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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 FOR THE COUNTY OF SANTA CLARA

16 JULIO TESCHERA, individually and on behalf
17 of all others similarly situated,

18 Plaintiff,

19 vs.

20 GAWFCO ENTERPRISES, INC., a California
21 corporation; and DOES 1 through 50, inclusive,

22 Defendants.

Case No. 21CV376213

[Assigned for all purposes of the Hon. Sunil
R. Kulkarni, Dept. 1]

**AMENDED [PROPOSED] ORDER
GRANTING PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND ENTRY
OF JUDGMENT THEREON**

Date: March 23, 2023

Time: 2:30 p.m.

Dept.: 1

1 Plaintiff Julio Teschera ("Plaintiff") and the settling Defendant Gawfco Enterprises, Inc.
2 ("Defendant") (together, the "Parties") have entered into the Joint Stipulation of Class Action
3 Settlement between the Parties ("Settlement Agreement") to settle the above-captioned class action
4 subject to the Court's approval (the "Settlement").

5 On August 25, 2022, the Court granted Plaintiff's Motion for Final Approval of Class Action
6 Settlement, including approval of an Enhancement Award for the Named Plaintiff and Class Counsel's
7 Application for a Fee and Expense Award. The Court hereby enters this Amended Order and
8 Judgment.

9 **I. BACKGROUND**

10 On December 16, 2020, Plaintiff submitted his written notice to the Labor Workforce
11 Development Agency (the "LWDA") alleging violations of Labor Code §§ 201-204, 226, 510 and
12 1194 ("PAGA Notice"). On or about February 19, 2021, Plaintiff filed this class action in Santa Clara
13 County Superior Court alleging four causes of action for: (1) Violation of Labor Code § 226(a); (2)
14 Violation of Labor Code §§ 510 and 1194; (3) Violation of Labor Code § 2698, *et seq.*
15 (the Private Attorneys General Act, or the "PAGA"); and (4) Violation of Business & Professions
16 Code § 17200, *et seq.* The Parties exchanged informal discovery and payroll data from which Plaintiff
17 was able to calculate damages. The Parties also completed the deposition of Plaintiff and Defendant's
18 person most knowledgeable.

19 Prior to mediation, Defendant produced class data from which Plaintiff's counsel was able to
20 conduct a damage analysis. Plaintiff's counsel retained an expert to review said data and calculate
21 exposure. The Parties then attended mediation with Michael Loeb on December 20, 2021, which
22 resulted in this settlement.

23 **A. Class Members**

24 The "Settlement Class" or "Class Members" are defined as all current and former non-exempt
25 employees of Defendant who worked at any time during the period of time from August 25, 2016,
26 through August 30, 2021, who received overtime pay and non-discretionary incentive pay covering
27 the same time period, including without limitation, commissions and shift differentials.

28 **B. Operation of the Settlement.**

1 Pursuant to the Preliminary Approval Order dated May 4, 2022, this Court conditionally
2 certified the Settlement Class and granted preliminary approval of the Settlement. The Preliminary
3 Approval Order also approved the revised class notice and notice plan. The Court entered the
4 Preliminary Approval Order after review and consideration of the pleadings filed in connection
5 herewith, and the supplemental papers and revised Notice of Class Action Settlement.

6 In compliance with the Preliminary Approval Order, the revised Notice of Class Action
7 Settlement was sent to all Class Members via first class mail. The notice process was timely
8 completed.

9 This Court finds that the Settlement appears to be the product of serious, informed, non-
10 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
11 treatment to any individuals. The Court finds that the Settlement was entered into in good faith
12 pursuant to California *Code of Civil Procedure* section 877.6. The Court further finds that the
13 Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards for final
14 approval of a class action settlement under California law. Under the provisions of California *Code of*
15 *Civil Procedure* section 382 and Federal Rule of Civil Procedure 23, as approved for use by the
16 California state court in *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971), the trial court has
17 discretion to certify a class where:

18 [Q]uestions of law or fact common to the members of the class predominate over any
19 questions affecting only individual members, and that a class action is superior to the
20 available methods for the fair and efficient adjudication of the controversy ... Fed. R.
Civ. Proc. 23.

21 Certification of a settlement class is the appropriate judicial device under these circumstances.

22 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
23 FOLLOWS:

24 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
25 Settlement Agreement filed in this case.

26 2. The Court has jurisdiction over the subject matter of the litigation, the Class
27 Representative, the other Members of the Settlement Class, and Defendant.

28 3. The Court finds that the dissemination of the Notice of Proposed Class Action

1 Settlement as disseminated to the Class Members, constituted the best notice practicable under the
2 circumstances to all Persons within the definition of the Class, and fully met the requirements of
3 California law and due process under the United States Constitution.

