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7 on behalf of themselves and all others similarly situated

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SANTA BARBARA**

11 CHERYL FOSTER, an individual;
12 TRAVONN HALEY, an individual, on behalf
of themselves and others similarly situated,

13 Plaintiffs,

14 vs.

15 DECKERS OUTDOOR CORPORATION, a
Delaware corporation; REAL TIME
16 STAFFING SERVICES, LLC, a limited
liability company; and DOES 1 through 50,
17 inclusive,

18 Defendants.

Case No.: 20CV03699

CLASS ACTION

Assigned for All Purposes to
The Honorable Donna D. Geck

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, APPROVING
FORM OF NOTICE TO THE CLASS,
CERTIFYING THE SETTLEMENT
CLASS, AND SETTING FINAL
APPROVAL HEARING**

Hearing

Date: October 29, 2021
Time: 10:00 a.m.
Dept: 4

1 **RECITALS**

2 On August 23, 2021, Plaintiff Cheryl Foster and Travonn Haley (the “Named Plaintiffs”),
3 individually and on behalf of the Class, and Defendant Deckers Outdoor Corporation and Staffing
4 Services, LLC (collectively “Defendants”) entered into a class action settlement, the terms and
5 conditions of which are set forth in the parties’ Joint Stipulation of Settlement and Release of
6 Class Action (hereafter collectively, the “Settlement” or “Settlement Agreement”). Unless
7 otherwise provided in this Order, all capitalized terms shall have the same meaning as set forth in
8 the Settlement Agreement.

9 The motion of Named Plaintiffs for an order preliminarily approving the settlement of this
10 action, approving the form of notice to the class, certifying the settlement class for settlement
11 purposes, and setting a final approval hearing came on for hearing in Department 4 of this Court
12 on _____, 2021.

13 This Court, having fully considered Plaintiffs’ Motion, the Memorandum of Points and
14 Authorities in support, the Declarations in support, the Settlement Agreement, the proposed form
15 of Class Notice, and the oral argument presented to the Court, finds that: (1) the proposed
16 settlement appears fair, reasonable and adequate, and that a final hearing should be held after
17 notice to the Class (defined below) of the proposed settlement to determine if the Settlement
18 Agreement and settlement are fair, reasonable, and adequate such that a Final Order and Judgment
19 should be entered in these actions based upon the Settlement Agreement and (2) the PAGA
20 Settlement Payment is fair and adequate and the PAGA Settlement Payment should be approved.

21 **THE COURT ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:**

22 **ORDER PROVISIONALLY CERTIFYING SETTLEMENT CLASS AND**
23 **APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL**

24 1. The Court finds that certification of the following class, for settlement purposes
25 only, is appropriate:

26 “all hourly paid workers directly employed by Deckers and/or employed by Real
27 Time and placed on assignment at any Deckers facility in California at any time
28 from June 1, 2016 through November 21, 2021.”

1 2. The Court grants preliminary approval of the terms and conditions contained in the
2 Settlement Agreement. The Court finds that the terms of the Settlement Agreement are within the
3 range of possible approval at the final approval hearing.

4 3. The Court preliminarily finds, for settlement purposes only, that the Class meets
5 (i) the ascertainability and numerosity requirements; (ii) the commonality requirement because, in
6 the absence of class certification and settlement, each individual Class Member would have to
7 litigate core common issues of law and fact, all relating to Defendants' alleged wage-and-hour
8 violations asserted in the action; (iii) the typicality requirement because the Named Plaintiffs and
9 the Class Members' claims all arise from the same alleged events and course of conduct, and are
10 based on the same legal theories; and (iv) the adequacy of representation requirement because the
11 Named Plaintiffs have the same interests as all members of the Class, and they are represented by
12 experienced and competent counsel.

13 4. The Court further finds, preliminarily and for settlement purposes only, that
14 common issues predominate over individual issues in this litigation and that class treatment is
15 superior to the other means of resolving this dispute. Employing the class device here will not
16 only achieve economies of scale for Class Members with individual claims, but also conserve the
17 resources of the judicial system and preserve public confidence in the integrity of the system by
18 avoiding the waste and delay of repetitive proceedings. In addition, certifying the class will
19 prevent inconsistent adjudications of similar issues and claims.

