

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: Max W. Gavron FIRM NAME: DIVERSITY LAW GROUP STREET ADDRESS: 515 S. Figueroa Street, Suite 1250 CITY: Los Angeles TELEPHONE NO.: (213) 488-6555 E-MAIL ADDRESS: mgavron@diversitylaw.com ATTORNEY FOR (name): Plaintiff Marie Rebello Showalter		STATE BAR NO.: 291697 STATE: CA ZIP CODE: 90071 FAX NO.:	FOR COURT USE ONLY E-RECEIVED by Superior Court of CA, County of Santa Clara, on 11/28/2023 1:18 PM Reviewed By: R. Walker Case #21CV376845 Envelope: 13702493
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 N. First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Downtown Superior Court		CASE NUMBER: 21CV376845	
PLAINTIFF/PETITIONER: Marie Rebello Showalter DEFENDANT/RESPONDENT: Northern California Chair Corporation OTHER:		JUDICIAL OFFICER: Hon. Theodore C. Zayner	
PROPOSED ORDER (COVER SHEET)		DEPT: 19	

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
Plaintiff Marie Rebello Showalter
2. Title of the proposed order:
Amended [Proposed] Order Granting Plaintiff's Motion for Preliminary Approval of Class Action Settlement
3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: 11/1/2023
 - b. Date and time: 1:30pm
 - c. Place: Department 19
4. The proposed order was served on the other parties in the case.

Max W. Gavron

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:

Marie Rebelo Showalter v. Northern California Chair Corporation

CASE NUMBER:

21CV376845

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):

515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071

b. My electronic service address is (*specify*): olympia@diversitylaw.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):

Sara A. Moore and Ryan J. Greenspan of Gordon Rees Smith Mansukhani LLP on behalf of Defendant Northern California Chair Corporation

b. To (*electronic service address of person served*): smoores@grsm.com, rgreenspan@grsm.com

c. On (*date*): November 28, 2023

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 28, 2023

Olympia Pena

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

Envelope #13702493

Larry W. Lee (State Bar No. 228175)
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Attorneys for Plaintiff and the Class

FILED
November 30, 2023
Clerk of the Court
Superior Court of CA
County of Santa Clara

21CV376845

By: rwalker

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

MARIE REBELO SHOWALTER, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

NORTHERN CALIFORNIA CHAIR
CORPORATION, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 21CV376845

[Assigned for all purposes to the Honorable
Theodore C. Zayner, Department 19]

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

Date: November 1, 2023

Time: 1:30 P.M.

Dept.: 19

Complaint Filed: March 2, 2021

Jury Trial Date: None set

1 Plaintiff Marie Rebelo Showalter’s (“Plaintiff”) application for an Order Granting
2 Preliminary Approval of Class Action Settlement was filed with the Court on October 10, 2023, and
3 a hearing was held before this Court on November 1, 2023. Appearances for Plaintiff and
4 Defendant Northern California Chair Corporation (“Defendant”) were noted on the record.

5 I. INTRODUCTION

6 This is a putative class and representative action arising out of various alleged wage and
7 hour violations. The operative Class Action Complaint (“Complaint”), filed on March 2, 2021, sets
8 forth causes of action for: (1) Violation of Labor Code §§ 510, 558, and 1194; (2) Violation of
9 Labor Code §§ 226.7 and 512; (3) Violation of Labor Code § 2802; (4) Violation of Labor Code §
10 226; (5) Violation of Business and Professions Code §§ 17200, et seq.; and (6) Violation of Labor
11 Code §§ 2698, et seq. (“PAGA”).

12 The parties have reached a settlement. Plaintiff Marie Rebelo Showalter (“Plaintiff”) now
13 moves for preliminary approval of the settlement. The motion is unopposed.

14 II. LEGAL STANDARD

15 Generally, “questions whether a settlement was fair and reasonable, whether notice to the
16 class was adequate, whether certification of the class was proper, and whether the attorney fee
17 award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple*
18 *Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.*
19 (1996) 48 Cal.App.4th 1794 (*Dunk*).)

