reversion" as is meant by Code of Civil Procedure Sect. 384. This determination
5 is based upon the following findings:

6 a. The Court notes that CCP § 384 (b)(1) provides:

7 Except as provided in subdivision (c), whenever a
8 judgment, including any consent judgment, decree, or
9 settlement agreement that has been approved by the court,
10 in a class action established pursuant to Section 382,
11 provides for the payment of money to members of the
12 class, any unpaid cash residue or unclaimed or abandoned
13 class member funds shall be distributed in accordance with
14 this section unless for good cause shown the court makes a
15 specific finding that an alternative distribution would better
16 serve the public interest or the interest of the class.

17 b. The Court finds that there is "good cause" for an alternative distribution in this
18 case, that better serves the interest of the class.

19 c. California recognizes that laws governing wages, hours, and working
20 conditions are remedial in nature and should be interpreted with an eye towards
21 promoting protection of employees' rights. *Industrial Welfare Commission v.*
22 *Superior Court* (1980) 27 Cal. 3d. 690, 703 (re-affirmed in the 37 years since
23 over 20 times, including in *Bright v. 99¢ Only Stores* (2010) 189 Cal.App.4th
24 1472, 1478-9).

25 d. In this matter, the Settlement provides that uncashed settlement payments, as
26 characterized in the Settlement Agreement, are not to be gifted through a "cy
27 pres" mechanism, nor are they to revert to the Defendant. Instead, the
28 Agreement contemplates that the monies in the uncashed checks are still
accessible to the class members through the DLSE. These payments are the
property of the class members. *Cortez v. Purolator Air Filtration Products Co.*
(2000) 23 Cal.4th 163, 172.

- 1 e. The class members can, pursuant to the law, come forward and claim their
2 funds after they are deposited with the State pursuant to Labor Code Sec. 96.7.
3 If they do not make a claim during the fiscal year in which the DLSE receives
4 the money, the money is deposited in the General Fund of the State, but the
5 employees may still recoup it. See Labor Code Sec. 96.7 (f). Because the cy
6 pres approach that CCP Sec. 384(b) (1) contemplates results in permanent
7 forfeiture of settlement shares owed to class members, "good cause" clearly
8 exists for the alternative to cy pres, distribution to the DLSE Fund,
9 contemplated by the Settlement Agreement in this case.
- 10 f. The Settlement Agreement provides a compromise of important wage claims,
11 and insures payment of settlement funds to the settlement class members if they
12 come forward. In the interim, the unclaimed funds are, within a year revenue to
13 the state's general fund.
- 14 g. The Court further finds that "taxing" class members 100 % of their Settlement
15 shares through CCP § 384, given the alternative, makes no sense.


16 Based on the foregoing Order the Court enters the following Judgment:

17 **Judgment**

18 17. Judgment is hereby entered pursuant to California Rules of Court, Rule 3.769(h).
19 Without affecting the finality of this Order and further pursuant to Rule 3.769(h), the Court retains
20 exclusive and continuing jurisdiction over the litigation for purposes of supervising,
21 implementing, interpreting, and enforcing this order and the Settlement Agreement, and in order to
22 conduct the final compliance hearing on certification of distribution procedures.

23 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

24 DATED: **DEC 01 2017**, 2017

25 
26 _____
27 Honorable Kenneth R. Freeman
28 Judge of the Superior Court County of Los Angeles