20 5. For settlement purposes only, the Court finds that the Named Plaintiffs, Cheryl
21 Foster and Travonn Haley, are adequate representatives and appoints them as such. The Court
22 further finds that David Yeremian of David Yeremian & Associates, Inc. has adequately
23 represented the Named Plaintiffs and the Class in this litigation, and the Court appoints them as
24 Class Counsel.

25 6. The Court appoints Simpluris to perform the duties of a Settlement Administrator
26 for the purpose of issuing the Class Notice and administering the Settlement.

27 7. The Court recognizes that certification under this Order is for *settlement purposes*
28 *only*, and shall not constitute or be construed as a finding by the Court, or an admission on the part

1 of Defendants, that this action is appropriate for class treatment for litigation purposes. Entry of
2 this Order is without prejudice to the rights of Defendants to oppose class certification in the
3 actions, should the proposed Settlement Agreement not be granted final approval.

4 **PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

5 8. The Court has reviewed the Settlement Agreement and the proposed Class Notice
6 to the Settlement Agreement. The Court finds, on a preliminary basis, that the Settlement
7 Agreement appears to be within the range of reasonableness of a settlement that could ultimately
8 be given final approval by this Court. It appears to the Court on a preliminary basis that:

9 a. The settlement amount is fair and reasonable to all Class Members when
10 balanced against the probable outcome of further litigation relating to liability and damages issues;

11 b. Extensive and costly investigation and research have been conducted such
12 that counsel for the parties at this time are reasonably able to evaluate their respective positions;

13 c. Settlement at this time will avoid additional substantial costs, such as those
14 that have already been incurred by both parties, as well as avoid the delay and risks that would be
15 presented by the further prosecution of this litigation; and

16 d. The proposed settlement has been reached as the result of intensive, serious,
17 and non-collusive arm's-length negotiations.

18 9. The Court further approves the following representative group of employees as
19 governed by the Settlement Agreement with respect to the PAGA Claim:

20 "all hourly paid workers directly employed by Deckers and/or employed by Real
21 Time and placed on assignment at any Deckers facility in California at any time
22 from May 6, 2019 through November 21, 2021."

23 10. The Court grants approval of the PAGA Settlement Payment pursuant to the terms
24 and conditions contained in the Settlement Agreement. The Court finds that the terms of the
25 PAGA settlement are fair and reasonable and approves the PAGA settlement pursuant to Labor
26 Code § 2699(1)(2).

27 11. Because a PAGA action is not a class action, Class Members may not opt out of, or
28 object to, the PAGA Settlement Payment.

1 12. If the Court does not grant final approval of the Settlement Agreement, approval of
2 the PAGA settlement will be vacated.

3 **APPROVAL OF DISTRIBUTION OF THE CLASS NOTICE**

4 **AND TIMELINE FOR SENDING CLASS NOTICE**

5 13. This Court finds that the Class Notice fairly and adequately advises the potential
6 Class Members of the terms of the Settlement and the process for the Class Members to obtain the
7 benefits available under the Settlement Agreement, as well as the right of Class Members to opt
8 out of the class, to file documentation in opposition to the proposed settlement, and to appear at
9 the settlement hearing to be conducted on the date set by the Court. The Court further finds that
10 the Class Notice and proposed distribution of such Class Notice by first-class mail to each
11 identified Class Member at their last known address comports with all constitutional requirements,
12 including those of due process under the United States and California constitutions, and meets the
13 requirements of Code of Civil Procedure § 382 and California Rules of Court rule 3.766.
14 Accordingly, good cause appearing therefore, the Court hereby approves the proposed Class
15 Notice.