20 In determining whether a class settlement is fair, adequate and reasonable, the trial court
21 should consider relevant factors, such as “the strength of plaintiffs’ case, the risk, expense,
22 complexity and likely duration of further litigation, the risk of maintaining class action
23 status through trial, the amount offered in settlement, the extent of discovery completed and
24 the stage of the proceedings, the experience and views of counsel, the presence of a
25 governmental participant, and the reaction of the class members to the proposed settlement.”
(*Wershba*, supra, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, supra, 48 Cal.App.4th at p. 1801 and
Officers for Justice v. Civil Service Com’n, etc. (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

1 “The list of factors is not exclusive, and the court is free to engage in a balancing and
2 weighing of factors depending on the circumstances of each case.” (*Wershba*, supra, 91 Cal.App.4th
3 at p. 245.) The court must examine the “proposed settlement agreement to the extent necessary to
4 reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or
5 collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair,
6 reasonable and adequate to all concerned.” (Ibid., quoting *Dunk*, supra, 48 Cal.App.4th at p. 1801
7 and *Officers*, supra, 688 F.2d at p. 625, internal quotation marks omitted.)

8 The burden is on the proponent of the settlement to show that it is fair and reasonable.
9 However “a presumption of fairness exists where: (1) the settlement is reached through
10 arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and
11 the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the
percentage of objectors is small.”
(*Wershba*, supra, 91 Cal.App.4th at p. 245, citing *Dunk*, supra, 48 Cal.App.4th at p. 1802.)

12 III. DISCUSSION

13 A. Provisions of the Settlement

14 The case has been settled on behalf of the following class: [A]ll current and former non
15 exempt sales employees who worked for Defendant [Northern California Chair Corporation
16 (“Defendant”)] in California any time between May 1, 2019 and July 11, 2023, inclusive.
(Declaration of Max W. Gavron in Support of Plaintiff’s Motion for Preliminary Approval of Class
17 Action Settlement (“Gavron Dec.”), Ex. A (“Settlement Agreement”), ¶¶ 1.9, 1.10, 1.17.) The class
18 also contains a subset of aggrieved employees that are defined as “all current and former non-
19 exempt sales employees who worked for Defendant in California during the PAGA Period.” (Id. at
20 ¶ 1.3.) The PAGA Period is defined as the period from February 12, 2020 through July 11, 2023.
(Id. at ¶ 1.33.)

21 According to the terms of settlement, Defendant will pay a gross, non-reversionary amount
22 of \$500,000. (Settlement Agreement, ¶¶ 1.22, 3.1.) The gross settlement amount includes attorney
23 fees of \$166,667 (1/3 of the gross settlement amount), litigation costs not to exceed \$25,000, a
24 service award for the class representative not to exceed \$10,000, settlement administration costs not
25 to exceed \$8,250, and a PAGA allocation of \$5,000 (75 percent of which will be paid to the LWDA
26

and 25 percent of which will be paid to the aggrieved employees). (Id. ¶¶ 1.2, 1.8, 1.12, 1.22, 1.26, 1.32, 1.42, 3.1, 6.2-6.5.)

The net settlement amount will be distributed to the class members on a pro rata basis based on the number of workweeks worked during the Class Period. (Settlement Agreement, ¶¶ 1.27, 3.2, 6.6.) Similarly, aggrieved employees will receive a pro rata share of the 25 percent portion of the PAGA payment allocated to them based on the number of workweeks worked during the PAGA Period. (Id. ¶¶ 1.32, 6.5.)

Checks remaining uncashed more than 180 days after mailing will be void and the funds from those checks will be distributed to Legal Aid at Work. (Settlement Agreement, ¶ 6.9.) The cy pres recipient is approved.

In exchange for the settlement, class members agree to release Defendant, and related persons and entities, from all claims that were or could have been asserted in this action reasonably based on the facts alleged in this action. (Settlement Agreement, ¶¶ 1.6, 1.39, 7.1.) The aggrieved employees agree to release Defendant, and related persons and entities, from claims for civil penalties sought under PAGA reasonably based on the facts alleged in the Complaint. (Id. at ¶¶ 1.31, 1.37, 7.2.) Plaintiff further agrees to a general release. (Id. at ¶ 7.3.)

