

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 21 2017

BY *[Signature]*
Jovanna Leandro DEPUTY

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

JESUS HERNANDEZ CUEVAS,
individually, and on behalf of all others
similarly situated,

Plaintiffs,

vs.

GALE PACIFIC USA, INC., a Florida
corporation; INSPERITY PEO
SERVICES, L.P., a Delaware limited
partnership; OASIS OUTSOURCING,
INC., a Florida corporation; and DOES 1
through 100 inclusive,

Defendants.

CASE NO. CIVDS1509246
[Assigned for all Purposes to the Hon.
David Cohn - Dept. S26]

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT**

The Motion for Preliminary Approval of a Settlement came before this Court, on August 7, 2017. John H. Haney, Esq. of Holland & Knight LLP appearing for Defendant Gale Pacific USA, Inc. ("GPUSA" or "Defendant") and Farzad Rastegar, Esq. of Rastegar Law Group, APC appearing for Plaintiff Jesus Hernandez Cuevas, filing on behalf of himself and all others similarly situated in California.

The Court, having considered the proposed Settlement Agreement and the exhibits attached thereto (hereafter collectively "Settlement Agreement"); having considered the

1 Motion for Preliminary Approval of Class Action Settlement filed by Plaintiffs; having
2 considered the respective points and authorities and declarations submitted by the parties
3 in support thereof and good cause appearing, **HEREBY ORDERS THE**
4 **FOLLOWING:**

5 1. The Court grants preliminary approval of the settlement as set forth in the
6 Settlement Agreement previously filed with the Court, and finds the terms to be within
7 the range of reasonableness of a settlement that ultimately could be granted approval by
8 the Court at the final fairness hearing.

9 2. For purposes of the settlement, the Court further designates Plaintiff Jesus
10 Hernandez Cuevas as Class Representative, and the law firm of Rastegar Law Group,
11 APC as Class Counsel.

12 3. For settlement purposes only, the Court certifies the following subclasses:

13 **Subclass No. 1** – The "Regular GPUSA Employee Subclass": The Regular
14 GPUSA Employee Subclass consists of thirty-one (31) persons, including Plaintiff, who
15 were employed by GPUSA at GPUSA's Rancho Cucamonga, California location at
16 various times during the period June 30, 2011 through December 31, 2016. These
17 employees may also be referred to herein collectively as "Members of the Regular
18 GPUSA Employee Subclass" or individually as a "Member of the Regular GPUSA
19 Employee Subclass."

20 **Subclass No. 2** – The "PAGA Subclass": The PAGA Subclass shall consist of
21 twenty (20) persons, including Plaintiff, employed by GPUSA at GPUSA's Rancho
22 Cucamonga, California location at various times during the period June 30, 2014 through
23 December 31, 2016. These employees may also be referred to herein collectively as
24 "Members of the PAGA Subclass" or individually as a "Member of the PAGA Subclass."
25 The average payment of PAGA penalties to each Member of the PAGA sub-class is
26 Sixty-Two Dollars and Fifty Cents (\$62.50).

27 **Subclass No. 3** – The "Temporary Worker Subclass": The Temporary Worker
28 Subclass shall consist of persons who were provided by temporary staffing agencies to

1 perform services at GPUSA's Rancho Cucamonga, California worksite on a casual,
2 temporary basis, at various times during the period June 30, 2011 through December 31,
3 2016. These temporary workers may also be referred to herein collectively as "Members
4 of the Temporary Worker Subclass" or individually as a "Member of the Temporary
5 Worker Subclass."

