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FILED
Superior Court of California
County of Los Angeles

01/11/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. Morales Deputy

6 *Attorneys for Plaintiff James Merrick*

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
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13 JAMES MERRICK, CRISTINA CARRILLO,
14 CINDY ESPINOZA, and DIANA LUNA
RAMIREZ, individually, and on behalf of other
15 members of the general public similarly situated,

16 Plaintiff,

17 vs.

18 NIPPON EXPRESS NEC LOGISTICS
AMERICA, INC., a Delaware Corporation; NEC
19 CORPORATION OF AMERICA, an unknown
business entity; RALLY MANAGEMENT
20 SERVICES, LLC, a California corporation; and
DOES 1 through 100, inclusive,

21 Defendants.
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Case No.: BC651044
Related to and consolidated with: BC678841

Assigned for All Purposes to:
The Hon. Lawrence P. Riff
Dept.: SSC-7

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT INVOLVING
DEFENDANT NIPPON EXPRESS NEC
LOGISTICS AMERICA, INC.**

Hearing Date: January 11, 2023
Time: 11:00 a.m.

Complaint Filed: February 17, 2017
Consolidated
Complaint Filed: January 31, 2018
FAC Filed: July 10, 2018
Trial Date: None Set

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1 On June 20, 2022, the Court preliminarily approved the Second Amended Stipulation Re:
2 Partial Settlement of Class Action (“NECLA Settlement” or “NECLA Settlement Agreement”)
3 entered between Plaintiffs Cristina Carrillo (“Carrillo Plaintiff”), Cindy Espinoza (“Espinoza
4 Plaintiff”), Diana Luna Ramirez (“Ramirez Plaintiff”, and together with Carrillo Plaintiff and
5 Espinoza Plaintiff, “Carrillo Plaintiffs”), James Merrick (“Merrick Plaintiff”, and together with
6 Carrillo Plaintiffs, “Plaintiffs”) and Defendant Nippon Express NEC Logistics America, Inc.
7 (“Defendant NECLA”) in the following consolidated actions:

- 8 1. *Merrick v. Nippon Express NEC Logistics America, Inc.*, Los Angeles Superior Court,
9 Case No. BC651044;
- 10 2. *Carrillo et al., v. Nippon Express NEC Logistics America, Inc.*, Los Angeles Superior
11 Court, Case No. BC678841 (collectively, “Actions”).

12 No Settlement Class Member or PAGA Group Member objected to the NECLA Settlement.
13 Nor did the Labor & Workforce Development Agency (“LWDA”) object to the NECLA Settlement.
14 The Court, having reviewed Plaintiffs’ unopposed Motion for Final Approval of Class Action and
15 PAGA Settlement Involving Defendant Nippon Express NEC Logistics America, Inc. (“Motion”)
16 and the declarations and exhibits filed in support thereof, and for good cause appearing, hereby
17 orders, adjudges and decrees as follows:

- 18 1. The Motion is GRANTED.
- 19 2. The NECLA Settlement resolves the Actions in their entirety as to Defendant NECLA.
- 20 3. In accordance with the NECLA Settlement Agreement, Judgment shall be entered in the
21 Actions pursuant to the terms of the NECLA Settlement Agreement, in the Gross
22 Settlement Amount of \$731,250.00 plus Defendant NECLA’s share of payroll taxes
23 which shall be paid separately from and in addition to this amount.
- 24 4. For purposes of effectuating the NECLA Settlement, the Court certified a Class defined
25 as “all current and former non-exempt Direct and Indirect Employees who worked for
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1 Defendant NECLA at the Rancho Dominguez Location during the Class Period.”¹
2 (“Settlement Class” or “Settlement Class Members”).

3 5. The class period for Direct Employees begins February 17, 2013 and the class period for
4 Indirect Employees begins October 10, 2013. The class period for both Direct and
5 Indirect Employees ends on and through July 8, 2020 (“Class Period”).

6 6. For purposes of effectuating the NECLA Settlement, “PAGA Group Members” are
7 defined as “all current and former non-exempt Direct and Indirect Employees who
8 worked for Defendant NECLA at the Rancho Dominguez Location during the PAGA
9 Period.”