B. Fairness of the Settlement

Plaintiff asserts that the settlement is fair, reasonable, and adequate, given the strength of her claims, the inherent risks of litigation, including substantial risks relative to class certification and the merits of the claims, and the costs of pursuing litigation. Shortly after Plaintiff initiated the action, Defendant provided Plaintiff with informal discovery, which included data and information pertaining to the number of putative class members, a sampling of time and payroll records, and information pertaining to Defendant's commission pay and wage statement policies and practices. (Gavron Dec., ¶¶ 5, 6, 24, 25.) Subsequently, the parties attended mediation with Honorable Brian Walsh (Ret.), which was unsuccessful. (Id. at ¶ 6.) The parties then commenced formal discovery,

1 including written discovery and the mailing of a Belaire-West notice for the disclosure of the
2 putative class members' identities and contact information. (Id. at ¶¶ 5, 6, 24, 25.) Thereafter, the
3 parties continued to engage in arms-length negotiations and later reached a settlement agreement.
4 (*Ibid.*) Plaintiff estimates that Defendant faced a maximum potential liability of \$3,176,080 for all
5 claims. (Id. at ¶¶ 9- 17.) Plaintiff provides a detailed breakdown of this amount by claim. (*Ibid.*)
6 Plaintiff asserts that for the approximately 240 class members, the average recovery is
7 approximately \$1,000.35 per class member. (Id. at ¶ 20.)

8 The settlement represents approximately 15.7 percent of the maximum potential value of
9 Plaintiff's claims. The proposed settlement amount is within the general range of percentage
10 recoveries that California courts have found to be reasonable. (See *Cavazos v. Salas Concrete, Inc.*
11 (E.D.Cal. Feb. 18, 2022, No. 1:19-cv-00062-DAD-EPG) 2022 U.S.Dist.LEXIS 30201, at *41-42
12 [citing cases listing range of 5 to 25-35 percent of the maximum potential exposure].)

13 Overall, the court finds the settlement is fair. The settlement provides for some recovery for
14 each class member and eliminates the risk and expense of further litigation.

15 C. Incentive Award, Fees, and Costs

16 Plaintiff requests an incentive award of \$10,000 for the class representative. The rationale
17 for making enhancement or incentive awards to named plaintiffs is that they should be
18 compensated for the expense or risk they have incurred in conferring a benefit on other
19 members of the class. An incentive award is appropriate if it is necessary to induce an
20 individual to participate in the suit. Criteria courts may consider in determining whether to
21 make an incentive award include: 1) the risk to the class representative in commencing suit,
22 both financial and otherwise; 2) the notoriety and personal difficulties encountered by the
23 class representative; 3) the amount of time and effort spent by the class representative; 4)
24 the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the
25 class representative as a result of the litigation. These "incentive awards" to class
26 representatives must not be disproportionate to the amount of time and energy expended in
27 pursuit of the lawsuit.
28 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, quotation marks,
brackets, ellipses, and citations omitted.) Prior to the final approval hearing, the class
representative shall file a supplemental declaration specifically detailing her participation in the

1 action and an estimate of the time spent. The court will make a determination at that time.

2 The court also has an independent right and responsibility to review the requested attorney
3 fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular*
4 *Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel will seek attorney fees of
5 \$166,667 (1/3 of the gross settlement fund). Plaintiff's counsel shall submit lodestar information
6 (including hourly rates and hours worked) prior to the final approval hearing in this matter so the
7 court can compare the lodestar information with the requested fees. Plaintiff's counsel shall also
8 submit evidence of actual costs incurred as well as settlement administration costs.

9 D. Conditional Certification of Class

10 Plaintiff requests that the putative class be conditionally certified for purposes of the
11 settlement. Rule 3.769(d) of the California Rules of Court states that "[t]he court may make an
12 order approving or denying certification of a provisional settlement class after [a] preliminary
13 settlement hearing." California Code of Civil Procedure Section 382 authorizes certification of a
14 class "when the question is one of a common or general interest, of many persons, or when the
15 parties are numerous, and it is impracticable to bring them all before the court" As interpreted
16 by the California Supreme Court, Section 382 requires: (1) an ascertainable class; and (2) a well-
17 defined community of interest among the class members. (*Sav-On Drug Stores, Inc. v. Superior*
18 *Court* (2004) 34 Cal.4th 319, 326.)

