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individually, and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

VAUGHN HENRY WHITMORE,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

CHEETAH TECHNOLOGIES, INC;
CHEETAH DIRECT, LLC; and DOES 1
through 20, inclusive,

Defendants.

Case No. 22CV010032

*Assigned for all purposes to:
Hon. Somnath Raj Chatterjee
Dept. 21*

**SUPPLEMENTAL BRIEF IN SUPPORT
OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: July 15, 2025

Time: 2:30 p.m.

Dept.: 21

1 **I. INTRODUCTION**

2 Plaintiff Vaughn Henry Whitmore (“Plaintiff”) provides this Supplemental Brief in
3 response to the Court’s tentative ruling on Plaintiff’s Motion for Preliminary Approval of Class
4 Action Settlement (“Motion”). Concurrently with this Brief, Plaintiff submits the Declaration Of
5 Jessica L. Campbell In Support Of Supplemental Brief In Support Of Plaintiff’s Motion For
6 Preliminary Approval Of Class Action Settlement (“Campbell Decl.”) and the Declaration Of
7 Vaughn Henry Whitmore In Support Of Plaintiff’s Motion For Preliminary Approval Of Class
8 Action Settlement (“Whitmore Decl.”) with the following exhibits:

- 9 • Exhibit 1: amended Class Action and PAGA Settlement Agreement and Class Notice is
10 attached to the Campbell Decl. as **Exhibit 1**, with the Class Notice included as **Exhibit 1A**.
11 • Exhibit 2: Redlined version of the Settlement as **Exhibit 2**, with redlined Class Notice
12 included as **Exhibit 2A**.
13 • Exhibit 3: Redlined Proposed Order.
14 • Exhibit 4: Confirmation email from LWDA confirming submission of the amended Class
15 Action and PAGA Settlement Agreement and Class Notice, as well as this Supplemental
16 Brief to the LWDA.

17 **II. THE COURT’S TENTATIVE RULING**

18 **A. The Settlement.**

19 **Issue 1: RESIDUAL BENEFICIARY**

20 **“The agreement states that the residual will go to the California Controller's**
21 **Unclaimed Property Fund Legal Aid at Work. (Agt 4.4.3.) This is not likely to get the money**
22 **to the absent class members. This is not consistent with CCP 384. Counsel must identify a**
23 **beneficiary consistent with CCP 384. Counsel must provide a declaration with the CCP 382.4**
24 **information. This is not adequate.**

25 **The concerns apply to all uncashed checks, without regard to whether they relate to**
26 **the claims of the class or the claims of the LWDA. The claims administrator must not**
27 **distribute funds to the cy pres beneficiary until after the court approved the final**
28 **accounting.”**

1 **Issue 1 Response:**

2 The settlement agreement and notice have been amended to be consistent with CCP 384,
3 the parties have chosen a cy pres for the courts approval. Counsel has declared they have no
4 professional or personal connection to the cy pres.

5 Section 4.8.3 now reads as follows:

6 For any Class Member whose Individual Class Payment check or Individual PAGA
7 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
8 funds represented by such checks to **East Bay Community Law Center (EBCLC)**, in the name
9 of the Class Member thereby leaving no “unpaid residue” subject to the requirements of California
10 Code of Civil Procedure Section 384, subd. (b). (Campbell Decl.; Whitmore Decl.; Exhibits 1 and
11 2 at § 4.8.3.)

12 Section 3(E) of the class notice now reads as follows:

13 Need to Promptly Cash Payment Checks. The front of every check issued for Individual
14 Class Payments and Individual PAGA Payments will show the date when the check expires (the
15 void date). If you don’t cash it by the void date, your check will be automatically cancelled, and
16 the monies will be deposited with the **East Bay Community Law Center (EBCLC)** in your name.
17 (See Campbell Decl., Exhibits 1A, and 2A at § 4.8.3. and Section 3(E))

18
19 **Issue 2: NUMBER OF DAYS TO CASH CHECKS / SECOND DISTRIBUTION**

20 **“The Court is concerned that the agreement states that checks will be cancelled after**
21 **180 calendar days. (Settle Act para 4.8.1.) The court finds that 120 days is an adequate time**
22 **for absent class members to cash the checks. The court finds that 180 days is unnecessarily**
23 **long and unnecessarily delays the accounting and thus the determinations on whether there**
24 **should be a second distribution and whether to release funds to the cy pes beneficiary and to**
25 **counsel. A shorter time frame will expedite the distribution process. This is not adequate.”**

26 **Issue 2 Response:**

27 The parties have amended the settlement agreement to revise the numbers of days to cash
28 checks from 180 days to 120 days as requested by the Court.

1 Section 4.8.1 now reads as follows:

2 The Administrator will issue checks for the Individual Class Payments and/or Individual
3 PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid.
4 The face of each check shall prominently state the date (not less than **120 days** after the date of
5 mailing) when the check will be voided. The Administrator will cancel all checks not cashed by
6 the void date. The Administrator will send checks for Individual Settlement Payments to all
7 Participating Class Members (including those for whom Class Notice was returned undelivered).
8 The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees
9 including Non-Participating Class Members who qualify as Aggrieved Employees (including
10 those for whom Class Notice was returned undelivered). The Administrator may send Participating
11 Class Members a single check combining the Individual Class Payment and the Individual PAGA
12 Payment. Before mailing any checks, the Settlement Administrator must update the recipients'
13 mailing addresses using the National Change of Address Database. (*See Campbell Decl., Exhibits*
14 *1 and 2 at § 4.8.1.*)

15
16 Dated: July 8, 2025

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17
18 By /s/ Jessica L. Campbell

Jessica L. Campbell
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