6 4. The distributions to each of the Members of the Temporary Worker
7 Subclass reflects an equal distribution of 54.4% of the Net Settlement Amount ("NSA")
8 (i.e., 54.4% of the NSA is Seventy-One Thousand Five Hundred Thirty-Six Dollars
9 (\$71,536.00)). The net recovery for each of the approximately Two Hundred Fifty
10 Members of the Temporary Worker Subclass is approximately Two Hundred Eighty-Six
11 Dollars and Fourteen Cents (\$286.14), without deductions. The distribution to each of the
12 Members of the Regular GPUSA Employee Subclass reflect an equal distribution of
13 45.6% of the NSA, i.e., 45.6% of the NSA is Fifty-Nine Thousand Nine Hundred
14 Sixty-Four Dollars (\$59,964.00), subject to the allocation of 25% wages (less applicable
15 payroll withholdings), 37.5% interest, and 37.5% non-PAGA penalties of the NSA. The
16 gross recovery for each of the Thirty-One (31) Members of the Regular GPUSA
17 Employee Subclass is approximately One Thousand Nine Hundred Thirty-Four Dollars
18 and Thirty-Two Cents (\$1,934.32), less applicable payroll deductions.

19 5. Defendant's share of the payroll taxes is to be paid out of the wage portion
20 of the NSA, and remitted through the Class Administrator.

21 6. Cy Pres:

22 a. Regular GPUSA Employee Subclass: Any aggregate amount of One
23 Thousand Dollars (\$1,000.00) or less in uncashed and/or returned checks
24 from the Members of the Regular GPUSA Employee Subclass shall be
25 distributed as a cy pres award to the Counsel for Justice ("CFJ"), the
26 charitable arm of the Los Angeles County Bar Association which provides
27 equal access to legal services in the community by raising funds for, and
28 directly contributing to, projects involving domestic violence, support of

1 veterans, immigration assistance, and AIDS services. Any aggregate
2 amount in excess of One Thousand Dollars (\$1,000.00) in uncashed and/or
3 returned checks from the Members of the Regular GPUSA Employee
4 Subclass shall be divided equally (i.e., 50% / 50%) between the Members of
5 the Regular GPUSA Employee Subclass, on the one hand, and CFJ, on the
6 other hand.

7 b. PAGA Subclass: Any aggregate amount of One Thousand Dollars
8 (\$1,000.00) or less in uncashed and/or returned checks from the Members
9 of the PAGA Subclass shall be distributed as a cy pres award to CFJ. Any
10 aggregate amount in excess of One Thousand Dollars (\$1,000.00) in
11 uncashed and/or returned checks from the Members of the PAGA Subclass
12 shall be divided equally (i.e., 50% / 50%) between the Members of the
13 PAGA Subclass, on the one hand, and CFJ, on the other.

14 c. Temporary Worker Subclass: Any aggregate amount of One
15 Thousand Dollars (\$1,000.00) or less in uncashed and/or returned checks
16 from the Members of the Temporary Worker Subclass shall be distributed
17 as a cy pres award to CFJ. Any aggregate amount in excess of One
18 Thousand Dollars (\$1,000.00) in uncashed and/or returned checks from the
19 Members of the Temporary Worker Subclass shall be divided equally (i.e.,
20 50% / 50%) between the Members of the Temporary Worker Subclass, on
21 the one hand, and CFJ, on the other.

22 7. The Court confirms Phoenix Settlement Administrators ("Phoenix") as the
23 Class Administrator.

24 8. A Final Fairness Hearing on the question of whether the proposed
25 settlement should be finally approved as fair, reasonable and adequate as to the members
26 of the Settlement Class is scheduled in Department S26 of this Court, located at 247 W.
27 Third Street, San Bernardino, California 92415, on January 4, 2018, at 8:30 a.m. (the
28 "Final Fairness Hearing").

1 9. At the Final Fairness Hearing, the Court will consider: (a) whether the
2 settlement should be approved as fair, reasonable, and adequate for the class; (b) whether
3 a judgment granting approval of the settlement should be entered; and (c) whether
4 Plaintiff's application for an award of attorneys' fees, reimbursement of litigation
5 expenses, and class representative enhancement should be granted.

6 10. Counsel for the parties shall file memoranda, declarations, or other
7 statements and materials in support of their request for final approval by no later than
8 December 21, 2017.

9 11. Class Counsel shall file a motion for an award of attorneys' fees,
10 reimbursement of litigation expenses and class representative enhancement by no later
11 than December 8, 2017.

12 12. The Court approves, as to form and content, the Notice of Class Action
13 Settlement proposed by the parties.