19 The "community-of-interest" requirement encompasses three factors: (1) predominant
20 questions of law or fact; (2) class representatives with claims or defenses typical of the class; and,
21 (3) class representatives who can adequately represent the class. (*Sav-On Drug Stores, Inc. v.*
22 *Superior Court, supra*, 34 Cal.4th at p. 326.) "Other relevant considerations include the probability
23 that each class member will come forward ultimately to prove his or her separate claim to a portion
24 of the total recovery and whether the class approach would actually serve to deter and redress
25 alleged wrongdoing." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the

burden of establishing that class treatment will yield “substantial benefits” to both “the litigants and to the court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

As explained by the California Supreme Court,

The certification question is essentially a procedural one that does not ask whether an action is legally or factually meritorious. A trial court ruling on a certification motion determines whether the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants. (*Sav-On Drug Stores, Inc. v. Superior Court, supra*, 34 Cal.4th at p. 326, internal quotation marks, ellipses, and citations omitted.)

Plaintiff states there are approximately 240 class members that can be ascertained from Defendant’s records. There are common questions regarding whether class members were subjected to common practices that violated wage and hour laws. No issue has been raised regarding the typicality or adequacy of Plaintiff as class representative. In sum, the court finds that the proposed class should be conditionally certified for settlement purposes.

E. Class Notice

The content of a class notice is subject to court approval. “If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court.” (Cal. Rules of Court, rule 3.769(f).)

The notice generally complies with the requirements for class notice. (Settlement Agreement, Ex. B.) It provides basic information about the settlement, including the settlement terms, and procedures to object or request exclusion.

However, the court requires a slight modification of sections 12 and 13 of the class notice, which contain language regarding the final approval hearing. That language shall be modified as follows:

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be

1 reviewed in advance. Class members who wish to appear remotely are encouraged to
2 contact class counsel at least three days before the hearing if possible, so that potential
3 technology or audibility issues can be avoided or minimized.

4 The amended notice shall be provided to the court for approval prior to mailing.

5 Having considered the Class Action and PAGA Settlement Agreement (“Agreement”) and
6 all other papers filed in this action, the Court HEREBY FINDS AND ORDERS as follows:

7 1. This Court grants preliminary approval of the Agreement between Plaintiff and
8 Defendant filed herewith. The Agreement appears to be fair, adequate, and reasonable to the Class.

9 2. The Class Representative and Defendant (hereafter, “Settling Parties”), through their
10 counsel of record in the Litigation, have reached an agreement to settle the class and PAGA claims
11 in the Litigation as set forth in the Settlement Agreement, on behalf of the Class (as defined below
12 and in the Agreement).

13 3. The Court hereby conditionally certifies the following Class for settlement purposes
14 only: all current and former non-exempt sales employees who worked for Defendant in California
15 any time between May 1, 2019 and July 11, 2023, inclusive (the “Class” or “Class Members”).

16 Should for whatever reason the Agreement not become Final, the fact that the Parties were
17 willing to stipulate to certification of a class as part of the Agreement shall have no bearing on, or
18 be admissible in connection with, the Litigation or the issue of whether a class should be certified in
19 a non-settlement context.

20 4. The Court appoints and designates: (a) Plaintiff Marie Rebelo Showalter as the Class
21 Representative and (b) Larry W. Lee and Max W. Gavron of Diversity Law Group, P.C. as Class
22 Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to all
23 acts or consents required by, or which may be given, pursuant to the Agreement, and such other acts
24 reasonably necessary to finalize the Agreement and its terms. Any Class Member may enter an
25 appearance through his or her own counsel at such Class Member’s own expense. Any Class
26 Member who does not enter an appearance or appear on his or her own behalf will be represented

by Class Counsel.

