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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF KERN

TYLER KRUG & FERNANDO JARAMILLO,
individually, and on behalf of those similarly
situated and members of the general public; and
FRANCISCO BALBUENA, individually, and
on behalf of those similarly situated,

Plaintiffs,

vs.

EKC ENTERPRISES, INC., a California
Corporation; and DOES 1 through 25, inclusive,

Defendants.

Case No.: BCV-23-103975

Honorable Bernard C. Barmann
Division H

**DECLARATION OF JOSHUA S.
FALAKASSA IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: July 7, 2025
Time: 8:30 a.m.
Division: H
Address: 1215 Truxton Ave.
Bakersfield, CA 93301

Complaint Filed: November 28, 2023
FAC Filed: January 18, 2024
SAC Filed: February 20, 2025
Trial Date: Not Set

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majority of which has included class action and representative action wage and hour matters. In total, I have handled upwards of 90 class action and representative action wage/hour cases.

8. I was selected as a “Super Lawyer Rising Star” in Employment Litigation during the years 2017 through 2024, a distinction that is reserved for the top 2.5 % of lawyers in the practice area. I have also been recognized by Topverdicts.com for achieving Top 20 and Top 50 wage and hour class and/or PAGA action settlements in California in 2021, 2022 and 2023.

9. My firm has the experience, resources, and means necessary to allow us to provide adequate representation to all Settlement Class Members in this Action.

10. Currently, my firm is acting as counsel in at least thirty wage-and-hour class actions.

11. Class Counsel are respected members of the California Bar with strong records of vigorous and effective advocacy of their clients, and they are experienced in handling complex class action litigation. Both Class Counsel and Plaintiffs were prepared to litigate the claims in this action, but they strongly and unequivocally support the proposed Settlement as being in the best interest of the Settlement Class based on the circumstances referenced herein.

12. I have been appointed class counsel in various courts across California.

13. My office has performed considerable work and diligently investigated and prosecuted this case to a successful conclusion. Our work has resulted in the creation of a significant Settlement Amount for the benefit of the Class. We effectively communicated and exchanged information informally with Defense counsel, which enabled the Parties to successfully settle the case at mediation before Tripper Ortman, Esq.

14. Because of the risks involved in litigating the case and the contested legal and factual issues, Plaintiffs' counsel believes this Settlement to be fair, reasonable, and adequate. Because the Settlement is fair and reasonable and was negotiated at arm's length by experienced counsel and an experienced mediator following an appropriate and comprehensive exchange of information and documents in advance of mediation, it should be preliminarily approved. Plaintiffs respectfully request that the Court enter an order preliminarily approving the Settlement, conditionally certifying the Class under Code of Civil Procedure Section 382 for settlement purposes, approving the proposed Notice Packet, appointing Plaintiffs' counsel as Class Counsel, appointing APEX Class Action, LLC

1 as the Settlement Administrator, and scheduling a hearing for the final approval of the Settlement.

2 15. The Settlement was the product of extensive arm's length negotiations between
3 counsel and was facilitated by an experienced wage-and-hour class action mediator. Though cordial
4 and professional, the Settlement negotiations were adversarial and non-collusive in nature. The
5 Settlement reached is the product of substantial effort by the Parties and their counsel. Although
6 Plaintiffs and Class Counsel believed that there was a possibility of certifying the claims, they
7 recognized the potential risk, expense, and complexity posed by litigation, such as unfavorable
8 decisions on class certification, summary judgment, at trial and/or on the damages awarded, and/or
9 on an appeal that can take several more years to litigate. In addition, if Defendant prevailed on any
10 of its defenses, the Class Members may not have received any substantial monetary recovery.

11 16. The Settlement will result in a fair payment to each Settlement Class Member based
12 on the number of Compensable Workweeks worked during the Class Period. As set forth hereinabove,
13 Plaintiffs and his counsel have diligently investigated the claims and defenses on behalf of the Class
14 Members and worked to achieve a resolution of the claims to maximize the recovery by avoiding
15 further expenditure of attorneys' fees and costs. After evaluating the significant risks attendant with
16 further litigation described above and weighing them against the benefits of a known compromise
17 and settlement as set forth in the Settlement Agreement, settlement on the terms agreed to is believed
18 to be in the best interest of Plaintiffs and the Class and is a fair and reasonable resolution of the claims
19 alleged.

20 17. Plaintiffs' counsel brought to bear a great deal of collective experience in negotiating
21 the settlement of this case. As detailed herein, Plaintiffs' counsel engaged in the necessary informal
22 discovery, investigation, sampling, and expert evaluation, making it possible to exercise informed
23 judgment throughout the settlement process, including significant document review (e.g., documents
24 pertaining to Defendant's policies and procedures, personnel documents, wage statements, time
25 records, among others) and conducted an extensive analysis and extrapolation of the sampling of
26 class-wide data provided by Defendant.

27 18. Based on my experience in other cases, including wage and hour matters, I believe
28 Mehrdad Bokhour, Blackstone Law and I are qualified to evaluate the class claims and viability of

1 defenses in this class action. In this case, the recovery for each Class Member is reasonable, fair, and
2 adequate, and a settlement at this time is in the Class's best interest. The Settlement compensates each
3 Class Member for the alleged violations when viewed in relation to the costs and risks inherent in
4 obtaining class certification and proceeding to trial.

5 19. Plaintiffs' counsel, as well as Defendant's counsel, fully endorse the terms and
6 conditions of the Settlement as set forth in the abovementioned Settlement Agreement.

7 20. Of course, the Settlement Amount represents a compromise figure, taking into account
8 the various risks surrounding class certification and the merits of Defendant's asserted defenses.
9 Nevertheless, the Settlement provides fair and adequate payments to the Class Members, with no
10 reversion to Defendant.

11 21. For the foregoing reasons, it is respectfully requested that the Court grant preliminary
12 approval of the Settlement as being fair, reasonable, and in the best interests of the Class, as well as
13 preliminarily approve the requested attorneys' fees and costs, and Service Awards to the Class
14 Representatives.

15 I declare under penalty of perjury under the laws of the state of California that the foregoing
16 is true and correct on this 27th day of May 2025, in Los Angeles, California.

17 By: /s/ Joshua S. Falakassa
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