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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 FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTRY OF
JUDGMENT THEREON**

Date: August 25, 2022
Time: 1:30 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 This matter is now before the Court on 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 has read, heard, and considered all the pleadings
8 and documents submitted, and the presentations made in connection with the Motion which came on
9 for hearing on August 25, 2022.

10 **I. BACKGROUND**

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

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

24 **A. Class Members**

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

1 **B. Operation of the Settlement.**

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

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

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

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

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

24 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
25 FOLLOWS:

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

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

1 3. The Court finds that the dissemination of the Notice of Proposed Class Action
2 Settlement as disseminated to the Class Members, constituted the best notice practicable under the
3 circumstances to all Persons within the definition of the Class, and fully met the requirements of
4 California law and due process under the United States Constitution.

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

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

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

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

26 8. Defendant shall fund \$170,000.00 for the Gross Settlement Amount pursuant to the
27 terms of the Settlement Agreement.

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

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

2 10. The \$170,000.00 Gross Settlement Amount shall be used to pay (a) Class Counsel
3 attorneys' fees in the amount of \$56,666.67, and reimbursement of costs in the amount of \$14,906.50;
4 (b) a service award in the amount of \$7,500.00 to the Class Representative; and (c) \$5,000.00 to the
5 administrator ILYM Group ("Administrator") for its fees and costs relating to the settlement
6 administration process. The Court finds that these amounts are fair and reasonable. Defendant is
7 directed to make such payments in accordance with the terms of the Settlement Agreement. The
8 allocation and distribution of these amounts shall be performed by Claims Administrator.

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

14 12. The Court sets a compliance hearing for _____ p.m. on
15 _____, 2023. At least ten (10) court days before the hearing, Plaintiff shall
16 file the Administrator's Declaration and an Amended Proposed Judgment.

17 IT IS SO ORDERED AND ADJUDGED.

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19 Dated: _____

20 _____
21 HON. SUNIL R. KULKARNI
22 JUDGE OF THE SUPERIOR COURT
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