5. The Court hereby approves the terms and conditions provided for in the Agreement. The Court finds that on a preliminary basis the Agreement falls within the range of reasonableness of a settlement, including the amount of the PAGA penalties, and appears to be presumptively valid, subject only to any objections that may be raised at the final fairness hearing and final approval by the Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when balanced against the probable outcome of further litigation relating to liability, class certification, and damages issues. It also appears that investigation and research into the claims, liability, and damages have been conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement at this time will avoid substantial additional costs by all Settling Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Litigation. It also appears that settlement has been reached as a result of intensive, serious, and non-collusive arm's-length negotiations.

6. A final fairness hearing on the question of whether the proposed Agreement, the allocation of payments to Class Members, attorneys' fees and costs to Class Counsel, payment to the Settlement Administrator, payment to the Labor Workforce & Development Agency and Aggrieved Employees, and the service award to the Class Representative should be finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set for May 8, 2024, at 1:30 p.m. in this Court. The Motion for Final Approval shall be filed by the Class Representative no later than sixteen (16) court days before the final fairness hearing.

7. The Court hereby approves, as to form and content, the Amended Notice of Proposed Class Action Settlement ("Notice of Settlement") to be sent to Class Members, which is attached to this Order as **Exhibit A**. The Court finds that distribution of the Notice of Settlement to Class Members substantially in the manner and form set forth in the Agreement and this Order

meets the requirements of due process and shall constitute due and sufficient notice to all parties entitled thereto.

8. The Court appoints and designates Phoenix Settlement Administrators as the Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the approved Notice of Settlement to Class Members using the procedures set forth in the Agreement.

9. Any Class Member may choose to opt out of and be excluded from the Settlement as provided in the Agreement and Notice of Settlement, and by following the instructions for requesting exclusion. Any person who timely and properly opts out of the Settlement will not be bound by the Agreement except for the Precluded PAGA Claims, from which there is no opt out, or have any right to object, appeal, or comment thereon. Any Requests for Exclusion must be in writing and signed by each such Class Member opting out and must otherwise comply with the requirements delineated in the Notice of Settlement. Class Members who have not requested exclusion by submitting a valid and timely request by the deadline shall be bound by all determinations of the Court, the Agreement, and Judgment.

10. Any Class Member may object to the Agreement or express his or her views regarding the Agreement, and may present evidence and file briefs or other papers that may be proper and relevant to the issues to be heard and determined by the Court as provided in the Notice of Settlement.

11. The Court reserves the right to adjourn or continue the date of the Settlement Fairness Hearing and all dates provided for in the Agreement without further notice to the Class, and retains jurisdiction to consider all further applications arising out of or connected with the Agreement.

IT IS SO ORDERED.

DATED: November 30, 2023



HON. THEODORE C. ZAYNER
SUPERIOR COURT OF CALIFORNIA

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Marie Rebelo Showalter v. Northern California Chair Corporation

Santa Clara County Superior Court, Case No. 21CV376845

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To:	all current and former non-exempt sales employees who worked for Defendant in California any time between May 1, 2019, and July 11, 2023 (“Class Members”).
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BASIC INFORMATION

1. What is this settlement about?

A lawsuit was commenced by Marie Rebelo Showalter (“Plaintiff” or “Class Representative”) against Northern California Chair Corporation (“Defendant”) on March 2, 2021. The case is currently pending in the Santa Clara County Superior Court, Case No. 21CV376845.

The lawsuit claims that Defendant violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendant failed to provide compliant meal periods, did not properly pay employees all overtime wages owed for time worked, did not provide complete, accurate wage statements, did not reimburse business expenses, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act of 2004 (“PAGA”). The lawsuit claims that as a result of the alleged violations, Plaintiff and Class Members are entitled to recover damages, penalties and restitution. Defendant denies all alleged violations and denies that they owe Class Members any remedies. The Court has not made a ruling on the merits of the case.

