

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

MARCUISE MURPHY, individually  
and on behalf of all others similarly  
situated,

Plaintiffs,

v.

LABOR SOURCE, LLC d/b/a  
CATSTAFF d/b/a ONE SOURCE  
STAFFING AND LABOR, and  
BLUSKY RESTORATION  
CONTRACTORS, LLC,

Defendants.

Court File No. 19-cv-01929-ECW

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS AND  
COLLECTIVE SETTLEMENT**

The Motion for Preliminary Approval of Class and Collective Action Settlement (Dkt. 266) filed by Plaintiff Marcquise Murphy came for hearing on March 22, 2023 in the above-captioned court. Defendants do not oppose the Motion. The parties consented to this Court's jurisdiction in accordance with 28 U.S.C. § 636(c) and Rule 73 of the Federal Civil Rules of Civil Procedure. (Dkts. 99, 100.)

Having reviewed the papers and documents presented, and having considered the matter, the Court **HEREBY ORDERS** as follows:

1. The Court hereby **GRANTS** preliminary approval of the terms and conditions contained in the Class Action Settlement Agreement and Release (the "Settlement" or "Settlement Agreement"). All terms used herein shall have the same meaning as defined in the Settlement. The Settlement appears to be fair, adequate, and reasonable to the Class Members.
2. The Settlement falls within the range of reasonableness and appears to be presumptively valid, subject only to any objections that may be raised at the final fairness hearing and final approval by this Court.
3. The Court finds that: (1) the settlement amount is fair and reasonable as to the Class Members when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues; (2) significant discovery, investigation, research, and litigation have been conducted such that counsel for the Parties at this time are able to reasonably evaluate their respective positions; (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented by the further

prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of intensive, serious, and non-collusive negotiations between the Parties. Accordingly, the Court preliminarily finds the Settlement was entered into in good faith.

4. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, for purposes of settlement only, the Court hereby certifies the claims in this lawsuit under the Minnesota Payment of Wages Act (“MPWA”), Minn. Stat. § 181.101, et seq., against Defendants Labor Source, LLC d/b/a Catstaff d/b/a One Source Staffing and Labor (“Labor Source”) and BluSky Restoration Contractors, LLC (“BluSky”) (collectively, “Defendants”), as a class action on behalf of the settlement group:

All current or former hourly, non-exempt employees, including but not limited to, laborers, non-exempt team leads/crew leaders, non-commercial drivers, technicians, carpenters, apprentices, cleaning crew, plumbers, welders, and other laborers with similar job duties employed by Labor Source in the State of Minnesota and who worked on any BluSky project in Minnesota between July 23, 2016 and the date of the Settlement Agreement.

5. In support of certification of this settlement class, for purposes of settlement only, the Court finds as follows:
  - a. The parties do not dispute, and the Court concludes, that the 401 eligible individuals satisfy the numerosity requirement of Federal Rule of Civil Procedure 23(a)(1).

- b. There are several important questions of law common to all Class Members that satisfy the commonality requirement of Federal Rule of Civil Procedure 23(a)(2), including whether Defendants' alleged practices violates the MPWA, whether a private right of action exists for recovery for such a claim and whether Plaintiff exhausted the administrative requirements for such a claim by failing to make a "demand," written or otherwise, as required by Minn. Stat. § 181.13(a).
- c. Plaintiff Marcquise Murphy's claims emanate from the same conduct of Defendants as that giving rise to the claims of the Class Members, and his claims are typical of the claims of the Class Members and satisfy the typicality requirement of Federal Rule of Civil Procedure 23(a)(3). His claims do not conflict with those of other Class Members and rely upon the same legal theories.
- d. Plaintiff Marcquise Murphy has been thoroughly involved in this matter and can fairly and adequately represent the interests of the Class Members under the requirements of Federal Rule of Civil Procedure 23(a)(4). Plaintiff's Counsel, Schneider Wallace Cottrell Konecky LLP, has extensive experience in wage and hour class and collective litigation and can fairly and adequately represent the interests of the class.
- e. Questions common to the class predominate over any individual claims and resolving the common questions through the settlement of a class

action is preferable to doing so through individual litigation of over 400 cases, satisfying Federal Rule of Civil Procedure 23(b)(3).

f. Because Plaintiff Marcquise Murphy is similarly situated to the members of the settlement class, and his interests are typical of the rest of the class, he can fairly and adequately represent the class, and therefore the Court certifies Plaintiff Marcquise Murphy as class representative.

6. The Court has conducted a preliminary review of the details of the proposed settlement, including information regarding distribution of the settlement and value, the mechanisms for notifying and paying settlement class and collective members, the percentage of anticipated recovery, attorney's fees and costs, and the class representative service award. The Court preliminarily finds that the settlement is "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2); *see also Netzel v. W. Shore Grp., Inc.*, No. 16-cv-2552 (RHK/LIB), 2010 WL 1906955, at \*2 (D. Minn. May 5, 2017) (considering an FLSA settlement).
7. The Court hereby confirms Settlement Services, Inc. ("SSI, Inc."), as the Settlement Administrator.
8. The Court hereby preliminarily confirms Plaintiff Marcquise Murphy as the Class Representative and as representative for the FLSA Collective. Having considered the factors set forth in Federal Rule of Civil Procedure 23(g)(1), and having found Schneider Wallace Cottrell Konecky LLP, to be adequate

and qualified to represent the class, the Court appoints Schneider Wallace Cottrell Konecky LLP as Class Counsel to represent the eligible Class Members.

