

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

DEC 04 2023

DAVID H. YAMASAKI, Clerk of the Court

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 MAURICIO VAZQUEZ, on behalf of himself
and others similarly situated,

14
15 Plaintiff,

16 v.

17 VOLCOM, LLC, a Delaware limited liability
company; VOLCOM RETAIL, LLC, a
18 Delaware limited liability company; VOLCOM
RETAIL OUTLETS, LLC, a Delaware limited
19 liability company; and DOES 1 through 100,

20 Defendants.
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Case No. 30-2020-01169022-CU-OE-CXC

Assigned for all purposes to:
Hon. Lon F. Hurwitz, Dept. CX103

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT, ATTORNEYS' FEES
AND COSTS, AND CLASS
REPRESENTATIVE'S ENHANCEMENT
PAYMENT AND JUDGMENT**

Continued Final Approval Hearing

Date: November 17, 2023

Time: 1:30 p.m.

Dept.: CX103

**[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE
ACTION SETTLEMENT AND JUDGMENT**

1 This matter came on regularly for hearing before this Court on September 1, 2023 pursuant
2 to California Rules of Court, Rule 3.769. Having considered the Stipulation of Class and
3 Representative Action Settlement and Amendment to Stipulation Class and Representative Action
4 Settlement (collectively, the "Settlement Agreement", attached to the August 7, 2023 Declaration of
5 Anthony J. Orshansky in Support of Plaintiff's Motion for Final Approval of Class and
6 Representative Action Settlement [ROA# 138] as Exhibits A1 and A2, respectively),¹ entered into
7 between Plaintiff Mauricio Vazquez ("Plaintiff"), on behalf of himself and others similarly situated,
8 and Defendants Volcom, LLC, Volcom Retail, LLC, and Volcom Retail Outlets, LLC (collectively,
9 "Defendants"; Plaintiff and Defendants are referred to herein as the "Parties") , and the documents
10 and evidence presented in support thereof, and recognizing the disputed factual and legal issues
11 involved in this case, the risks of further prosecution and the substantial benefits to be received by
12 Settlement Class Members and PAGA Group Members pursuant to the settlement, the Court hereby
13 makes a final ruling that the proposed settlement is fair, reasonable, and adequate, and is the product
14 of good faith, arm's-length negotiations between the Parties. Good cause appearing therefor, the
15 Court hereby GRANTS Plaintiff's Motion for Final Approval of Class and Representative Action
16 Settlement and ORDERS and enters JUDGMENT as follows:

17 1. The conditional class certification is hereby made final, and the Court thus certifies,
18 for purposes of the settlement only, a Settlement Class defined as:

19 All hourly, non-exempt warehouse and retail employees employed by Defendants
20 within the State of California during the Class Period (the "Class" or "Class
Members").

21 2. Plaintiff Mauricio Vazquez is hereby confirmed as Class Representative, and
22 CounselOne, PC is hereby confirmed as Class Counsel.

23 3. Notice was provided to Class Members and PAGA Group Members as set forth in
24 the Settlement Agreement. The form and manner of notice were approved by the Court on April 20,
25 2023, and the notice process has been completed. The Court finds that said notice was the best notice
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27 ¹ This Order and Judgment incorporates by reference the definitions in the Settlement Agreement,
28 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in
the Settlement Agreement.

1 practicable under the circumstances. The Notice provided due and adequate notice of the
2 proceedings and matters set forth therein, informed Class Members of their rights, and fully satisfied
3 the requirements of Code of Civil Procedure section 1781, subdivision (e), California Rules of Court,
4 Rule 3.769, and due process.

5 4. The Court finds that no Class Members have objected to settlement and no Class
6 Members have opted out of the settlement.

7 5. The Court hereby approves the settlement as set forth in the Settlement Agreement
8 as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement
9 according to its terms.

10 6. For purposes of settlement only, the Court finds that (a) the members of the
11 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable; (b)
12 there are questions of law or fact common to the Settlement Class, and there is a well-defined
13 community of interest among members of the Settlement Class with respect to the subject matter of
14 the litigation; (c) the claims of the Class Representative are typical of the claims of the members of
15 the Settlement Class; (d) the Class Representative has fairly and adequately protected the interests
16 of the Settlement Class Members; (e) a class action is superior to other available methods for an
17 efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for
18 the Class Representatives and the Settlement Class.