2. Why is this a class action?

In a class action, one or more people called the Class Representative sue on behalf of people who appear to have similar claims. All these people are referred to here as Class Members. In a class action, one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Santa Clara County Superior Court is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement which is memorialized in the Class and PAGA Action Settlement Agreement (“Agreement” or “Settlement”). On [DATE OF PRELIMINARY APPROVAL] the Court granted preliminary approval of the Settlement, appointed Plaintiff Marie Rebelo Showalter as the Class Representative, and appointed her attorneys at Diversity Law Group, P.C. as counsel for the Class (“Class Counsel”).

The Class Representative and Class Counsel think the Settlement is best for the Class.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you were employed by Defendants as a non-exempt sales employees who worked for Defendant in California any time between May 1, 2019, and July 11, 2023 (the “Class Period”).

You are also an Aggrieved Employee, if you were employed by Defendants as a non-exempt sales employees who worked for Defendant in California any time between February 12, 2020, and July 11, 2023 (the “PAGA Period”).

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the settlement provide?

The Settlement provides that Defendant will pay a maximum of Five Hundred Thousand Dollars (\$500,000.00) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed one-third of the Gross Settlement Amount or One Hundred Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$166,667.00);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Twenty-Five Thousand Dollars (\$25,000.00);
- C. **Class Representative Enhancement Payment** in an amount not to exceed Ten Thousand Dollars (\$10,000.00);
- D. **Settlement Administration Costs** which are currently estimated to be Eight Thousand Two Hundred and Fifty Dollars (\$8,250.00); and
- E. **PAGA Payment** in the amount of Fifty Thousand Dollars (\$50,000.00) for the settlement of claims arising under the PAGA. Seventy-Five percent (75%) of this amount, (\$37,500.00) shall be paid to the California Labor & Workforce Development Agency. The remaining twenty-five percent (25%) (\$12,500.00) will be distributed to the Aggrieved Employees, for the release of their claims as set forth in the PAGA Release, described below in Section 7.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment” will be determined on a *pro rata* basis, based on the number of pay periods you worked in California as a non-exempt sales employee who worked for Defendant in California any time between May 1, 2019 and July 11, 2023 (“Pay Periods”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Payment.

[ONLY FOR PAGA MEMBERS] Your share of the PAGA Payment is calculated on a *pro rata* basis based on the total number of weeks you worked (full or partial) worked by each Aggrieved Employee during the PAGA Period. This portion of the Settlement will be categorized as 100% penalties and subject to an IRS Form 1099.]

Your Individual Settlement Payment will be apportioned as thirty percent (30%) wages, seventy percent (70%) interest and penalties. The wage portion of the Individual Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of each class member's settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX pay periods during the Class Period. Your Individual Settlement Payment is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This Amount was determined based on Defendant's record of your employment between May 1, 2019, through July 11, 2023, and is presumed correct. If you dispute the accuracy of Defendant's records as to the number of pay periods during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by [DATE]. All disputes regarding your Pay Periods will be resolved and decided by the Parties or if the Parties cannot agree, the Court, after you submit evidence to the Settlement Administrator. The Settlement Administrator's contact information is listed below:

[Settlement Administrator]
[Address]
[Telephone No].
[Fax No.]

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the funding of the Gross Settlement Amount by Defendant and entry of Final Approval Order and Final Judgment by the Court, in exchange for the consideration set forth by the Settlement, Class Members who do not submit a timely request for exclusion will release the "Released Parties" from the "Released Class Claims" for the "Class Period."

The "Released Parties" means Defendant Northern California Chair Corporation, and all of its parent companies, subsidiaries, divisions, concepts, related or affiliated companies, and its or their respective shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Class Claims.

The "Released Class Claims" means any and all claims arising during the Class Period, inclusive, under state or local law, reasonably arising out of the factual allegations and claims pleaded in the Complaint in this Action (i.e., Violations of Labor Code §§ 226, 226.7, 510, 512, 558, 1194, 2698, and 2802; Business and Professions Code § 17200, et seq.) and all other claims, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law, that could have been pleaded based on the facts asserted in the Action, including: (1) failure to provide meal periods; (2) inaccurate wage statements; (3) failure to pay all overtime wages owed; (4) failure to reimburse employees for all necessary business expenses; (5) all violations

of the applicable Wage Orders based on the facts alleged in the Complaint; (7) all violations of California's unfair competition law based on the facts alleged in the Complaint; and (9) interest, fees, and costs.

