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7 Attorneys for Plaintiff Mauricio Vazquez, on behalf of himself
and others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF ORANGE**

10
11 MAURICIO VAZQUEZ, on behalf of himself
and others similarly situated,

12
13 Plaintiff,

14 v.

15
16 VOLCOM, LLC, a Delaware limited liability
company; VOLCOM RETAIL, LLC, a
17 Delaware limited liability company; VOLCOM
RETAIL OUTLETS, LLC, a Delaware limited
18 liability company and DOES 1 through 100,

19
20 Defendants.

Case No.: 30-2020-01169022-CU-OE-CXC

Honorable Lon F. Hurwitz

**NOTICE OF COURT ORDER
CONTINUING HEARING DATE**

Date: November 17, 2023

Time: 1:30 p.m.

Dept.: CX103

Complaint Filed: November 6, 2020

Jury Trial Date: None Set

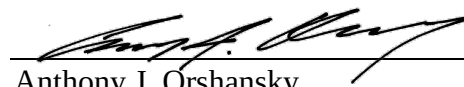
1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on September 1, 2023, the Honorable Lon F. Hurwitz issued a
3 Minute Order continuing the date of the hearing on Plaintiff's Motion for Final Approval of Class
4 Action and PAGA Settlement to November 17, 2023, at 1:30 p.m. in Department CX103. Plaintiff
5 was ordered to give notice of the continued hearing date. Attached hereto as Exhibit A is a true and
6 correct copy of the Court's Minute Order dated September 1, 2023.

7
8 DATED: September 7, 2023

COUNSELONE, PC

9 By



10 Anthony J. Orshansky
11 Attorneys for Plaintiff
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Exhibit A

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 09/01/2023

TIME: 01:30:00 PM

DEPT: CX103

JUDICIAL OFFICER PRESIDING: Lon F. Hurwitz

CLERK: M. Correa

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: J. Boc

CASE NO: **30-2020-01169022-CU-OE-CXC** CASE INIT.DATE: 11/06/2020

CASE TITLE: **Vazquez vs. Volcom, LLC**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74049958,119730372

EVENT TYPE: Motion for Final Approval

MOVING PARTY: Mauricio Vazquez

CAUSAL DOCUMENT/DATE FILED: Motion - Other for final approval of class action settlement,
08/07/2023

APPEARANCES

There are no appearances by any party.

Tentative Ruling posted on the Internet.

All parties submit on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

Motion for Final Approval

Motion for Final Approval of Class Action and PAGA Settlement

REQUESTED RELIEF: Plaintiff seeks final approval of a class action and PAGA settlement in the total amount of \$900,000 with requested disbursements.

OVERVIEW: This is a wage and hour class action and PAGA case. The complaint (ROA 2) was filed on 11-06-20 asserting the following claims:

1. Failure to Pay Minimum Wages
2. Failure to Pay All Overtime Wages
3. Meal Period Liability under Labor Code § 226.7
4. Rest Break Liability under Labor Code § 226.7

-
5. Failure to Reimburse for Business Expenses
 6. Failure to Provide Accurate Itemized Employee Wage Statements
 7. Failure to Pay All Wages Owed Timely and upon Separation of Employment
 8. Violation of Labor Code § 1174(d) [Failure to keep accurate payroll records]
 9. Bus. & Prof. Code § 17200
 10. Penalties Pursuant to Labor Code § 2699 [PAGA]

The Complaint alleges “on or around July 1, 2020, Plaintiff gave written notice to the LWDA”. (¶ 120.)

The class is defined as: “All current and former hourly paid or non-exempt employees who worked for Volcom, LLC, Volcom Retail, LLC, Volcom Retail Outlets, LLC, and/or their predecessor or merged entities, within the State of California from four years prior to the filing of the Complaint [11-06-16] and continuing to the present.” (¶ 1.)

The case was only lightly litigated before settlement was reached on the following terms:

1. Attorneys’ Fees: \$300,000 (1/3 of GSA)
2. Attorney Costs: up to \$25,000
3. Admin. Costs: up to \$18,000
4. Enhancement: \$10,000
5. LWDA (PAGA): \$75,000 out of \$100,000

(Settlement ¶ 48.)

The average class member payment is expected to be \$541.82. (Orshansky Dec. ¶ 11.)

After the SECOND attempt by Plaintiff, the Court granted Preliminary Approval on 04-21-23. (ROA 117.) This is the FIRST attempt at Final Approval.

SUMMARY OF SETTLEMENT

Size (est.): Class: 825; PAGA: 574

Gross Settlement Amount (GSA): \$900,000

Net Settlement Amount (NSA): \$447,000

Proposed Distributions (up to):

1. Attorneys’ Fees: \$300,000 (1/3 of GSA)
2. Attorney Costs: up to \$25,000
3. Admin. Costs: up to \$18,000

4. Enhancement: \$10,000

5. LWDA (PAGA): \$75,000 out of \$100,000

ANALYSIS:

ADMINISTRATION

Per CPT Group Administrator Morales' declaration (ROA 136), there are 738 class members. (¶ 11.) This is less than the size estimated at preliminary approval, so there are no issues.

44 Notice packets were returned and successfully remailed. (¶ 8.)

There were zero objections or requests for exclusion. (¶¶ 9-10.)

The highest individual settlement payment to be paid will be approximately \$3,251.20, the lowest is \$11.57, and the average is \$605.69. (¶ 11.)

For the 500 Aggrieved Employees (fewer than estimated at preliminary approval), the highest PAGA payment is \$162.38, the low is \$2.26, and the average is \$33.88. (¶ 11.)

