

SEP 04 2019

BY Cindy Criddle
Deputy Clerk

IN SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SONOMA

CASE NO.: SCV-262841

REBECCA CALL on behalf of herself and
all others similarly situated,

Plaintiff,

v.

SHUTTERSTOCK, INC., and DOES 1
through 10 inclusive,

Defendants.

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, CERTIFICATION OF
SETTLEMENT CLASS, AND APPROVAL OF
CLASS REPRESENTATIVE, CLASS COUNSEL,
AND CLASS NOTICE

2019 AUG 23 PM 12 27

1 The Parties came for hearing on Plaintiff's Motion for Preliminary Approval of Class Action
2 Settlement, Certification of Settlement Class, and Approval of Class Representative, Class Counsel, and
3 Class Notice on August 21, 2019 at 3 p.m. in the Superior Court of the State of California in and for the
4 County of Sonoma, Courtroom 17, the Honorable ^{Ksenia Tsenin} Arthur A. Wick presiding. The Court, having
5 considered the papers submitted in support of Plaintiff's motion and arguments submitted therewith,

6 HEREBY ORDERS THE FOLLOWING:

7 1. To the extent the terms in this Order are defined in the "Release and Settlement
8 Agreement" (the "Settlement Agreement") submitted to the Court as Exhibit A to the May 17, 2019
9 Declaration of Attorney Meleshinsky ("Meleshinsky Declaration") and ~~attached hereto as Exhibit A,~~
10 such terms shall have the same meanings in this Order as in the Settlement Agreement.

11 2. For settlement purposes only, the Court grants class certification to the proposed Class,
12 defined as "All individuals who performed content review work (Shutterstock Image and/or Bigstock
13 Image Reviewers, Vector and Illustration Reviewers, and Footage Reviewers; collectively, the "Class
14 Positions"), for Shutterstock, Inc. in the State of California between July 20, 2014 and [the date of
15 preliminary approval of this Settlement Agreement], inclusive, who Defendant classified as independent
16 contractors."

17 3. For settlement purposes only, the Court appoints named Plaintiff Rebecca Call as Class
18 Representative, and appoints Bryan Schwartz Law as Class Counsel. ^{Ms} ~~Lead~~ Counsel are experienced in
19 representing plaintiffs in such matters and the named Plaintiff has no known conflicts with the Class and
20 worked as a Content Reviewer during the relevant period.

21 4. The Court grants preliminary approval of the Settlement based upon the terms set forth in
22 the Settlement Agreement and the preliminary approval Motion, the Meleshinsky Declaration in support
23 of the agreement, and all of the briefing and information submitted in this case to date. The proposed
24 settlement falls within the "the realistic range of outcomes of the litigation," such that sending notice to
25 the class of the settlement's terms and holding a final fairness hearing are worthwhile. *Munoz v. BCI*
26 *Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408-09.

27 5. The proposed settlement rationally accounts for the litigation risk of 13 of the 37 class
28 members who previously signed a release with Defendant by offsetting their recoveries under the terms

1 of the proposed settlement agreement by the amounts previously paid to them pursuant to their
2 individual separation agreements with Defendant. *See 7-Eleven Owners for Fair Franchising v.*
3 *Southland Corp.* (2000) 85 Cal.App.4th 1135, 1162. As provided for by the proposed settlement, all
4 offsetted amounts shall remain in the Net Settlement Amount and will be distributed to the other 24
5 class members who did not previously sign a release, thereby enhancing their recoveries, provided final
6 approval is ultimately granted. No offset from the 13 class members who previously signed releases with
7 Defendant shall be returned to Defendant or distributed to the cy pres. The only amounts contemplated
8 to be distributed to the cy pres are amounts represented by uncashed checks.

9 6. The Settlement is supported by the recommendation of counsel and was negotiated at
10 arm's length, and is thus presumptively valid, subject to any objections that may be raised at the final
11 fairness hearing, and to final approval by this Court.

12 7. A final fairness hearing on whether the proposed Settlement, the attorneys' fees to Class
13 Counsel, the Class Representative's enhancement payment, and the cy pres recipient should be approved
14 as fair, reasonable, and adequate as to the members of the Settlement Class will be held on

15 1/8 ²⁰²⁰ ~~2019~~ at 3p. in the Courtroom of the Honorable Arthur A. Wick, Courtroom 17, in the
16 Superior Court of the State of California in and for the County of Sonoma.

17 8. The Court approves, as to form and content, the Notices of Class Action Settlement
18 attached as Exhibits E and F to the Declaration of Eduard Meleshinsky. The Court approves the
19 procedure for Class Members to participate in, object to, and opt-out of the Settlement as set forth in the
20 Notice. The parties agreed at the August 21, 2019 hearing that Class Members may use First Class U.S.
21 mail in lieu of certified U.S. mail service whenever certified mailing appears as a requirement in the
22 settlement agreement.

23 9. The Court directs the mailing and emailing of the Notices in accordance with the
24 Settlement Agreement, as modified herein, and implementation schedule set forth below. The Court
25 finds that the dates selected for the mailing and distribution of the Notice meet the requirements of due
26 process, provide the best notice practicable under the circumstances, and shall constitute due and
27 sufficient notice to all persons entitled to notice of the proposed settlement.

28 10. The Court appoints JND Legal Administration ("JND Legal") as the Settlement

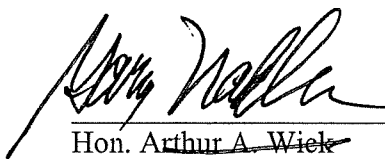
1 Administrator, based on the Meleshinsky Declaration testifying that JND Legal has experience in similar
2 matters and offered the most competitive bid from among several claims administrators.

3 11. The Court orders the following implementation schedule for further proceedings:

- 4 a. Deadline for Defendant to provide Class List to the settlement administrator:
5 9/18/19 (~~15 calendar days after preliminary approval order signed~~);
- 6 b. Deadline to mail and email Notice to Class: ~~10/15/19~~ 10/31/19 (~~30 calendar days after~~
7 ~~preliminary approval order signed~~);
- 8 c. Deadline for submission of any disputes related to number of compensable
9 workweeks or disputes related to whether class member signed General Release
10 agreement and the amount of separation pay received related to such an
11 agreement mailed disputes must be postmarked by this date): 12/6/19 ~~60~~
12 ~~calendar days after the Notices are mailed~~);
- 13 d. Deadline for submission of Opt-Out Requests (mailed opt-out forms must be
14 postmarked by this date): 12/6/19 (~~60 calendar days after the Notices are~~
15 ~~mailed~~);
- 16 e. Deadline for submission of written objections to Claims Administrator (via mail
17 or email; mailed disputes must be postmarked this date and emailed disputes must
18 be timestamped by this date): 12/6/19 (~~60 calendar days after the Notices are~~
19 ~~mailed~~);
- 20 f. Deadline to file a response to any written objections: 12/20/19 (~~10 calendar days~~
21 ~~prior to Final Approval Hearing~~);
- 22 g. Deadline to file Motion for Final Approval: 12/20/19 (~~16 court days prior to~~
23 ~~Final Approval Hearing~~);
- 24 h. Final Approval Hearing: 1/8/20 (~~approximately 120 days after the date of~~
25 ~~preliminary approval, on a date to be determined by the Court~~);

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28 IT IS SO ORDERED

1 Date: 9/3, 2019
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Hon. Arthur A. Wiek
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