19 7. The Court finds that given the absence of objections to the settlement, and objections
20 being a prerequisite to appeal, that this Order shall be considered final as of the date of notice of
21 entry.

22 8. The Court orders Defendants to pay the Gross Settlement Amount of \$900,000, as
23 provided for in the Settlement Agreement. Pursuant to the terms of the Settlement Agreement, the
24 employer's share of payroll taxes for the portion of the Net Settlement Amount allocated to wages
25 shall be paid by Defendants separately from, and in addition to, the Gross Settlement Amount.

26 9. The Court finds that the settlement payments, as provided for in the Settlement
27 Agreement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
28 the individual payments in conformity with the terms of the Settlement Agreement.

1 10. The Court finds that an enhancement payment in the amount of \$5,000 to the named
2 Plaintiff is appropriate for the risks he undertook and his service to the Settlement Class. The Court
3 finds that this award is fair, reasonable, and adequate, and orders that the Settlement Administrator
4 make this payment in conformity with the terms of the Settlement Agreement.

5 11. The Court finds that attorneys' fees in the amount of \$300,000 and litigation costs of
6 \$22,182.27 for Class Counsel are fair, reasonable, and adequate, and orders that the Settlement
7 Administrator distribute these payments to Class Counsel in conformity with the terms of the
8 Settlement Agreement.

9 12. The Court orders that the Settlement Administrator shall be paid \$18,000 from the
10 Gross Settlement Amount for all of its work done and to be done until the completion of this matter,
11 and finds that sum appropriate.

12 13. The Court finds that the payment to the California Labor & Workforce Development
13 Agency ("LWDA") in the amount of \$75,000 for its share of the settlement of Plaintiff's
14 representative action under the Labor Code's Private Attorneys General Act ("PAGA") is fair,
15 reasonable, and adequate, and orders the Settlement Administrator to distribute this payment to the
16 LWDA in conformity with the terms of the Settlement Agreement.

17 14. The Court finds and determines that upon satisfaction of all obligations under the
18 Settlement Agreement, all Settlement Class Members and PAGA Group Members will be bound by
19 the settlement, will have released the claims listed under the Settlement Class Members' Released
20 Claims and PAGA Group Members' Released Claims (as set forth below and in the Settlement
21 Agreement), and will be permanently barred from prosecuting against the Released Parties any of
22 the claims under the Settlement Class Members' Released Claims and PAGA Group Members'
23 Released Claims (as set forth below and in the Settlement Agreement):

24 Released Parties. "Released Parties" means Defendants, and their former and present
25 officers, directors, shareholders, employees, agents, principals, representatives,
26 consultants, attorneys, insurers, predecessors, successors, parents, related entities
(including Liberated Brands, LLC), and subsidiaries.

27 Settlement Class Members' Released Claims. "Settlement Class Members' Released
28 Claims" means all liabilities, causes of action and and/or claims that were alleged or
that could have been alleged based on the facts or legal theories asserted in the
operative complaint filed by Plaintiff in the Lawsuit, arising at any time during the

1 Class Period, for: (1) failure to pay minimum wages; (2) failure to pay all overtime
2 wages; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5)
3 failure to reimburse for business expenses; (6) failure to provide accurate itemized
4 employee wage statements; (7) failure to pay all wages owed timely and upon
separation of employment; (8) failure to maintain records in violation of Labor Code
section 1174(d); and (9) violation of Business & Professions Code sections 17200, *et*
seq. This release excludes the release of claims not permitted by law.

5 PAGA Group Members' Released Claims. "PAGA Group Members' Released
6 Claims" means all claims for civil penalties arising under the PAGA during the
7 PAGA Period that were alleged or reasonably could have been alleged based on the
8 facts or legal theories alleged in the operative complaint filed by Plaintiff in the
9 Lawsuit including, but not limited to, alleged violations of Labor Code sections Labor
Code sections 201, 202, 203, 204, 210, 218.5, 226, 226.3, 226.7, 510, 512, 1194,
1104.2, 1174, 1174.5, 1194, 1194.2, 1197, 1197. 1, 1198, 1199, 2802, and any claims
and/or liability for interest and all attorneys' fees and costs available under the PAGA
arising out of the facts asserted in the operative complaint for the aforementioned
Labor Code violations.

