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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

JEFFERSON LOPEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

MISSION POOLS, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. 30-2022-01283102-CU-OE-CXC

*[Assigned for all purposes to the Hon. William D.
Claster, Dept. CX101]*

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

Date: February 9, 2024
Time: 9:00 a.m.
Dept.: CX101

Action Filed: December 5, 2022
Trial Date: None Set

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

2 Plaintiff Jefferson Lopez (“Plaintiff”), individually and on behalf of a class of similarly situated
3 individuals, hereby submit this Supplemental Brief in Support of Plaintiff’s Motion for Preliminary
4 Approval of Class Action Settlement (the “Motion”).

5 **I. PROCEDURAL HISTORY**

6 Plaintiff filed his Motion for Preliminary Approval of Class Action Settlement on September 18,
7 2023, setting it for hearing on November 17, 2023.

8 On November 17, 2023, the Court issued a Minute Order indicating that a Minute Order will be
9 issued the week of November 20, 2023 detailing the issues that need to be addressed in subsequent
10 briefing. On November 27, 2023, the Court issued its Minute Order. Consistent therewith, Plaintiff
11 hereby submits the instant supplemental brief (and accompanying declaration) to address the issues
12 identified by the Court. Each of the issues are addressed in the same order as they were identified by the
13 Court in its Minute Order.

14 In connection with addressing the issues identified by the Court, the Parties have executed an
15 Addendum to the Class Action and PAGA Settlement Agreement and Class Notice and have modified
16 the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval. The
17 following documents are being submitted concurrently herewith as Exhibits to the Supplemental
18 Declaration of Milan Moore (“Supp. Moore Decl.”), as follows:

19 Attached as **Exhibit A** to the Supp. Moore Decl. is the Addendum to the Stipulation of Class and
20 PAGA Action Settlement, with exhibit and executed by counsel.

21 Attached as **Exhibit B** to the Supp. Moore Decl. is the redlined version of the revised Notice of
22 Pendency of Class Action and Proposed Class and PAGA Settlement.

23 Attached as **Exhibit C** to the Supp. Moore Decl. is the final version of the revised Notice of
24 Pendency of Class Action and Proposed Class and PAGA Settlement with the changes accepted.

25 **II. ISSUES IDENTIFIED IN THE COURT’S NOVEMBER 27TH MINUTE ORDER**

26 **A. Relationship Between Mission Pools, Inc. and Mission Pools of Escondido, Inc.**

27 In the Minute Order, the Court asks: What is the relationship between Mission Pools, Inc. and
28 Mission Pools of Escondido, Inc.?

1 Mission Pools, Inc. is a separate and distinct entity from Mission Pools of Escondido, Inc. Mission
2 Pools, Inc. is not a parent or a subsidiary of Mission Pools of Escondido, Inc. Please see Declaration of
3 Brett Dunn, Chief Financial Officer and Controller of Mission Pools of Escondido, Inc.

4 **B. Arbitration Agreements**

5 In the Minute Order, the Court asks: Defendants intended to raise class members' arbitration
6 agreements as defenses to the meal and rest break claims. What portion of the class signed agreements?
7 Did these agreements have class/representative action waivers or otherwise bar signatories from
8 participating in class and PAGA actions? Did Plaintiff sign such an agreement? If not, is he typical of
9 class members who did?

10 Approximately 100 of the approximately 227 class members signed arbitration agreements, or
11 approximately 41% of the settlement class. The March 2023 version of the arbitration agreement did not
12 have a class/representative action waiver. See Exhibit D to Supp. Moore Decl. However, the updated
13 arbitration agreement does contain a class/representative action waiver. See Exhibit E to Supp. Moore
14 Decl.

15 Plaintiff did not sign either variation of the arbitration agreement. Supp. Moore Decl., ¶ 5.
16 Although Plaintiff did not sign an arbitration agreement, he is typical of the class members who did
17 because similar to the class members, Plaintiff suffered from the same alleged labor code violations during
18 his employment with Defendants. Specifically, Plaintiff, like the settlement class members (including
19 those that signed arbitration agreements), was not provided all legally required minimum and overtime
20 wages, was not provided with all required meal periods, was not authorized and permitted to take all
21 required rest periods, did not receive meal and rest period premium wages when he was not provided
22 compliant meal and rest periods, was not reimbursed for expenses incurred in direct discharge of his duties,
23 was not provided with accurate, itemized wage statements, and was not paid all wages due at the time of
24 termination. *Id.*

25 **C. Interview Any Class Members Other than Plaintiff**

26 In the Minute Order, the Court asks: Did counsel interview any class members other than Plaintiff?

27 Yes, counsel for Plaintiff interviewed class members other than Plaintiff. Supp. Moore Decl., ¶ 6.

28 **D. Rounding Claim**

In the Minute Order, the Court asks: In valuing the rounding claim, counsel says there are 10,619

1 pay periods (that is, 21,237 workweeks paid every two weeks) times 0.03 hours unpaid per workweek (a
2 different denominator from pay periods) times \$20.75. By the Court's calculation, this works out by my
3 calculation to about \$6,600, but counsel says the maximum value is only about \$4,400. Furthermore, if
4 21,237 workweeks at 0.03 hours unpaid per workweek are used instead of 10,619 pay periods, this works
5 out to about \$13,220. What is the proper maximum value for this claim?