ISSUE: CPT charged \$18,000 in administration costs. (¶ 12.) Need an invoice to confirm as an estimate or bid has never been provided.

ENHANCEMENT

Plaintiff seeks an enhancement of \$10,000.

A declaration was provided at Preliminary Approval. (ROA 78.) Plaintiff was employed by Defendant for 18 years. It has not been disclosed, but it is anticipated his individual payments will be at the upper end of the range. Additionally, no specific contribution to the case is clear and he estimates he spent 35 hours total on the case. (¶ 13.) Accordingly, the request for \$10,000 will be reduced to the typical maximum award of \$5,000 as no special circumstances are noted.

FEES & COSTS

Fees

As provided in the Settlement, counsel requests \$300,000 in fees, which is 1/3 of the GSA.

The total hours spent by Plaintiff's attorneys, including an estimated 5 hours to conclude the case, are 213.4. (Orshansky Dec. ¶ 106.) The hourly rates are \$775, \$650, and \$635 for attorneys with, respectively, 25, 17, and 15 years of experience. (Id.)

The claimed hours yield a lodestar of \$161,174, which does not include time spent by paralegals and other support staff. (Id.) This results in a significant multiplier of 1.86. Despite the high multiplier, 1/3 is reasonable given the results.

Costs

Counsel claims total costs of \$22,182.27, which is less than the \$25,000 permitted under the settlement. (ROA 128 ¶ 114, Ex. E.) This number is exceptionally high in an otherwise lightly litigated case due to

two mediation sessions, which total \$17,000. (Id. Ex. E.) These and the other claimed costs are reasonable.

LWDA

The LWDA's share of the \$100,000 allocated to the PAGA claim is \$75,000.

[PROPOSED] ORDER (ROA 128) and [PROPOSED] JUDGMENT (ROA 147)

ISSUE: These should be combined into a single document as a proposed order and judgment.

ISSUE: The Judgment should be available on the Administrator's website for at least 180 days after entry.

ISSUE: No provision for a final accounting has been included.

ISSUE: The Settlement and all Amendments must be identified by ROA number.

ISSUE: Must include a provision for service of all papers on the LWDA.

RULING:

The hearing on the Motion for Final Approval is **CONTINUED** to November 17, 2023 at 1:30 p.m. in Department CX103 to permit the parties to respond to the following issues. All supplemental briefing is ORDERED to be filed at least 10 Court days before the continued hearing and respond where necessary to the points raised below. Redlined versions of all revised papers are ORDERED to be provided. All documents are ORDERED to be text-searchable and, where applicable, include electronic bookmarks per the California Rules of Court. If required, an amendment to the settlement agreement is directed, rather than 'amended settlement agreement', to avoid waste of limited Court resources.

Any supplemental brief and/or amendments made pursuant to this Order should also be served on the LWDA along with notice of the continued hearing date, with a proof of service submitted to the Court.

1. CPT purports to charge \$18,000 in administration costs. (Morales Decl. ¶ 12.) The Court awards actual costs only and therefore requires an invoice to confirm the amount as an estimate or bid has not been provided for the Court's review.

As to the **[PROPOSED] ORDER (ROA 128) and [PROPOSED] JUDGMENT (ROA 147)**

2. These documents should be combined into a single document as a proposed order and judgment.

3. The Settlement and all Amendments must be identified by ROA number.

4. The Judgment should be available on the Administrator's website for at least 180 days after entry by the Court.

5. No provision for a final accounting hearing has been included. A final declaration from the Administrator regarding disbursements must be filed no later than 14 calendar days in advance of the hearing. This should be scheduled sufficiently in advance to permit competition of all disbursements and must be rescheduled by calling the Clerk to the extent it has not been completed by the filing deadline.

6. Include a provision that Plaintiff shall serve the order and judgment on the LWDA within five court days of its entry.

Plaintiff is ordered to give notice, including to the LWDA, and file a proof of service within seven calendar days.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in Los Angeles County, State of California; I am over the age of 18 years and
4 not a party to the within action; my business address is 9301 Wilshire Blvd., Suite 650, Beverly Hills,
CA 90210, lanie@counselonelinegroup.com.

5 On September 7, 2023, I served the foregoing **NOTICE OF COURT ORDER**
6 **CONTINUING HEARING DATE** on the interested parties in this action by serving copies of the
7 foregoing documents on the addressees as follows:

8 Jeremy T. Naftel, Esq. Attorneys for Defendants
9 jnaftel@martensonlaw.com
10 Lauren Bakke Kalfsbeek, Esq.
lbakke@martensonlaw.com
Michelle Patroni Green, Esq.
mpatroni@martensonlaw.com
11 Martenson, Hasbrouck & Simon LLP
455 Capitol Mall, Suite 601
12 Sacramento, CA 95814

13 Labor and Workforce Development Agency LWDA/The State of California
14 <https://dir.tfaforms.net/311>

15
16 **[X] (BY ELECTRONIC SERVICE)** Based on a court order, I caused the documents to
17 be sent to the Attorneys for Defendants listed above by email through One Legal and to the
18 LWDA/The State of California through their online submission form at the web address listed above.
I did not receive, within a reasonable time after the transmission(s), any electronic message or other
indication that the transmission(s) was/were unsuccessful.

19 **[X] (STATE)** I certify (or declare) under penalty of perjury under the laws of the
20 State of California that the foregoing is true and correct.

21 Executed on September 7, 2023, at Los Angeles, California.

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24 Lanie Lim
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