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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JAMES PACKES, in a Representative
capacity only, and on behalf of other
members of the general public similarly
situated,

Plaintiff,

v.

SCHOOL OF ROCK LLC, a Delaware
Limited Liability Company; and DOES 1-10,
inclusive

Defendants

CASE NO. 30-2021-01217507-CU-OE-CXC

**SUPPLEMENTAL MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF PLAINTIFF'S UNOPPOSED
MOTION FOR FINAL APPROVAL OF (1)
CLASS ACTION SETTLEMENT; (2)
ATTORNEYS' FEES AND COSTS; and (3)
CLASS REPRESENTATIVE AWARD**

Date: July 28, 2023
Time: 10:00 a.m.
Dept.: CX105
Judge: Hon. Randall J. Sherman

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1 **I. SUPPLEMENTAL BRIEFING**

2 Plaintiff's original motion for final approval of a class action settlement was heard by this Court
3 on May 5, 2023. The Court's final ruling asked Plaintiff to make modifications to the settlement
4 agreement and the [Proposed] Order and Judgment. (See ROA # 90). The parties have made all
5 changes requested by the Court. The Court also asked for additional information which is provided
6 herein.

7 Other than the changes made addressed herein, Plaintiff incorporates by reference all other facts
8 and arguments previously briefed which she maintains support final approval of this settlement.

9 The following sub-headers all track sequentially with the issues raised in the Court's ruling
10 from May 5, 2023.

11 **1. Explanation for Reduction in the Number of Class Members**

12 At the time of mediation (in or around March of 2022) the Defendant's records estimated that
13 there would be approximately 6,942 workweeks and approximately 145 employees that would have
14 worked from the beginning of the limitations period through the time of settlement. Yaeckel decl. ¶
15 3; See ROA # 26 Ex 1 at para. 47). The original preliminary approval hearing was set for August 26,
16 2022.

17 However, the Court requested supplemental briefing. Preliminary approval was eventually
18 granted, but not until January 6, 2023.

19 The settlement class definition included at that time:

20 All current and former hourly non-exempt persons employed by Defendant School of Rock,
21 LLC and SOR Schools VI, LLC, in the State of California between April 1, 2018, though the
date of preliminary approval of the settlement." (ROA #71).

22 However, the settlement agreement also contained an "escalator" and "de-escalator" clause
23 (See ROA # 26 at para. 47). This clause gave Defendant the following option following preliminary
24 approval:

25 If it is later determined that the number of workweeks is more than 10% greater than the 6,942
26 estimated by Defendant at the time of the Parties' exchange of information for purposes of
mediation, then ***Defendant shall, in its sole discretion, have the option to either: (1)***
27 ***de-escalate the Settlement so that the Class Period ends on the date that the workweek count***
28 ***totals 6,942; or (2) permit the Class Period to be increased proportionally by the workweeks***
worked in excess of 7636 multiplied by the workweek value. (See ROA # 26 Ex 1 at para. 47)

1 Because preliminary approval took longer than originally expected, the escalator clause was
2 triggered and Defendant exercised option 1 to “de-escalate” the settlement so that the Class period
3 ended on November 19, 2021 when the workweek count reached 6,942 . Once the class was “capped”
4 as of that date Defendant’s records showed that there was only 126 employees. (Sarno declaration).

5 The data for these employees were all provided to the settlement administrator who caused all
6 of these 126 individuals to be notified. (Sarno declaration).

7 Accordingly, for purposes of final approval the final settlement class was compromised of:

8 All current and former hourly non-exempt persons employed by Defendant School of Rock,
9 LLC and SOR Schools VI, LLC, in the State of California between April 1, 2018, through
November 19, 2021.

10 The amended proposed order submitted with this supplemental filing was amended to be
11 consistent with the above.

12 **2. The High, Low, and Average Payments to the Aggrieved Employees**

13 The Settlement Administrator previously provided high, low and average recoveries for each
14 participating class member. Plaintiff apologizes for not more clearly highlighting these figures for the
15 Court.

16 The average recovery for each participating class member is \$976.00. (See ROA #78:Johnson
17 decl. ¶ 16.)

18 The highest recovery for any participating class member is \$3,284.40. (See ROA #78: Johnson
19 Johnson decl. ¶ 16.)

20 The lowest recovery for any participating class member is \$38.16. (See ROA #78: Johnson
21 Johnson decl. ¶ 16.)

22 **3. Detailed Breakdown of Attorneys’ Fees**

23 A much more detailed breakdown of the attorneys hours expended on this case has been
24 provided for the Court’s review. (See Yaeckel decl. ¶¶ 5-9).

25 **4. Additional Foundation for Attorney Costs**

26 Plaintiff has submitted further details and invoices as back up for the costs. Plaintiff will write
27 off certain costs and limits the costs request to the amount of **\$8,652.22**. (See Yaeckel decl. ¶ 10;
28

Exhibits A-C.)

5. Administrator Fee Request

In line with the Court's ruling, the Administration costs will be capped at \$3,000. Class counsel will agree to pay the administrator out of its own fee award to make up the difference. (Yaeckel decl. 11).

6. Changes to the [Proposed] Order and Judgment

Plaintiff has modified the [Proposed] Order and Judgment to identify the putative class member who opted out and thus will not be bound by the judgment. (See Proposed Order para. ¶ 6.)

The [Proposed] Order and Judgment now confirms that the Notice of the Judgment will be posted on the administrator's website. (See Proposed Order para. ¶ 15.)

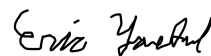
7. Proposal for a Final Report Hearing Date

Assuming Final Approval is granted at the July 28, 2023, hearing, the parties request a hearing that is 9 approximately months out from that date, as there is an 180 day check cashing period. (ROA # 26 Ex 1 at para. 58).

In line with the above, Plaintiff suggests a hearing on or around May 31, 2024.

Dated: July 6, 2022

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