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DAVID PATTERSON, and the putative class

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN JOAQUIN

11 DAVID PATTERSON,

12 Plaintiff,

13 v.

14
15 SCHELL & KAMPETER, INC., and DOES 1-10,
inclusive,

16 Defendants.

17
18 ETHAN STARR, individually and on behalf of all
19 others similarly situated,

20 Plaintiff,

21 v.

22 SCHELL & KAMPETER, INC., and DOES 1-10,
23 inclusive,

24 Defendants.

Lead Case No: STK-CV-UOE-2020-9296
Case No.: STK-CV-UOE-2021-4585

NOTICE OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

Date: _____, 2022
Time: 9:00 a.m.
Dept: 10D
Judge: Hon. Barbara Kronlund

1 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 PLEASE TAKE NOTICE THAT, on _____, 2022 at 9:00 a.m. in Department
4 10D of the above-captioned court, located at 180 E. Weber Avenue, Stockton, California 95202, or
5 as soon thereafter as this matter can be heard, Plaintiffs Ethan Starr and David Patterson
6 (“Plaintiffs”) will bring on for hearing before the Honorable Barbara Kronlund this Motion for
7 Preliminary Approval of Class Action Settlement (the “Motion”). The Motion respectfully requests
8 the Court grant:

- 9 1. Preliminary approval of the settlement and conditional certification of the Class
10 described in the proposed Joint Stipulation and Settlement Agreement (“Settlement
11 Agreement”);
- 12 2. Preliminary approval of Plaintiffs Ethan Starr and David Patterson as Class
13 Representatives;
- 14 3. Preliminary approval of Mayall Hurley P.C., by and through Lead Counsel William J.
15 Gorham, Vladimir J. Kozina, and Robert J. Wasserman as Class Counsel;
- 16 4. Preliminary approval of the Settlement Agreement, finding it to be fair, reasonable,
17 adequate, and in the best interest of the Class;
- 18 5. Approval as to the form and content of the proposed Class Notice, a copy of which is
19 attached as Exhibit A to the Settlement Agreement;
- 20 6. Approval as to the method of notice described in the Settlement Agreement;
- 21 7. Authorization for dissemination of the Class Notice pursuant to the terms of the
22 Settlement Agreement;
- 23 8. An order appointing and approving Atticus Administration, LLC as Claims
24 Administrator, and for preliminary approval of the costs of administration of the
25 Qualified Settlement Fund for an amount, as declared, not to exceed \$15,000;
- 26 9. Preliminary approval of the proposed PAGA allocation and payment to the LWDA;
- 27 10. Preliminary approval of Service Payments in the amount of \$10,000 each to Plaintiffs
28 Starr and Patterson in consideration for their service as Class Representatives;

- 1 11. Preliminary approval of fees to Class Counsel in the amount of \$255,000 to Mayall
2 Hurley, P.C. and declared costs of up to \$15,000;
- 3 12. An Order of Preliminary Approval containing a schedule for the implementation of the
4 terms of the Settlement Agreement, including deadlines for the mailing the notice, the
5 filing of opt-outs and/or objections, and the filing of papers in connection with the Final
6 Approval Hearing; and
- 7 13. An order setting the Final Approval Hearing for the Court to consider final approval of
8 the Settlement Agreement and its terms, as well as an award of attorneys' fees and costs
9 for Class Counsel, and the Service Payments for Plaintiffs.

10 This Motion is based on the Notice of Motion; the Memorandum of Points and Authorities; the
11 accompanying Declaration of Vladimir J. Kozina, with exhibits (including the Settlement Agreement);
12 the pleadings, orders, and other papers on file in this matter; and any further evidence and arguments
13 as may be presented at the hearing of this matter.

14 PLEASE TAKE FURTHER NOTICE that the San Joaquin County Superior Court utilizes a
15 tentative ruling system. Judges assigned to civil law and motion matters will prepare a tentative
16 ruling for each matter on calendar and a ruling will be available to counsel and litigants on the first
17 court day before the scheduled hearing. If the tentative ruling is satisfactory to counsel, he or she
18 need not appear and the tentative ruling will become final. If counsel or self-represented litigants
19 (SRL) wishes to appear, he or she may do so only after appropriately notifying the court and other
20 counsel or SRL of that intent. The tentative ruling shall become the ruling of the court unless there is
21 opposition by counsel or SRL. Counsel or self-represented litigants is responsible for reviewing the
22 tentative ruling and notifying the superior court, by calling (209) 992-5714, and all other counsel and
23 self-represented litigants no later than 4:00 p.m. on the day preceding the scheduled hearing of his or
24 her intent to appear to argue. The tentative rulings will be posted to the court's website:
25 www.sjcourts.org. Counsel or self-represented litigants may access the court's website beginning at
26 1:30 p.m. on the court day immediately preceding the date for which a matter is calendared.

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MAYALL HURLEY P.C.

DATED: June 14, 2022

By _____

WILLIAM J. GORHAM, III

VLADIMIR J. KOZINA

Attorneys for Plaintiffs and the Putative Class