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11 JENNIFER WISE and all others similarly situated

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF RIVERSIDE**

14 **(UNLIMITED JURISDICTION)**

15 JENNIFER WISE, on behalf of herself and all
16 others similarly situated, and as an “aggrieved
17 employee” on behalf of other “aggrieved
18 employees” under the Labor Code Private
19 Attorneys General Act of 2004,

20 *Plaintiff(s),*

21 vs.

22 SPRINGS CHARTER SCHOOLS, INC., a
23 California corporation; RIVER SPRINGS
24 CHARTER SCHOOL, INC., a California
25 corporation; EMPIRE SPRINGS CHARTER
26 SCHOOL, INC., a California corporation;
27 HARBOR SPRINGS CHARTER SCHOOL,
28 INC., a California corporation; CITRUS
SPRINGS CHARTER SCHOOL, INC., a
California corporation; VISTA SPRINGS
CHARTER SCHOOL, INC., a California
corporation; PACIFIC SPRINGS CHARTER
SCHOOL, INC., a California corporation and
DOES 1-50, inclusive,

Defendants.

Case No. RIC2002359

**PLAINTIFF JENNIFER WISE’S
SECOND SUPPLEMENTAL
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Date: July 3, 2023
Hearing Time: 8:30 a.m.
Hearing Dept.: 1, The Honorable
Craig G. Riemer

Action filed: July 01, 2020
Trial Date: Not set

**Submitted Herewith Under Separate
Cover:**

1. Supplemental Memorandum of Points and Authorities;
2. Amended Declaration of David Spivak;
3. Amended Declaration of Walter L. Haines;
4. Supplemental Declaration of Lara P. Besser;



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5. Second Amended Compliance Chart;
and
6. [Proposed] Order.



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1 **PLAINTIFF JENNIFER WISE’S SECOND SUPPLEMENTAL MEMORANDUM OF**
2 **POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF’S MOTION FOR**
3 **PRELIMINARY APPROVAL OF SECOND AMENDED JOINT STIPULATION AND**
4 **SETTLEMENT AGREEMENT**

5 Plaintiff Jennifer Wise (“Plaintiff”) submits this supplemental briefing in support for her
6 revised Motion for Preliminary Approval of Class Action Settlement with Defendants Springs
7 Charter Schools, Inc., River Springs Charter School, Inc., Empire Springs Charter School, Inc.,
8 Harbor Springs Charter School, Inc., Citrus Springs Charter School, Inc., Vista Springs Charter
9 School, Inc., and Pacific Springs Charter School, Inc. (collectively “Defendants”). Pursuant to the
10 Court’s ruling dated April 18, 2023 (Amended Declaration of David G. Spivak (“Amnd. Decl.
11 DS”), ¶ 21, Ex. 23), the Parties amended the First Amended Joint Stipulation and Settlement
12 Agreement dated April 10, 2023 (Amnd. Decl. DS, ¶ 22, Ex. 24) to address the Court’s concerns.
13 The Parties seek approval of this new settlement agreement, entitled Second Amended Joint
14 Stipulation and Settlement Agreement dated June 22, 2023 (“Second Amended Settlement”).
15 Amnd. Decl. DS, ¶¶ 23 and 24, Exs. 25 (clean) and 26 (redline). The Second Amended Settlement
16 was revised in light of the Fourth Amended Complaint filed on May 15, 2023. (Amnd. Decl. DS,
17 ¶¶ 27 and 28 Exs. 28 and 29). The Plaintiff also proposes a new preliminary approval order for
18 the Second Amended Settlement, submitted herewith under separate cover (“Proposed Order”),
19 and which includes as attachments, the revised “Notice of Proposed Class Action Settlement and
20 Hearing Date for Court Approval” (sub. Ex. A), “Election Not to Participate in Settlement” Form
21 (sub. Ex. B) and the “Objection Form” (sub. Ex. B). Amnd. Decl. DS, ¶¶ 25 and 26, Ex. 27
22 (redline). Each of the Court’s comments in the ruling of April 18, 2023 are recited below in bold,
23 followed by a discussion of the Plaintiff’s response to the comment/question. Plaintiff has
24 reviewed the CMO of April 18, 2023, and has concluded that the responses to the Court’s ruling
25 of April 18, 2023 referenced comply with the CMO. Amnd. Decl. DS, ¶ 51. The operative
26 Settlement Agreement (Second Amended Joint Stipulation and Settlement Agreement) and the
27 present motion begin to be addressed on paragraph 19 of the Amended Declaration of David G,
28 Spivak, submitted herewith under separate cover.