16 14. The Settlement Administrator shall, as soon as practicable, but no later than
17 _____, 2021 [not less than 30 days following the date of this Order], cause the Class Notice
18 to be mailed by first class mail to all known members of the Class certified by this Court in this
19 action to the most recent address in Defendants' business records for each known member of the
20 Class. The mailing of the Class Notices directed in this Order constitutes the best notice
21 practicable under the circumstances and sufficient notice to all members of the Class.

22 15. The costs of settlement administration, including the cost of printing and mailing
23 the Class Notices shall be paid from the Settlement Amount. Such costs shall be withheld from the
24 Settlement Amount by the Settlement Administrator pursuant to the terms of the Settlement
25 Agreement.

26 16. Each member of the Class who wishes to be excluded from the Class must submit a
27 request to be excluded from the Settlement by the deadline set forth in the Class Notice. Any
28 Class Member who does not submit a timely request to be excluded from the Settlement consistent

1 with the terms of the Settlement Agreement shall be bound by the terms of the Settlement
2 Agreement, even if such Class Member has previously initiated or subsequently initiates
3 individual litigation against Defendants or other proceedings encompassed by the Settled Claims
4 defined in the Settlement Agreement.

5 **OBJECTIONS TO SETTLEMENT**

6 17. Any member of the Class who has not timely elected to be excluded from the
7 Class, and who wishes to object to the fairness, reasonableness or adequacy of the Settlement
8 Agreement or the proposed settlement, or to the award of attorneys' fees and costs, shall provide
9 to the Settlement Administrator a written statement of the objection, as well as the specific
10 reasons, if any, for each objection. The Settlement Administrator will promptly transmit any
11 objections it receives to Class Counsel and Defendants' counsel.

12 18. All written objections must be signed by the Class Member or the Class Member's
13 representative and must include the information specified in the Class Notice.

14 19. A Class Member may appear either in person or through personal counsel at the
15 Final Hearing to object to the Settlement. If represented by personal counsel, the counsel will be
16 hired at the Class Member's expense.

17 20. Class Counsel and Defendants' counsel shall promptly furnish each other with
18 copies of any and all objections or written requests for exclusion that come into their possession.

19 **FINAL APPROVAL FAIRNESS HEARING**

20 21. The Court grants Plaintiffs' motion to set a settlement hearing for final approval of
21 the Settlement Agreement on _____, 2021, at _____ in Department 4 of this Court
22 ("Final Hearing"), as set forth in the Class Notice, to determine whether the proposed settlement
23 of this action is fair, reasonable and adequate and should be finally approved. The Court will also
24 consider at the Final Hearing whether applications for Plaintiffs' attorneys' fees and costs and
25 enhancement award to the Named Plaintiffs should be granted and, if so, in what amounts.

26 22. Members of the Class who have not timely elected to be excluded from the Class
27 and who object to the proposed Settlement may appear and present such objections at the
28 Settlement Hearing in person or by counsel, provided that the objecting Class Member complied

1 with the requirements to object to the Settlement. No person shall be heard, and no briefs or
2 papers shall be received or considered, unless the requirements to object to the Settlement have
3 been satisfied, except as this Court may permit for good cause shown.

4 23. Class Counsel shall file Plaintiffs' memorandum of points and authorities in
5 support of the final approval of the Settlement Agreement and his request for approval of the
6 attorneys' fees, litigation costs, and enhancement award no later than _____ days prior to the
7 Final Hearing. After the Final Hearing, the Court may enter a Final Order and Final Judgment in
8 accordance with the Settlement Agreement that will adjudicate the rights of all Class Members.

9 24. All discovery and other pretrial proceedings in this action are stayed and suspended
10 until further order of this Court, except such actions as may be necessary to implement the
11 Settlement Agreement and this Order.

12 25. If, for any reason, the Court does not grant final approval of the Settlement, all
13 evidence and proceedings held in connection therewith shall be without prejudice to the status quo
14 ante rights of the parties to the litigation as more specifically set forth in the Settlement
15 Agreement.

16 **IT IS SO ORDERED.**

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18 Dated: _____, 2021_____

19 JUDGE OF THE SUPERIOR COURT
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