10 Release of Claims by Settlement Class Members. Upon the Final Approval Date,
11 Plaintiff and all Settlement Class Members (e.g., those who do not opt-out of the
12 settlement), for and in consideration of the Gross Settlement Amount, along with the
13 terms and undertakings herein, the sufficiency and fairness of which are
acknowledged, release and forever discharge Defendants and the Released Parties
from the Settlement Class Members' Released Claims during the Class Period. This
release excludes the release of claims not permitted by law.

14 Release of Claims by PAGA Group Members. Upon the Final Approval Date, all
15 PAGA Group Members will release the Released Parties from the PAGA Group
16 Members' Released Claims during the PAGA Period.

17 15. Settlement Class Members shall be bound by the Settlement Agreement, the Final
18 Approval Order and Final Judgment, and the release of Settlement Class Members' Released Claims
19 arising during the Class Period.

20 16. PAGA Group Members shall be bound by this Settlement Agreement, the Final
21 Approval Order and Final Judgment, and the release of PAGA Group Members' Released Claims
22 arising during the PAGA Period.

23 17. The settlement is not an admission by Defendants, nor is this Order a finding of the
24 validity of any allegations or of any wrongdoing by Defendants. Neither this Order, the settlement,
25 nor any document referred to herein, nor any action taken to carry out the settlement, shall be
26 construed or deemed an admission of liability, culpability, or wrongdoing on the part of Defendants..

27 18. After entry of this Final Approval Order and Judgment, pursuant to California Rules
28 of Court, Rule 3.769, subdivision (h), the Court shall retain jurisdiction to construe, interpret,

1 implement, and enforce the Settlement Agreement and Final Approval Order, to hear and resolve
2 any contested challenge to a claim for settlement benefits, and to supervise and adjudicate any
3 dispute arising from or in connection with the distribution of settlement benefits.

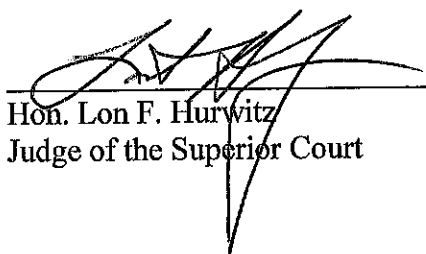
4 19. A Final Accounting Hearing is set for July 12, 2024 at 1:30 p.m. in Department
5 CX103 of the Orange County Superior Court, Civil Complex Center, located at 751 W Santa Ana
6 Blvd, Santa Ana, CA 92701. The deadline for Class Counsel to file a declaration from the Settlement
7 Administrator concerning the total amounts actually paid to the Settlement Class Members and
8 PAGA Group Members shall be no later than fourteen (14) calendar days before the hearing date.
9 The declaration shall describe the date the checks were mailed, the total number of checks mailed to
10 Settlement Class Members and PAGA Group Members, the average amount of those checks, the
11 number of checks that remain uncashed, the total value of those uncashed checks, the average
12 amount of the uncashed checks, and the nature and date of the disposition of those unclaimed funds,
13 and if the remaining funds are not fully disbursed by the report deadline, counsel must request a
14 continuance. If Code of Civil Procedure section 384.5 is applicable, the declaration shall be
15 accompanied by a proposed amended judgment that complies with that section.

16 20. Notice of entry of this Judgment shall be given to Settlement Class Members and
17 PAGA Group Members by posting a copy of the Judgment on Settlement Administrator's website
18 for a period of at least one hundred and eighty (180) calendar days after the date of entry of this
19 Judgment.

20 21. Plaintiff shall provide notice of entry of this Final Approval Order and Judgment
21 within five (5) court days to the LWDA.

22 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

23
24 Dated: DEC 04 2023

25 
26 Hon. Lon F. Hurwitz
27 Judge of the Superior Court
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