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1 **1. The proposed order must be revised.**
2 **a. The order refers to the settlement agreement rather than the amended**
3 **settlement agreement. (P. 3.) All such references shall be corrected. In addition, the order**
4 **shall be revised to identify the declaration to which the amended agreement is attached, both**
5 **by name of declarant and filing date.**

6 The new proposed order now refers to the settlement agreement as the Second Amended
7 Joint Stipulation and Settlement Agreement (“Second Amended Settlement,” or “Second
8 Amended Settlement Agreement.”) All such references to the settlement agreement have been
9 corrected. The order has also been revised to clarify that the Second Amended Settlement
10 Agreement is attached as Exhibit 25 to the Amended Declaration of David Spivak in Support of
11 the Motion for Preliminary Approval, filed on June 23, 2023. See Proposed Order, ¶ 1. Amnd.
12 Decl. DS, ¶ 29.

13 **b. The class definition (¶ 3) is unclear in two respects.**
14 **i. What is meant by “prospective employee”? Specifically, what is**
15 **the difference between “prospective employee” and a person who attended one of the pre-**
16 **employment meetings?**
17 **ii. Are there employees or applicants who did not attend a pre-**
18 **employment meeting? If not, can the class definition be simplified to all persons who**
19 **attended such a meeting?**

20 The Fourth Amended Complaint clarifies the Class as follows:
21 all persons who attended one of Defendants’ “pre-employment” meetings in
22 California at any time during the period beginning four years prior to the filing of
23 this action and ending on the date that final judgement is rendered in this action.
24 Amnd. Decl. DS, ¶ 30 Ex. 28, ¶ 22. Consistent with this, the Second Amended Settlement
25 Agreement defines the “Settlement Class” as follows:

26 The Settlement Class includes all persons who attended one of Defendants’ “pre-
27 employment” meetings in California at any time between July 1, 2016 through the
28 date that final judgement is entered in this action.
Amnd. Decl. DS, ¶ 30; Ex. 25, ¶ I.OO. The proposed order has been revised accordingly. Amnd.
Decl. DS, ¶ 30; Proposed Order, ¶ 2.

c. Do the defendants have addresses for individuals who attended a
meeting but never applied for employment?

 Defendants informed Plaintiff that they have the addresses for all Class Members and that



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only persons who applied for employment and were offered employment attended a pre-employment meeting. Amnd. Decl. DS, ¶ 31. Furthermore, the Court's concerns have been addressed with the clarification of the Class definition described above.

d. Paragraph 5.d. refers to a reminder being mailed 30 days after the notice is mailed. Of what will the class members be reminded?

Paragraph 5.d of the Proposed Order has been removed. Amnd. Decl. DS, ¶ 32; Ex. 27.

e. Paragraph 5.d. refers to a claim being received, but the agreement provides (at I.S.) that class members are not required to make a claim. That reference shall be deleted.

Paragraph 5.d. of the Proposed Order has been removed. Amnd. Decl. DS, ¶ 32; Ex. 27.

2. The notice shall be revised.

a. The notice uses words or symbols that class members are not likely to readily understand. (CMO, § H.3.j.) "Et al." and "§§" shall either be deleted or explained.

The words "Et al." have been removed and the symbols "§§" have been replaced by the word "Sections" in the Notice. Amnd. Decl. DS, ¶ 33; Ex. 27, Sub. Ex. A.

b. The notice says at part 6 that each class member will receive "an equal payment based on the number of Class Members," and says on page 2 that "Each Participating Class Member will receive an equal share of the Net Settlement Amount," but states just a few lines later on page 2 that the money received will vary depending on the number of workweeks. That inconsistency must be resolved. (CMO, § H.4.c.)

The Class Members will receive an equal share of the Net Settlement Amount, the references to calculations based on workweeks have been removed from page 2 of the Notice. Page 2 of the Notice also clarifies that: "Each Aggrieved Employee will receive an equal share of the Aggrieved Employees Amount. The value of each Aggrieved Employee's Individual PAGA Payment Share ties directly to the one day s/he attended an alleged "pre-employment" meeting during the PAGA Period." Amnd. Decl. DS, ¶ 34; Ex. 27, Sub. Ex. A.

c. Part 6 refers to "offsets." What offsets are described in the agreement?

