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13 Attorneys for Plaintiff and the Class

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA

JULIO TESCHERA, individually and on behalf  
of all others similarly situated,  
  
Plaintiff,  
  
vs.  
  
GAWFCO ENTERPRISES, INC., a California  
corporation; and DOES 1 through 50, inclusive,  
  
Defendants.

Case No. 21CV376213

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

**[PROPOSED] ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Date: April 28, 2022  
Time: 1:30 p.m.  
Dept.: 1

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 Plaintiff Julio Teschera's ("Plaintiff") Motion for Preliminary Approval of Class Action  
3 Settlement came before this Court, on April 28, 2022, the Honorable Sunil R. Kulkarni, Judge  
4 presiding. The Court having considered the papers submitted in support of the application of the  
5 parties, HEREBY GRANTS THE MOTION FOR PRELIMINARY APPROVAL OF CLASS  
6 ACTION SETTLEMENT AS SET FORTH BELOW.

7 **I. RECITALS**

8 On December 16, 2020, Plaintiff submitted his written notice to the Labor Workforce  
9 Development Agency (the "LWDA") alleging violations of Labor Code §§ 201-204, 226, 510 and  
10 1194 ("PAGA Notice"). On or about February 19, 2021, Plaintiff filed this class action in Santa Clara  
11 County Superior Court alleging four causes of action for: (1) Violation of Labor Code § 226(a); (2)  
12 Violation of Labor Code §§ 510 and 1194; (3) Violation of Labor Code § Labor Code § 2698, *et seq.*  
13 (the Private Attorneys General Act, or the "PAGA"); and (4) Violation of Business & Professions  
14 Code § 17200, *et seq.* The Parties exchanged informal discovery and payroll data from which Plaintiff  
15 was able to calculate damages. The Parties also completed the deposition of Plaintiff and Defendant's  
16 person most knowledgeable. The Parties then attended mediation with Michael Loeb on December  
17 20, 2021, which resulted in this settlement.

18 Since the inception of this case, the Parties have diligently litigated this case, including  
19 completing the depositions of Plaintiff and Defendant's PMK, production of Defendant's policies and  
20 payroll data for 53 class members, and expert analysis which permitted Plaintiff to calculate the  
21 damages and penalties at issue. After the completion of adequate discovery and informal exchange,  
22 the Parties agreed to attend mediation with Michael Loeb, Esq. on December 20, 2021. The total  
23 exposure at the time of mediation was \$381,724.00. Thus, the \$170,000.00 represents approximately  
24 45% of the total exposure at the time of mediation. The Parties were able to reach this settlement with  
25 Mr. Loeb's help after a full day of mediation.

26 **II. FINDINGS**

27 1. The Court grants preliminary approval of the settlement based upon the terms set forth  
28

1 in the Joint Stipulation for Class Action Settlement (hereinafter referred to as  
2 “Settlement Agreement”) filed herewith. The Settlement appears to be fair, adequate  
3 and reasonable to the Class.

4 2. The Settlement Agreement falls within the range of reasonableness and appears to be  
5 presumptively valid, subject only to any objections that may be raised at the final  
6 fairness hearing and final approval by this Court.

7 3. A final fairness hearing on the question of whether the proposed Settlement  
8 Agreement, attorneys’ fees to Class Counsel, the Class Representative’s Enhancement  
9 Award, and the Settlement Administrator’s Costs should be finally approved as fair,  
10 reasonable and adequate as to the members of the Class is scheduled in Department 1  
11 on the date and time set forth in the schedule in Paragraph 8 below.

12 4. This Court approves, as to form and content, the Notice of Proposed Class Action  
13 Settlement (“Notice Packet”) in the form attached to the Settlement Agreement and  
14 hereto as Exhibit A. The Court approves the procedure for Class Members to  
15 participate in, to opt out of, and to object to, the Settlement as set forth in the  
16 Settlement Agreement.

17 5. The Court directs the mailing of the Notice Packet by first class mail to the Class  
18 Members in accordance with the schedule set forth below. The Court finds the dates  
19 selected for the mailing and distribution of the Class Notice meet the requirements of  
20 due process and provide the best notice practicable under the circumstances and shall  
21 constitute due and sufficient notice to all persons entitled thereto.

22 6. It is hereby ordered that the Settlement Class is preliminarily certified for settlement  
23 purposes, which is defined as: all current and former non-exempt employees of  
24 Defendant who worked at any time during the period of time from August 25, 2016,  
25 through August 30, 2021, who received overtime pay and non-discretionary incentive  
26 pay covering the same time period, including without limitation, commissions and shift  
27 differentials.  
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7. The Court confirms ILYM Group, Inc. as the Settlement Administrator.
8. The Court orders the following schedule for further proceedings:

|    |                                                                                                                                                                |                                                                                                   |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| a. | Deadline for Defendant to Submit Class List and Data to Settlement Administrator                                                                               | 15 calendar days after Order granting Preliminary Approval, or by _____, 2022                     |
| b. | Deadline for Settlement Administrator to Mail the Class Notice                                                                                                 | 10 calendar days after receipt of Class Member information from Defendant                         |
| c. | Deadline for Class Members to Postmark Requests for Exclusions                                                                                                 | 45 calendar days after mailing of the Notice of Proposed Class Action Settlement to Class Members |
| d. | Deadline for Receipt by Court and Counsel of any Objections to Settlement                                                                                      | 45 calendar days after mailing of the Notice of Proposed Class Action Settlement to Class Members |
| e. | Deadline for Class Counsel to file Motion for Final Approval of Settlement and Approval of Attorneys' Fees, Costs, Administration Costs, and Enhancement Award | 16 Court days before Final Approval Hearing                                                       |
| f. | Final Fairness Hearing and Final Approval                                                                                                                      | _____ p.m. on _____, 2022                                                                         |

1       **IT IS SO ORDERED.**

2  
3       Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. SUNIL R. KULKARNI  
JUDGE OF THE SUPERIOR COURT