14 13. The Court directs that no later than 21 calendar days after the Court shall
15 sign the order granting motion for preliminary approval, Defendant shall provide on a
16 confidential basis the Class Administrator with the Class List Data consisting of the
17 following: i) a spreadsheet containing the names, most recent known mailing addresses,
18 telephone numbers, and Social Security numbers of the Members of the Settlement Class,
19 to the extent that Defendant has such information in its records. Defendant will contact
20 the temporary staffing agencies that provided the Members of the Temporary Worker
21 Subclass to determine Class List Data for said Members, as needed. No later than 21
22 calendar days after receipt of the Class List Data, the Class Administrator will print and
23 mail to each Class Member the Notice Packet approved by the Court by first-class U.S.
24 mail. Before the mailing of the Class Notice, the Class Administrator will perform a
25 search based on the National Change of Address Database, or any other similar services
26 available, to correct for any identifiable address changes. After mailing, if a new address
27 is obtained, then the Class Administrator shall promptly forward the original Class Notice
28 to the updated address via first-class U.S. Mail, indicating on the original Class Notice the

1 date of such re-mailing. Defendant will cooperate with the Class Administrator to locate
2 a more recent address for Members of the Settlement Class where necessary.

3 14. If any Class Notice is returned to the Class Administrator as non-delivered,
4 then the Class Administrator may use skip tracing, address verification of returned mail,
5 or other methodology as the Class Administrator deems to be appropriate to locate
6 Members of the Settlement Class. Members of the Settlement Class will have sixty (60)
7 calendar days from the mailing of the Class Notice (the "Opt-Out Period") to submit an
8 Exclusion Request or an Objection to the proposed settlement. As to Members of the
9 Settlement Class whose notices are re-mailed because of a new address, the new deadline
10 for submitting an Exclusion Request or an Objection will be either (i) sixty (60) calendar
11 days from the second mailing or (ii) forty-five (45) calendar days before the Final
12 Fairness Hearing, whichever date is earlier. Upon completion of these steps by the Class
13 Administrator, the Class Administrator shall be deemed to have satisfied its obligation to
14 provide the Class Notice to the affected Class Member. Each Class Member shall be
15 bound by all the terms of the Settlement Agreement and the Court's Order and Final
16 Judgment, if he or she does not timely request exclusion from the settlement pursuant to
17 the terms of the Settlement Agreement.

18 15. The Court finds that the forms of notice to the Settlement Class regarding
19 the pendency of the action and of this settlement and the methods of giving notice to
20 members of the Settlement Class constitute the best notice practicable under the
21 circumstances and constitute valid, due, and sufficient notice to all members of the
22 Settlement Class. They comply fully with the requirements of California Code of Civil
23 Procedure section 382, California Civil Code section 1781, California Rules of Court
24 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

25 16. The Court further approves the procedures for Settlement Class Members to
26 opt-out of or object to the Settlement, as set forth in the Settlement Agreement and the
27 Class Notice.

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1 17. To validly object to the Settlement Agreement, a Member of the Settlement
2 Sub-classes must file with the Court and serve, within the Opt-Out Period, an objection to
3 the Agreement. An objection is a written document that is signed by a Member of the
4 Settlement Class who has not filed an Exclusion Request and that includes (a) the
5 objecting Member of the Settlement Class' full name, address, and telephone number, (b)
6 a written statement of factual and legal grounds for the Objection, (c) copies of any
7 papers, briefs, or other documents on which the Objection relies, (d) a list of all persons
8 who will be called to testify in support of the Objection, (e) a statement whether the
9 objector intends to appear at the Final Fairness Hearing, and (f) a list of all cases in which
10 the objector or the objector's counsel has filed objections to a class action settlement in
11 the preceding five years. If the Settlement Sub-class Member or the Settlement Sub-class
12 Member's separate counsel has not objected to any other class action settlement in any
13 court in the United States in the previous five years, the Settlement Class Member shall
14 affirmatively so state in the written objection. The procedures and requirements for filing
15 objections in connection with the Final Fairness Hearing are intended to ensure the
16 efficient administration of justice and the orderly presentation of any Settlement Class
17 Member's objection to the Settlement Agreement, in accordance with the due process
18 rights of all Settlement Class Members.