10 7. The PAGA Period is from November 10, 2016 through July 8, 2020. (“PAGA Period”).

11 8. Upon entry of the Judgment, the Settlement Administrator shall disburse the following
12 amounts from the Gross Settlement Amount of \$731,250.00:

- 13 a. \$26,000.00 total for Service Awards to Plaintiffs in the amount of \$6,500.00 each,
14 to Carrillo Plaintiff, Espinoza Plaintiff, Ramirez Plaintiff and Merrick Plaintiff;
- 15 b. \$11,250.00 (75% of the \$15,000.00 PAGA Allocation) shall be paid to the Labor
16 & Workforce Development Agency and the remaining \$3,750.00 of the PAGA
17 Allocation shall be distributed to PAGA Group Members as set forth in the
18 NECLA Settlement Agreement;
- 19 c. \$11,000.00 shall be paid to Phoenix Settlement Administrator for settlement
20 administration costs;
- 21 d. \$4,485.04 shall be paid to Phoenix Settlement Administrator for 50% of the
22 Notice Publication Costs;

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25 ¹ The term “Rancho Dominguez Location” shall mean the address location at 18615 S. Ferris Pl.,
26 Rancho Dominguez, California 90220-6452. The term “Direct Employees” shall mean non-exempt
27 employees who worked at the Rancho Dominguez Location and received wage statements
28 identifying Defendant NECLA as the employer. The term “Indirect Employees” shall mean non-
exempt employees who worked at the Rancho Dominguez Location and received wage statements
identifying Staffmark, Accountemps, First Step Staffing, JBS, Rally Staffing, OS4Labor, or Pasona,
as the employer.

1 e. Attorneys' fees in the total amount of \$243,750.00 shall be paid as follows:

2 i. 50% to Lawyers for Justice, PC;

3 ii. 50% to Verum Law Group, APC.

4 f. Reimbursement of \$41,244.73 in litigation costs shall be paid as follows:

5 i. \$17,032.17 to Lawyers for Justice, PC;

6 ii. \$24,212.56 to Verum Law Group, APC;

7 9. The remaining amount ("Net Settlement Amount") will be distributed to Settlement
8 Class Members as set forth in the NECLA Settlement Agreement.

9 10. All Individual Settlement Payment and PAGA Payment checks shall be negotiable for
10 180 days from the date of mailing. The Settlement Administrator shall distribute the
11 funds, including any unpaid cash, or remaining residue, including interest, and
12 unclaimed or abandoned funds *after* completion of Redistribution, from this settlement
13 to the Legal Aid Foundation of Los Angeles.

14 11. **Releases of Class Claims by Plaintiffs and Class Members:** Upon the Settlement
15 Administrator's receipt of the Gross Settlement Amount, the Final Approval of the
16 Settlement by the Court and the Settlement becoming Effective, each Participating
17 Settlement Class Member will be deemed to have fully and finally released and
18 discharged Defendant NECLA and all of its present, past and future subsidiaries,
19 affiliates, parents, indirect-subsiidiaries, indirect-parents, and attorneys and each of
20 their company-sponsored employee benefit plans, and their respective successors and
21 predecessors in interest, all of their respective officers, directors, employees,
22 members, administrators, fiduciaries, trustees, beneficiaries and agents, and each of
23 their past, present, and future officers, directors, shareholders, owners, members,
24 employees, agents, principals, heirs, representatives, accountants, auditors,
25 consultants, insurers and reinsurers, but excluding NEC Corporation of America (the
26 "Released Parties") from the "Released Class Claims." For purposes of this
27 Agreement, the "Released Class Claims" are defined as all claims alleged by Plaintiffs
28 in the First Amended Consolidated Complaint ("FACC") against Defendant NECLA

1 as well as all claims that could be alleged by Plaintiffs based on the allegations
2 contained in the FACC against Defendant NECLA, at any time during the Class
3 Period, excluding the Released PAGA Claims.

