

FILED

JAN 30 2020

Kim Morrison
Chelan County Clerk

mm
5

**SUPERIOR COURT OF WASHINGTON
FOR CHELAN COUNTY**

OMAR PALMA RENTERIA, individually and
on behalf of all others similarly situated,

Case No. 18-2-00471-8

Plaintiffs,

ORDER GRANTING
MOTION TO INTERVENE AND DENYING
FINAL APPROVAL OF PROPOSED
SETTLEMENT

vs.

STEMILT AG SERVICES, LLC, a solely
owned subsidiary of Stemilt Growers, LLC,
and DOES 1-10, inclusive,

Defendant.

This matter came before the Court on the Intervenor's Motion to Intervene and Postpone the Hearing on Final Approval of the Proposed Settlement that was filed on November 7, 2019. The Court has read and considered the documents on the motion and the law and is fully informed.

The Court finds that under CR 24(a), the Intervenor's are members of the *Renteria* class; thus, they have interests relating to the property or transaction which is the subject of the action. The proposed *Renteria* settlement could potentially extinguish their alleged wage claims in their federal lawsuit. Finally, it appears that at this time the Intervenor's interests are not adequately protected by the existing parties.

1 The Court also finds that the Intervenor have raised significant issues related to the
2 notice provided to class members in Mexico via first class mail as opposed to other viable
3 methods such as electronic notice via text or WhatsApp message. Consistent with recent case
4 law, the best notice practicable for residents of Mexico should include ^{consideration of} WhatsApp or text
5 message when viable cell phone numbers are available given that the mail system in Mexico is
6 generally unreliable. *Rosas v. Sarbanand Farms, LLC*, C18-0112-JCC, 2019 WL 859225, at *5
7 (W.D. Wash. Feb. 22, 2019).

8 The Court is also concerned with a number of issues raised by the Intervenor in the
9 proposed Settlement Agreement.

10 1. Pursuant to ¶ 66 of the proposed Settlement, all class members who file claims will be
11 paid by check and have 90 days to cash their checks or the check will be cancelled.

12 Intervenor have raised serious issues that even if funds are received by mail in Mexico,
13 the class member may not be able to cash checks issued from the United States.

14 2. The Court is further concerned that multiple provisions in the proposed Settlement (¶¶
15 19, 44(d), & 47) require funds to revert to Stemilt if insufficient claims are made by class
16 members. This is contrary to wage and hour case law when the underlying claims are
17 based on statutes that are meant to hold the defendants accountable. 4 *Newberg on Class*
18 *Actions* § 12:29 (5th ed.); *Millan v. Cascade Water Servs., Inc.*, 310 F.R.D. 593, 612
19 (E.D. Cal. 2015) (court denied settlement in FLSA class action, in part, because
20 “reversions to defendants are strongly disfavored” and would be counter to FLSA’s
21 deterrence objective). The Minimum Wage Act statutes used by the Plaintiffs in this case
22 are remedial statutes which aim to deter employers from withholding wages. *Lietz v.*
23 *Hansen Law Offices, P.S.C.*, 166 Wn. App. 571, 595, 271 P.3d 899, 912 (2012); *Hill v.*

1 *Garda CL Nw., Inc.*, 191 Wn.2d 553, 573, 424 P.3d 207, 217 (2018), *cert. denied*, 139 S.
2 Ct. 2667, 204 L. Ed. 2d 1069 (2019).

3 3. In addition to the concern of funds reverting to Stemilt, the proposed Settlement fails to
4 comply with CR 23(f)(2) which mandates that any order approving a compromise of a
5 class action that compensates class members “shall provide for the disbursement of
6 residual funds. In matters where the claims process has been exhausted and residual funds
7 remain, not less than fifty percent (50%) of the residual funds shall be disbursed to the
8 Legal Foundation of Washington.” No such provision exists in the proposed Settlement
9 Agreement.