19 18. Pending the Final Fairness Hearing, all proceedings in this action, other
20 than proceedings necessary to carry out or enforce the terms and conditions of the
21 Settlement Agreement and this Order, are stayed.

22 19. Counsel for the parties are hereby authorized to utilize all reasonable
23 procedures in connection with the administration of the settlement which are not
24 materially inconsistent with either this Order or the terms of the Settlement Agreement.

25 20. To facilitate administration of the settlement pending final approval, the
26 Court hereby enjoins all Settlement Class Members from filing or prosecuting any claims,
27 suits or administrative proceedings regarding claims released by the settlement unless and
28 until such Settlement Class Members have filed valid requests for exclusion with the

1 Class Administrator and the time to opt-out of the settlement or object to the settlement
2 has elapsed.

3 21. The Court orders the following Implementation Schedule for further
4 proceedings:

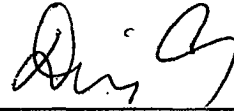
Events	Timing
Last day for Defendant to Class List Data to the Class Administrator.	21 calendar days after the Court shall have signed the order granting motion for preliminary approval
Last day for Class Administrator to mail Class Notice to Settlement Class Members.	21 calendar days after the Class Administrator's receipt of the Class List Data
Last day for Class Counsel to file motion for award of attorneys' fees, reimbursement of litigation expenses and class representative enhancement.	December 8, 2017
Last day for Settlement Class Members to submit Opt-Out Requests; and last day for Settlement Class Members to submit objections.	60 calendar days from the mailing of the Class Notice or, for re-mailed Class Notices, either (i) sixty (60) calendar days from the second mailing or (ii) forty-five (45) calendar days before the Final Fairness Hearing, whichever date is earlier.
Last day for Plaintiff and Defendant to respond to objections (if any).	15 calendar days after last day for submission of objections
Last day for Class Administrator to provide a Due Diligence Declaration stating the steps the Class Administrator has taken to administer the Agreement, including the dissemination of the Class Notice and the receipt of any Requests for Exclusion or Objections.	7 calendar days before the Final Fairness Hearing
Last day for parties to file motion and supporting documents for final approval of class action settlement.	December 21, 2017

Final Fairness Hearing.

January 4, 2018

IT IS SO ORDERED.

Dated: August 21, 2017



DAVID COHN
SUPERIOR COURT JUDGE

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the age of
5 eighteen (18) years, and not a party to the within action. My business address is 22760
Hawthorne Boulevard, Suite 200, Torrance, California 90505.

6 On August 14, 2017, I served the following document or documents:

7 **PROPOSED ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY**
8 **APPROVAL OF CLASS ACTION SETTLEMENT**

9 [X] by placing a true copy thereof enclosed in sealed envelope(s) addressed as follows:

10 Linda Auerbach Allderdice, Esq.
11 John Haney, Esq.
12 HOLLAND & KNIGHT LLP
400 South Hope Street, 8th Floor
Los Angeles, California 90071

13 **Attorneys for Defendant Gale Pacific**

14 [X] **BY MAIL**

15 [] I caused such envelope(s) to be deposited in the mail at Torrance, California. The
envelope(s) was/were mailed with postage thereon fully prepaid.

16 [X] I am "readily familiar" with the firms's practice of collection and processing
17 correspondence for mailing. It is deposited with U.S. postal service on that same day
18 with postage thereon fully prepaid at Torrance, California in the ordinary course of
business. I am aware that on motion of party served, service is invalid if postal
19 cancellation date or postage meter date is more than 1 day after the date of deposit for
mailing in affidavit.

20 [] **VIA FACSIMILE**

21 I delivered such envelope by hand to the offices of the addressee.

22 [X] (State) I declare under the penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

23 Executed: August 14, 2017, at Torrance, California.

24 
25 _____
Vicky Hernandez