4 4. The Court approves the settlement of the above-captioned action, as set forth in the
5 Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling
6 Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

7 5. Except as otherwise provided in the Settlement Agreement, the Settling Parties are to
8 bear their own costs and attorneys' fees.

9 6. The Court hereby certifies the following Settlement Class for settlement purposes only:
10 all current and former non-exempt employees of Defendant who worked at any time during the period
11 of time from August 25, 2016, through August 30, 2021, who received overtime pay and non-
12 discretionary incentive pay covering the same time period, including without limitation, commissions
13 and shift differentials.

14 7. With respect to the Settlement Class and for purposes of approving the Settlement only
15 and for no other purpose, this Court finds and concludes that: (a) the members of the Settlement Class
16 are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions
17 of law or fact common to the Settlement Class, and there is a well-defined community of interest
18 among Members of the Settlement Class with respect to the subject matter of the claims in the
19 Litigation; (c) the claims of Class Representative is typical of the claims of the members of the
20 Settlement Class; (d) the Class Representative has fairly and adequately protected the interests of the
21 members of the Settlement Class; (e) a class action is superior to other available methods for an
22 efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative,
23 *i.e.*, Class Counsel, are qualified to serve as counsel for the Plaintiff in her individual and
24 representative capacity and for the Settlement Class.

25 8. This Court finds that Defendant has funded \$170,000.00 for the Gross Settlement
26 Amount pursuant to the terms of the Settlement Agreement, plus the employer-side payroll taxes in
27 the amount of \$2,116.07, for a total of \$172,116.07.

28 9. The Court again approves the method for calculating Individual Settlement Payments,

1 which shall be distributed pursuant to the terms of the Settlement Agreement.

2 10. The Court finds that ILYM Group (the "Administrator") carried out its duties pursuant
3 to the Settlement Agreement and made the following payments from the \$170,000.00 Gross
4 Settlement Amount (plus the employer-side payroll taxes of \$2,116.07) as follows:(a) Class Counsel
5 attorneys' fees in the amount of \$56,666.67, and reimbursement of costs in the amount of \$14,906.50;
6 (b) a service award in the amount of \$7,500.00 to the Class Representative; and (c) \$5,000.00 to the
7 Administrator for its fees and costs relating to the settlement administration process. The Court again
8 finds that these amounts are fair and reasonable.

9 11. This Court further finds that as of the check-cashing deadline of March 6, 2023, 16
10 checks totaling \$8,591.97. ^{remained uncashed.} Pursuant to Code of Civil Procedure § 384(b), this Court orders the
11 Administrator to disburse these funds to Legal Aid at Work.

12 12. The Court hereby enters final judgment in this case in accordance with the terms of the
13 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the
14 Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the
15 action and the Parties, including all Settlement Class Members, for purposes of enforcing and
16 interpreting this Order and the Settlement.

17 IT IS SO ORDERED AND ADJUDGED.

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19 Dated: March 23, 2023

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21 HON. SUNIL R. KULKARNI
22 JUDGE OF THE SUPERIOR COURT
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PROOF OF SERVICE

I, Jeanette LaCorte, am employed by POLARIS LAW GROUP, in the County of San Benito, California. I am over the age of 18 and not a party to the within action. My business address is 501 San Benito Street, Suite 200, Hollister, California 95023.

On this date I caused to be served the **AMENDED [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND ENTRY OF JUDGMENT THEREON** on the parties in this action, by placing copies of the same in envelopes, addressed as follows and delivered in the manner indicated:

Hussein Saffouri, Esq.
Helen Bequette, Esq.
Ramsey Law Group, a Professional Corporation
3736 Mt. Diablo Blvd., Suite 300
Lafayette, CA 94549
hussein@ramseylawgroup.com
hbequette@ramseylawgroup.com

 (By Mail) I caused each envelope, with postage prepaid to be placed in the United States mail at Hollister, California. I am readily familiar with the business practices of the firm regarding the collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to such business practices, and in the ordinary course of business, all correspondence is deposited with the United States Postal Service on the same day it is placed for collection and mailing.

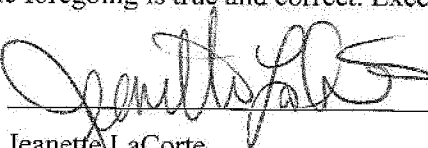
 (By Courier) I delivered the envelopes to UPS who contracted to deliver the envelope to the addressee on the same day next day.

 (By Hand) I delivered the envelope to addressee.

 (By Telecopier) I also caused each document to be sent by telecopier to the fax numbers stated above. The transmissions were reported as complete and without error.

 X (By E-Mail) I caused each document to be send via e-mail to the e-mail stated above via Drop Box. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Hollister, CA on March 8, 2023.



Jeanette LaCorte