The term "offsets" has been removed from the Notice. Amnd. Decl. DS, ¶ 35; Ex. 27, Sub. Ex. A.

d. Part 6 refers to the ability to "dispute the calculation credited to you." To what calculation does this refer?

The reference to a "calculation" has been replaced by "Individual Settlement Share" and Individual PAGA Payment Share in part 6 of the Notice. Amnd. Decl. DS, ¶ 36; Ex. 27, Sub. Ex.



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1 A.

2 **e. Part 6 refers to “the enclosed Dispute Form.” No such form is attached**
3 **to the notice. To what form is this part referring?**

4 The reference to “the enclosed Dispute Form” has been modified to “the Objection Form”
5 in part 6 of the Notice. Amnd. Decl. DS, ¶ 36; Ex. 27, Sub. Ex. A.

6 **f. Part 8 refers to “Released Claims,” but does not define that term. A**
7 **definition shall be added.**

8 Part 8 of the Notice clarifies the definition of “Released Claims” as “all claims stated in
9 or based upon the facts alleged in the Complaint, the First Amended Complaint, the Second
10 Amended Complaint, the Third Amended Complaint, and the Fourth Amended Complaint from
11 July 1, 2016 through the date of preliminary court approval of the settlement.” Part 8 of the Notice
12 also add the definition of “PAGA Released Claims” as “all claims stated in or based upon the
13 facts alleged in the Complaint, the First Amended Complaint, the Second Amended Complaint,
14 the Third Amended Complaint, and the Fourth Amended Complaint, under PAGA from April 29,
15 2019 through the date of preliminary court approval of the settlement.”

16 Part 8 of the Notice also clarifies that Class Members “cannot request exclusion from the
17 PAGA Released Claims.” Amnd. Decl. DS, ¶ 38; Ex. 27, Sub. Ex. A.

18 **g. Page 8 says that the agreement was filed on 4-10-23, but does not**
19 **identify the declaration to which it was attached. That information shall be added.**

20 Page 8 of the Notice now clarifies that The Second Amended Joint Stipulation and
21 Settlement Agreement filed with the Court on June 23, 2023, is attached as Exhibit 25 to the
22 Declaration of David Spivak. Amnd. Decl. DS, ¶ 39; Ex. 27, Sub. Ex. A.

23 **3. The exclusion form shall be revised to delete or explain “et al.”**

24 The words “Et al.” have been removed from the Exclusion Form. Amnd. Decl. DS, ¶ 40;
25 Ex. 27, Sub. Ex. B.

26 **4. The objection form shall be revised.**

27 **a. The objection form states that if the class member wishes to object, the**
28 **member “must sign and complete this form.” That is contrary to part 12 of the notice, which**
also permits oral objections to be raised for the first time at the final approval hearing. That
inconsistency must be resolved.

The objection form has been modified to state that if Class Members object to the
settlement terms, they are not required to complete the objection form, but it recommends that



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1 they “should sign and complete this form accurately and in its entirety (or one like it)”. It has also
2 been added that Class Members “may speak to the Court at the final approval, hearing whether or
3 not [they] submit a timely objection.” Amnd. Decl. DS, ¶ 41; Ex. 27, Sub. Ex. C.

4 **b. The objection form be revised to delete or explain “et al.”**

5 The words “Et al.” have been removed from the Objection Form. Amnd. Decl. DS, ¶ 42;
6 Ex. 27, Sub. Ex. C.

7 **5. The agreement must be amended.**

8 **a. Paragraph I.EE. describes what the administrator must do to**
9 **determine addresses for former employees, but is silent regarding the administrator’s duties**
10 **to determine addresses for prospective employees or applicants. See also ¶ III.J.3.a. That**
11 **omission shall be cured.**

12 Plaintiff has remedied the Court’s concern by clarifying the Class Definition as described
13 above. The Settlement Class includes all persons who attended one of Defendants’ “pre-
14 employment” meetings in California at any time between July 1, 2016 through the date of
15 preliminary approval.