9. The Court hereby **APPROVES** as to form and content the Notice of Settlement Form in substantially the form attached to the Settlement as **Exhibit A**. The Parties are authorized to make non-substantive changes to the proposed Notice of Settlement that are consistent with the terms of the Settlement and this Order.
10. The Court finds that the Notice of Settlement, along with the related notification procedure contemplated by the Settlement, constitute the best notice practicable under the circumstances and are in full compliance with the applicable laws and the requirements of due process. The Court further finds that the Notice appears to fully and accurately inform the Members of the Class of all material elements of the proposed Settlement, of their right to be excluded from the Settlement, and of their right and opportunity to object to the Settlement.
11. The Court hereby authorizes dissemination of the Notice of Settlement in accordance with the terms of the Settlement and this Order.
12. Because of the structure of the Settlement, Class Members who do not wish to be included in the settlement class, but do not wish to object to the proposed settlement, request exclusion, or be heard at the final approval hearing, need not submit any statement of exclusion. However, any class

member who wishes to object to the proposed Settlement, request exclusion, or be heard at the final approval hearing and show cause why the proposed settlement should not be approved as fair, adequate, reasonable and in the settlement groups' best interests or why this Court should not enter final judgment may do so according to the following procedure:

- a. The individual must send notice of intent to object to the Settlement or request exclusion to Class Counsel. The content of the objection should be consistent with the Notice of Settlement, paragraph 6.
- b. The notice of intent to object to the Settlement or request exclusion must be submitted to Class Counsel at the following address on or before the 60-days after the mailing as set forth in the Notice of Settlement:

Carolyn H. Cottrell  
Ori Edelstein  
SCHNEIDER WALLACE  
COTTRELL KONECKY LLP  
2000 Powell Street, Suite 1400  
Emeryville, CA 94608  
Telephone: (800) 689-0024  
Facsimile: (415) 421-7105

13. The objection should not be sent to the Court and any language directing objections to be sent to the Court should be removed from the Notice of Settlement, paragraph 6.
14. Any person who fails to object in the above-described manner shall be deemed to have waived any objections.

15. The Court conditionally **APPROVES** Plaintiff's request for an award of attorneys' fees in the amount of \$725,000. The Court **ORDERS** that Class Counsel shall file a motion for approval of the fee and cost award, and of the service award to the Class Representative, with the appropriate declarations and supporting evidence, to be heard at the same time as the motion for final approval of the Settlement.
16. The Court **ORDERS** that Class Counsel shall file a motion for final approval of the Settlement, with the appropriate declarations and supporting evidence, including a declaration setting forth the Class Members' identities who request exclusion from the Settlement, at least 14 days before the Final Approval Hearing. The proposed Final Approval Order and associated proposed Judgment for Dismissal will be submitted to the Court simultaneously with the Motion for Final Settlement Approval and Dismissal.
17. United States Magistrate Judge Elizabeth Cowan Wright will hold an in-person Final Approval Hearing in Courtroom 3C of the U.S. Courthouse, 316 N. Robert Street, St. Paul, Minnesota, on **July 25, 2023 at 10:00 a.m. (Central Time)**. This hearing will address: (a) whether the proposed settlement set forth in the Settlement Agreement should be approved as fair, reasonable, adequate, and in the best interest of the class and collective members; (b) whether the class and collective members should be bound by



the release set forth in the Settlement Agreement upon cashing their checks; and (c) whether to approve, with or without modification, the proposed class-representative award and the proposed attorney’s fees and expenses of Class Counsel. If the hearing is held by Zoom, the parties will be provided with the necessary information to attend the Zoom hearing in advance.

This hearing is subject to adjournment or continuance by the Court.

Counsel are advised that court appropriate attire is required for court proceedings, including those held by Zoom.

Accordingly, having found good cause, the Court **APPROVES** the proposed Notice of Settlement and adopts the following dates and deadlines:

Deadline for Defendants to provide the Settlement Administrator with the Class List	Within 10 days after the Court’s preliminary approval of the Settlement
Deadline for Settlement Administrator to mail the Notice of Settlement to Class Members	Within 10 days after the Settlement Administrator receives the Class List
Deadline for Class Members to postmark requests to opt-out or file objections to the Settlement	On or before 60 days following date of mailing (“the Notice Deadline”)
Deadline for Settlement Administrator to provide all counsel with a report showing (i) the final number of the Class Members (ii) the final number and identity of Class Members who have submitted objections or valid letters requesting exclusion from the Settlement; and (iii) the number of undeliverable Notices of Settlement.	Within 5 business days after the Notice Deadline

Requests for exclusion and objections due to Defendants and the Court and Plaintiffs' Motion for Final Approval due to Court	At least 14 days before Final Approval Hearing
Deadline for SSI, Inc. to provide the Court and all counsel for the Parties with a statement detailing the Settlement Administration Costs and its administration of the Notice of Settlement process	At least 14 days before Final Approval Hearing
Final Approval Hearing	<b>July 25, 2023 at 10:00 a.m.</b>

Date: March 31, 2023

*s/Elizabeth Cowan Wright*  
 ELIZABETH COWAN WRIGHT  
 United States Magistrate Judge