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on behalf of himself and others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

ULISES HERNANDEZ, on behalf of himself  
and others similarly situated,

Plaintiff,

vs.

GEMSA ENTERPRISES, LLC; and DOES 1 to  
100, inclusive,

Defendants.

Case No.: 21STCV28509

**CLASS ACTION**

*[Assigned for all purposes to the Hon. Stuart M.  
Rice, Dept. 1]*

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

*[Filed concurrently with Notice of Motion and  
Motion for Preliminary Approval of Class Action  
Settlement; Declaration of Vincent C. Granberry  
in Support Thereof]*

Hearing Information:

Date: November 1, 2023

Time: 10:30 AM

Dept.: 1

**FILED**  
Superior Court of California  
County of Los Angeles

**11/01/2023**

David W. Slayton, Executive Officer / Clerk of Court

By: A. He Deputy

1  
2  
3 The Motion for Preliminary Approval of a Settlement came before this Court on November  
4 1, 2023 at 10:30 AM in Department 1 of the Los Angeles County Superior Court Courthouse located  
5 at 312 North Spring Street, Los Angeles, California 90012. The Court, having considered the  
6 proposed Joint Stipulation of Class Action Settlement and Release, attached as **Exhibit 1** to the  
7 Declaration of Vincent C. Granberry in Support of Plaintiff's Motion for Preliminary Approval of  
8 Class Action Settlement, and the Exhibits attached thereto (hereafter collectively, the  
9 "Stipulation"); having considered the Motion for Preliminary Approval of Class Action Settlement  
10 filed by the parties; having considered the respective points and authorities and declarations  
11 submitted by the parties in support thereof; and good cause appearing, **HEREBY ORDERS THE**  
12 **FOLLOWING:**

13 The Court grants preliminary approval of the settlement as set forth in the Stipulation and  
14 finds the terms to be within the range of reasonableness of a settlement that ultimately could be  
15 granted approval by the Court at the final Fairness Hearing. For purposes of the settlement, the  
16 Court finds that the proposed settlement class is ascertainable and that there is a sufficiently well-  
17 defined community of interest among the Class in questions of law and fact. Therefore, for  
18 settlement purposes only, the Court grants conditional certification of the following "Settlement  
19 Class" defined as follows:

20 Any and all current and former hourly non-exempt employees of  
21 Defendant in California during August 3, 2017, through August 31, 2022.

22 1. For purposes of the settlement, the Court further designates named Plaintiff  
23 ULISES HERNANDEZ as Class Representative, and Joseph Lavi, Esq. and Vincent C. Granberry,  
24 Esq. of Lavi & Ebrahimian, LLP as Class Counsel.

25 2. The Court appoints Phoenix Class Action Administration Solutions as the Settlement  
26 Administrator.

27 3. A final fairness hearing on the question of whether the proposed settlement should  
28 be finally approved as fair, reasonable and adequate as to the members of the Settlement Class is

1 scheduled in Department 1 of this Court, on May 8, 2024, at 10:30 a.m./~~p.m.~~, or another date and  
2 time which is convenient to the Court.

3 4. At the final fairness hearing, the Court will consider: (a) whether the settlement  
4 should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment granting  
5 approval of the settlement should be entered; and (c) whether Plaintiff's application for an award of  
6 attorneys' fees, reimbursement of litigation expenses, and class representative enhancement should  
7 be granted.

8 5. Counsel for the parties shall file memoranda, declarations, or other statements and  
9 materials in support of their request for final approval by no later than 16 court days prior to the  
10 final fairness hearing.

11 6. Class Counsel shall file a motion for an award of attorneys' fees, reimbursement of  
12 litigation expenses and class representative enhancement by no later than 16 court days prior to  
13 the final fairness hearing.

14 7. The Court approves, as to form and content, the Notice, Objection Form, and  
15 Exclusion Form, which are attached hereto as Exhibit A, Exhibit B, and Exhibit C,  
16 respectively.

17 8. The Court directs Defendant to provide the Settlement Administrator with the  
18 names, last known mailing addresses, dates of employment, Social Security numbers, and any  
19 other information needed to calculate Individual Settlement Payments and Individual PAGA  
20 Payments for the Class within fifteen (15) calendar days of the entry of this Order.

21 9. The Court directs the mailing of the Notice, Objection Form, and Exclusion Form,  
22 by first class mail to the members of the Class on or before fifteen (15) calendar days of the  
23 Settlement Administrator's receipt of the Class Data.

24 10. The proposed members of the Class shall have forty-five (45) calendar days, or  
25 within fifteen (15) calendar days after the postmark of a Class Notice re-mailed to a corrected  
26 address for that Settlement Class Member, whichever is later, after initial mailing of the Notice  
27 ("Response Deadline Date") to object or request exclusion from the settlement.

28 11. The Court finds that the forms of Notice to the Class regarding the pendency of the

1 action and of this settlement, and the methods of giving notice to members of the Class constitute  
2 the best notice practicable under the circumstances and constitute valid, due, and sufficient notice  
3 to all members of the Class. They comply fully with the requirements of California Code of Civil  
4 Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766 and  
5 3.769, the California and United States Constitutions, and other applicable law.