All Aggrieved Employees will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all of the claims articulated in the "PAGA Release" with respect to all of the Released Parties irrespective of whether a Class Member submits a request for exclusion.

"PAGA Release" means the following release: all rights to PAGA claims premised on Labor Code §§ 226, 226.7, 510, 512, 558, 1194, 2802 and based on the facts alleged in the Complaint and any interest, fees, and costs arising during the PAGA Period (the "Precluded PAGA Claims").

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Released Parties with respect to the Released Class Claims (other than those which fall within the definition of the PAGA Release), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive your share of payment from the Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Payment because the Request for Exclusion does not apply to this claim.

8. How can I not participate in the Settlement?

To exclude yourself from the release of Released Class Claims you must submit a written request for exclusion. You must include your name, address, telephone number and the last four digits of your social security number. Your request for exclusion must also include a statement that you do not wish to be included in this action similar to the following: "I wish to exclude myself from the class action settlement reached in the matter of *Marie Rebelo Showalter v. Northern California Chair Corporation*."

The written for Exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]

[Address]

[Telephone No.]

[Fax No.]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You may still receive a portion of the PAGA Payment if you worked during the PAGA Period, because the request for exclusion does not apply to the PAGA Release. You will not be legally bound by the release of Released Class Claims.

If you exclude yourself, you may be able to sue Defendant and/or the Released Parties or continue any suit you have pending against Defendant or the Released Parties, regarding the Released Class Claims (except for Released Class Claims that fall within the definition of the PAGA Release).

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court has approved Diversity Law Group, P.C. as Class Counsel. The firm's contact information is:

DIVERSITY LAW GROUP, P.C.

Larry W. Lee, Esq.
lwlee@diversitylaw.com
Max W. Gavron, Esq.
mgavron@diversitylaw.com
515 S. Figueroa Street, Suite 1250
Los Angeles, California 90071
Telephone: (213) 488-6555

Class Counsel will ask the Court for attorneys' fees of up to \$166,667.00 and reimbursement of litigation cost/expenses of up to \$25,000.00. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

10. What if I want to object to this settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you should mail your written objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, the specific reasons for your objection, and evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider. You may also come to the Final Approval Hearing on [DATE] and make an objection at that time, regardless of whether you submitted a written objection. Instructions on how to do so are in Section 12, below.

11. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FAIRNESS HEARING

12. When and where will the Court decide whether to approve the settlement?

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend. The Court will hold the Final Approval Hearing at [REDACTED] p.m. on [REDACTED], 2023] in Department 19 of the Santa Clara County Superior Court located at 191 North First Street, San Jose, California 95113.

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

13. Do I have to come to the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf.

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

IF YOU DO NOTHING

14. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Class Claims. You will not be able to participate in any other lawsuit against Defendants or Released Parties about the Released Class Claims, ever again. Your Individual Settlement Payment will be mailed to you and remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days, these funds will be paid to Legal Aid at Work, a non-profit legal entity, to further the objectives of the underlying class action, or promote the law consistent with the objectives of the underlying class action.

GETTING MORE INFORMATION

15. How do I get more information?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Santa Clara County Superior Court, located at 191 N. First Street, San Jose, CA 95113, and may also be reviewed online at [[insert court website link](#)].

WHAT IF MY INFORMATION CHANGES?

16. What if my contact information changes?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO
THE CLERK OF THE COURT OR THE JUDGE.**

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

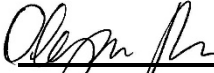
I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On November 28, 2023, I served the following document(s) described as: **AMENDED [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action as follows:

Sara A. Moore
smoore@grsm.com
Ryan J. Greenspan
rgreenspan@grsm.com
GORDON REES SCULLY MANSUKHANI LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111
Attorneys for Defendant Northern California Chair Corporation

 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the Odyssey eFileCA E-Filing System at the website www.california.tylerhost.net, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 28, 2023, at Los Angeles, California.



Olympia Peña