6 The proper maximum valuation for this claim is as follows: 10,619 pay periods x 0.03 hours unpaid
7 per pay period (2 minutes per pay period) x \$20.75 average hourly rate = approximately \$6,610.00. Supp.
8 Moore Decl., ¶ 7.

9 **E. Amount of Time Allegedly Lost Due to Rounding**

10 In the Minute Order, the Court asks: 0.03 hours per workweek works out to about 1.8 minutes
11 per workweek lost due to rounding. Did evaluation of time and pay records reveal the amount of time
12 allegedly lost due to rounding was minimal at most? Or is there another reason counsel uses only 1.8
13 minutes of time lost per workweek to value the claim?

14 Yes, the evaluation of time and pay records produced in connection with mediation revealed the
15 amount of time allegedly lost due to rounding was minimal at most at approximately 2 minutes per pay
16 period. Supp. Moore Decl., ¶ 8.

17 **F. UCL Claim**

18 In the Minute Order, the Court asks: Does the UCL claim have any independent value, or does it
19 simply extend the limitations period?

20 The UCL claim does not have an independent value and it simply extends the limitations period.
21 Supp. Moore Decl., ¶ 9.

22 **G. Contemporaneously Made Billing Records**

23 In the Minute Order, the Court states: At final approval, please submit contemporaneously made
24 billing records for attorney's fees and costs. The Court will not be inclined to award an amount of fees
25 and costs greater than the amount stated in the notice.

26 Plaintiff will submit contemporaneous billing records at the time of final approval. Supp. Moore
27 Decl., ¶ 10.

28 **H. Billing Records for Administrative Costs**

In the Minute Order, the Court states: At final approval, please submit billing records for

1 administrative costs. The Court will not be inclined to award administrative costs in an amount greater
2 than the amount stated in the notice.

3 Plaintiff will submit billing records for administrative costs at the time of final approval. Supp.
4 Moore Decl., ¶ 11.

5 **I. Plaintiff's Declaration**

6 In the Minute Order, the Court states: Because Plaintiff has provided a declaration regarding his
7 requested enhancement, no declaration is required at final approval.

8 Plaintiff will not submit a declaration at the time of final approval.

9 **J. High, Low, and Average Individual Settlement Payments**

10 In the Minute Order, the Court states: At final approval, the administrator is to provide a high,
11 low, and average for individual settlement payments, along with Plaintiff's individual payout.

12 The administrator will provide the high, low and average for individual settlement payments,
13 along with Plaintiff's individual payout.

14 **K. Change all References to Department CX101**

15 In the Minute Order, the Court states: Please change all references to Department CX104 to
16 Department CX101, as the Court has recently moved courtrooms.

17 The Parties have changed all references from Department CX104 to CX101. See Exhibits B and
18 C to Supp. Moore Decl.

19 **L. Only Include Dispute and Opt-Out Forms**

20 In the Minute Order, the Court states: Please include only dispute and opt-out forms with the
21 notice, not an objection form.

22 The Parties will only include the dispute and opt-out forms with the notice, not an objection
23 form. See Exhibits A-C to Supp. Moore Decl.

24 **M. English and Spanish Only**

25 In the Minute Order, the Court asks: The agreement provides for notice in English and Spanish.
26 Are any other languages necessary?

27 Counsel for Defendants confirmed that only English and Spanish translation are needed for the
28 notice based on the workforce. Supp. Moore Decl., ¶ 12.

1 **N. Changes to Settlement Agreement**

2 In the Minute Order, the Court states: If any changes are made to the settlement agreement,
3 please make corresponding changes to the notice.

4 Please see exhibits A-C to Supp. Moore Decl.

5 **O. Font Size of Actual Notice**

6 In the Minute Order, the Court states: The font size in the actual notice may not be smaller than
7 the font size in the proposed notice provided to the Court.

8 Parties will use the same font size in the actual notice.

9 **III. CONCLUSION**

10 For the foregoing reasons and the reasons discussed in Plaintiff's Motion, Plaintiff respectfully
11 requests that the Court preliminarily approve the proposed Addendum to the Settlement, provisionally
12 certify the Settlement Class, and enter the Amended Proposed Order Granting Preliminary Approval of
13 Class Action Settlement submitted concurrently herewith.

14 Dated: January 30, 2024

Respectfully submitted,
LIDMAN LAW, APC

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16 By:


Milan Moore
Attorney for Plaintiff
JEFFERSON LOPEZ