16 When the parties negotiated this Settlement, Defendants presented Plaintiff with a list of
17 all putative class members who participated in the pre-employment meeting during the period
18 beginning four years before the filing of the lawsuit through the mediation date. Defendants
19 informed Plaintiff that prior to the mediation, Defendants had ended the practice of unpaid pre-
20 employment meetings. The Settlement Class definition from the Second Amended Settlement
21 Agreement clearly treats all persons who participated in the pre-employment meeting during the
22 Class Period the same. This is because Plaintiff contends that all such persons, regardless of
23 whether Defendant deemed them hires, became employees at the time they attended what the
24 Defendants characterize as the “pre-employment” meeting. Amnd. Decl. DS, ¶ 43.

25 The addresses for prospective employees or applicants are not necessary because
26 Defendants informed Plaintiff that only employees who applied for employment and were offered
27 employment attended a pre-employment meeting. Amnd. Decl. DS, ¶ 44.

28 **b. Paragraph III.J.3.f. refers to the administrator’s duty to report the**
average and high shares of the NSA, but ¶ I.S. provides that all shares shall be equal. That
inconsistency must be resolved.



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Paragraph III.K.3.f. (previously III.J.3.f) of the Agreement has been modified to only require the administrator to report “the estimated Individual Settlement Shares” and “the estimated Individual PAGA Payment Shares”. Amnd. Decl. DS, ¶ 45; Exs. 25 and 26 (redline). Because all share values will be the same, there is no need for high, low, and average share size reports by the Settlement Administrator.

c. Paragraph III.J.4. provides that objections must be in writing, but part 12 of the notice provides that an objection may also be made orally at the final approval hearing. This inconsistency must be resolved.

Paragraph III.K.4. (previously III.J.4.), now clarifies that objections should be made by means of a written objection to the Settlement Administrator by the response deadline. However, it makes clear that the Class Members may speak to the Court about the Settlement at the final approval hearing whether or not they have complied with the objection procedure. Amnd. Decl. DS, ¶ 46; Exs. 25 and 26 (redline).

d. The provision that reminders be sent after 90 days conflicts with the 60-day reminder mandated by the CMO. It shall be revised to comply with the CMO.

Paragraph III.K.12 (previously III.J.12.) of the Agreement has been modified to reflect that reminders for uncashed checks must be sent within 60 days by the Settlement Administrator. Amnd. Decl. DS, ¶ 47; Exs. 25 and 26 (redline).

6. In the declarations of Spivak, Haines, and Besser, and the supplemental declarations of Spivak and Haines, the declarants certify the representations to be true “to the best of my knowledge.” The Court requires an unconditional certification consistent with Code of Civil Procedure section 2015.5. Amended declarations shall be filed. The declaration of Besser must be amended for the additional reason that Besser now represents more defendants than she did at the time she executed her original declaration. Therefore, her declaration must confirm that the representations extend to all defendants. When the declarations are amended, the allegations of any supplemental declaration shall be combined into the amended declaration.

The declarations of Spivak, Haines, and Besser, attached to the present motion, have been amended to comply with Court’s order. The allegations of all supplemental declarations have been combined into the Amended Declarations.

7. Part 8 of the notice refers to “a separate confidential settlement agreement between Plaintiff and the Defendants which the Parties will make available upon request of the Court.” Neither the original nor the supplemental declarations of plaintiff’s counsel appear to describe the terms of the plaintiff’s settlement of her individual claims. The



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1 amended declarations of counsel shall explain those terms, shall authenticate a copy of any
2 individual settlement agreement, and shall explain the value of the individual claims being
3 released in that agreement by answering the questions in sections F.4.c.i. and ii. of the CMO.

4 The Declaration of David Spivak describes the terms of Plaintiff's settlement of her
5 individual claims and explains them as to comply with the CMO. Amnd. Decl. DS, ¶¶ 48 and 49;
6 Exs. 30 and 31. Plaintiff's fully executed Individual Settlement Agreement is attached as Exhibit
7 30 to the Amended Declaration of David Spivak. Amnd. Decl. DS, ¶ 48.

8 Respectfully submitted,

9 THE SPIVAK LAW FIRM

10 Dated: June 23, 2023

By: 

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13 Plaintiff(s), JENNIFER WISE and all
14 others similarly situated



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