4 **12. Release of PAGA Claims by Carrillo Plaintiffs, the LWDA, and PAGA Group**

5 **Members:** Upon the Settlement Administrator’s receipt of the Gross Settlement
6 Amount and the employer’s portion of payroll taxes, and after the Effective Date,
7 Carrillo Plaintiff, Espinoza Plaintiff, Ramirez Plaintiff, and the LWDA will be deemed
8 to have released the Released Parties of and from all of the Released PAGA Claims
9 during the PAGA Period. All PAGA Group Members will all be bound by the
10 judgment entered by the Court as to the Released PAGA Claims. “Released PAGA
11 Claims” means all claims for civil penalties that could have been sought by the Labor
12 Commissioner for the alleged violations identified in Carrillo Plaintiff, Espinoza
13 Plaintiff, and Ramirez Plaintiff’s respective Labor Code section 2699 notices to the
14 LWDA, including Labor Code sections 201, 202, 203, 204, 221, 223, 226, 226.3,
15 226.7, 256, 510, 512, 1194, and 1197.

16 **13. Release of Claims by Plaintiffs:** Plaintiffs hereby each fully release and forever
17 discharge the Released Parties from any and all claims, causes of action, damages,
18 wages, benefits, expenses, penalties, debts, liabilities, demands, obligations,
19 attorney’s fees, costs, and any other form of relief or remedy in law, equity, or
20 whatever kind or nature, whether known or unknown, suspected or unsuspected
21 (exclusive of any workers compensation claims), including but not limited to: (1) the
22 Action and any claims arising out of or related to the Action; (2) any claims for
23 wrongful termination, discrimination, harassment, and/or retaliation; (3) any act,
24 omission, or occurrence arising out of or related to Plaintiffs’ employment with
25 Defendant NECLA occurring on and before the Final Effective Date of the Settlement;
26 and (4) and any other form of relief or remedy of any kind, nature, or description
27 whatsoever, whether premised on statute, contract, tort or other theory of liability
28 under state, federal or local law. Plaintiffs each hereby further agree that,

1 notwithstanding § 1542 of the California Civil Code, all claims that Plaintiffs each
2 may have against Released Parties, known or unknown, suspected or unsuspected, are
3 hereby released. Section 1542 provides: “A general release does not extend to claims
4 which the creditor does not know or suspect to exist in his or her favor at the time of
5 executing the release, which if known by him or her must have materially affected his
6 or her settlement with the debtor.” Plaintiffs each expressly waive the provisions of
7 section 1542 with full knowledge and with the specific intent to release all known or
8 unknown, suspected or unsuspected claims arising on or before the Effective Date of
9 the Settlement, and therefore Plaintiffs each specifically waive the provisions of any
10 statute, rule, decision or other source of law of the United States or of any state of the
11 United States or any subdivision of a state which prevents release of unknown claims.

12 14. The Settlement Administrator shall file a report concerning the amount of money
13 distributed by _____ FFB, 2023. A non-appearance hearing on the Final
14 Report is scheduled for _____ FFB, 2023 as NECLA.

15 15. Pursuant to California Rules of Court, rule 3.769(h), the Court retains jurisdiction over
16 the parties, all matters arising out of, or related to the Actions, the NECLA Settlement,
17 the NECLA Settlement Agreement, its administration and consummation and the
18 determination of all controversies relating thereto, to enforce the terms of this
19 Judgment.

20 16. The Settlement Administrator shall post the Order and Judgment on the Settlement
21 Administrator’s website within seven (7) calendar days after entry of Order and
22 Judgement. The Settlement Administrator shall post a copy of the signed judgment for
23 one hundred eighty (180) calendar days on its website in compliance with Rule
24 3.771(b) of the California Rules of Court in order to provide notice to the Class
25 Members of this Judgment.

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17. Within 10 days after entry of this order, Carrillo Plaintiffs shall submit this order to the LWDA in accordance with Labor Code section 2699(l)(3).

DATED: 01/11/2023



Lawrence P. Riff / Judge

The Hon. Lawrence P. Riff
Judge of the Superior Court