10 4. Finally, the Court is concerned with the breadth of the proposed Settlement and whether
11 it will infringe on the federal claims of the *Gomez* Intervenors. In wage and hour class
12 actions, courts are wary of overbroad settlement agreements that purport to release all
13 wage and hour claims. *Haralson v. U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959, 968
14 (N.D. Cal. 2019)(“[c]ourts in this district routinely reject proposed class action settlement
15 agreements that try to release all claims in a wage-and-hour case relating to compensation
16 as overbroad and improper.”) The Court is not making a ruling as to that issue, but
17 encourages the parties to work together to find a resolution to concerns raised by the
18 Intervenors.

19 Therefore, the Court hereby GRANTS the Intervenors’ Motion to Intervene and DENIES
20 the Motion to Grant Final Approval to the Settlement Agreement as currently written.

21 //

22 //

23 //

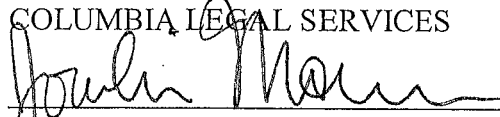
1 IT IS SO ORDERED.

2 DATED this 30th day of January, 2020.

3
4 
5 The Honorable Lesley A. Allan
6 CHELAN COUNTY SUPERIOR COURT JUDGE

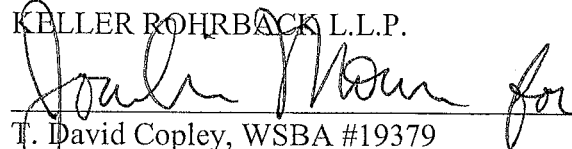
7 Presented by:

8 COLUMBIA LEGAL SERVICES

9 
10 Joachim Morrison, WSBA #23094
11 Maria Diana Garcia, WSBA #39744
12 Alfredo Gonzalez Benitez, WSBA #54364
13 300 Okanogan Avenue, Suite 2A
14 Wenatchee, WA 98801
15 (509) 662-9681
16 Email: diana.garcia@columbialegal.org
17 Email: joe.morrison@columbialegal.org

18 *Attorneys for Intervenors*

9 KELLER ROHRBACK L.L.P.

10 
11 T. David Copley, WSBA #19379
12 Tara Lin, WSBA #35271
13 1201 Third Avenue, Suite 3200
14 Seattle, WA 98101
15 (206) 623-1900
16 Email: tlin@kellerrohrback.com
17 Email: dcopley@kellerrohrback.com
18 Email: mgriffin@kellerrohrback.com

19 *Attorneys for Intervenors*

20 Approved as to form

21 INDIA LIN BODIEN, ATTORNEY AT LAW

22 _____
23 India Lin Bodien
24 2522 N. Proctor St., #387
25 Tacoma, WA 98406-5338
26 Fax: (253) 276-0081
27 india@indialinbodienslaw.com

28 *Attorneys for Plaintiffs*

21 ACKERMANN & TILAJEF, P.C.

22 _____
23 Craig J. Ackermann
24 1180 S. Beverly Dr., Ste. 610
25 Los Angeles, CA 90035
26 Fax: (310) 277-0635
27 cja@ackermanntilajef.com

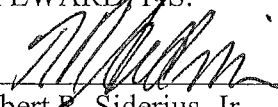
28 *Attorneys for Plaintiffs*

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

Approved as to form

LAW OFFICE OF TATIANA HERNANDEZ

JEFFERS DANIELSON SONN &
AYLWARD, P.S.



Tatiana Hernandez
P.O. Box 1973
Hawthorne, CA 90251
Fax: (310) 388-0639
tatianahernandez@gmail.com

Robert R. Siderius, Jr.
Stephanie J. Bochl
2600 Chester Kimm Rd.
Wenatchee, WA 98801
bobs@jdsalaw.com
stephanieb@jdsalaw.com

Attorneys for Plaintiffs

Attorneys for Defendants