6 12. The Court further approves the procedures for Class Members to participate in, opt  
7 out of, or object to the Settlement, as set forth in the Stipulation and Notice, Objection Form, and  
8 Exclusion Form.

9 13. Class Members who wish to object to the approval of this Settlement must mail to  
10 the Settlement Administrator by first class mail a written statement objecting to the Joint Stipulation  
11 of Settlement setting forth the legal and factual grounds for any objections. If no written objection is  
12 submitted, the Participating Class Member may appear at the final settlement hearing to object. To  
13 the extent that the Participating Class Member is represented by counsel, his/her attorney shall file  
14 with the Superior Court a notice of appearance providing the attorney's contact information. Such  
15 written objections should be mailed and postmarked or fax-stamped on or before the Response  
16 Deadline, or within fifteen (15) calendar days after the postmark of a Class Notice re-mailed to a  
17 corrected address for that Settlement Class Member, whichever is later. The written Objection shall:  
18 (1) contain the name, address, and the last four digits of the Social Security number of the person  
19 objecting; (2) be signed by the Participating Class Member; (3) state the grounds on which the  
20 Participating Class Member is objecting as well as any documents or evidence supporting his or her  
21 objection(s); and (4) be postmarked or fax stamped by the Response Deadline and returned to the  
22 Settlement Administrator at the specified address or fax telephone number stated in the Class  
23 Notice.

24 14. Class Members wishing to opt-out from the Settlement Agreement must sign and  
25 postmark or fax-stamp a written Request for Exclusion or Exclusion Form to the Settlement  
26 Administrator on or before the Response Deadline, or within fifteen (15) calendar days after the  
27 postmark of a Class Notice re-mailed to a corrected address for that Settlement Class Member,  
28 whichever is later. The date of the postmark or fax stamp on the Request for Exclusion will be the

exclusive means to determine whether a Request for Exclusion has been timely submitted. A written Request for Exclusion from the Settlement to the Settlement Administrator must (1) make the following statement or similar statement: “I wish to exclude myself from the settlement reached in the matter of *Hernandez v. Gemsa*. I understand that, by excluding myself, I will not receive any money (other than the PAGA Settlement Amount) from the settlement reached in this matter”; (2) contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (3) be signed by the Settlement Class Member; and (4) be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number stated in the Class Notice.

15. The procedures and requirements for submitting objections in connection with the Fairness Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Class Member’s objection to the Settlement Agreement, in accordance with the due process rights of all Class Members.

16. Pending the Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are stayed.

17. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the settlement which are not materially inconsistent with either this Order or the terms of the Stipulation.

18. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins all Class Members from filing or prosecuting any claims, suits or administrative proceedings regarding claims released by the Settlement unless and until such Class Members have filed valid Requests for Exclusion with the Claims Administrator and the time for filing claims with the Claims Administrator has elapsed.

19. The Court orders the following Implementation Schedule for further proceedings:

| Event                                                                                  | Timing                                         |
|----------------------------------------------------------------------------------------|------------------------------------------------|
| Data Date: last day for Defendant to provide the Class Members’ data to the Settlement | 15 calendar days after the entry of this Order |

|    |                                                                                                                                                     |                                                                                                  |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 1  | Administrator                                                                                                                                       |                                                                                                  |
| 2  | Notice Date: last day for Settlement Administrator to mail Notice, Objection Form, and Exclusion Form to Class Members.                             | 15 calendar days after the Settlement Administrator's receipt of the class data                  |
| 3  | Objection/Exclusion Deadline Date: (i) last day for class members to submit opt-outs; and                                                           | 45 calendar days after the date of mailing of the Notice, Objection Form, and Exclusion Form, or |
| 4  | (ii) last day for class members to submit objections.                                                                                               | 15 calendar days from re-mailing, whichever is later                                             |
| 5  | Last day for class counsel to file motion for award of attorneys' fees, reimbursement of litigation expenses, and class representative enhancement. | 16 court days prior to the final fairness hearing                                                |
| 6  | Last day for parties to file motion and supporting documents for final approval of class action settlement.                                         | 16 court days prior to the final fairness hearing                                                |
| 7  | Last day for Plaintiff to respond to Objections                                                                                                     | 16 court days prior to the final fairness hearing                                                |
| 8  | Hearing on final approval of class action settlement.                                                                                               | <u>May 8, 2024</u> , at 10:30 AM                                                                 |
| 9  |                                                                                                                                                     |                                                                                                  |
| 10 |                                                                                                                                                     |                                                                                                  |
| 11 |                                                                                                                                                     |                                                                                                  |

20. The Fairness Hearing and related prior deadlines set forth above may, from time to time and without further notice to the Class (except those who have filed timely and valid objections), be continued or adjourned by Order of the Court.

**IT IS SO ORDERED.**

Dated: November 1, 2023



*Stuart M. Rice*

Stuart M. Rice / Judge

Judge of the Superior Court