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Electronically FILED by
Superior Court of California,
County of Los Angeles
11/30/2023 8:23 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By J. Gnade, Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

12 JOSE DIAZ, individually, and on behalf of
13 other members of the general public
14 similarly situated and on behalf of other
15 aggrieved employees pursuant to the
16 California Private Attorneys General Act;
17 MATTHEW VIGIL, DIANA ESTRADA,
18 individually, and on behalf of other
19 members of the general public similarly
20 situated;

21 Plaintiffs,

22 vs.

23 ACCUFLEET INTERNATIONAL, INC.,
24 an unknown business entity; and DOES 1
25 through 100, inclusive,

26 Defendant.

Case No.: 20STCV04183

Honorable Maren E. Nelson
Department SSC17

CLASS ACTION

**NOTICE REGARDING OCTOBER 24,
2023 STATUS CONFERENCE AND
DELAY IN FUNDING AND
DISBURSEMENT OF SETTLEMENT**

Complaint Filed: January 31, 2020
FAC Filed: July 29, 2020
Trial Date: None Set

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

3 **PLEASE TAKE NOTICE** that on October 24, 2023, at 11:00 a.m., a Status Conference
4 came on for hearing in the above-entitled action in Department SSC17 of the Superior Court for
5 the State of California, County of Los Angeles, located at the Spring Courthouse, 312 North
6 Spring Street, Los Angeles, California 90012.

7 Joanna Ghosh, Esq. and Yasmin Hosseini, Esq. of Lawyers *for* Justice, PC appeared
8 through LACourtConnect on behalf of Plaintiffs Jose Diaz, Matthew Vigil, and Diana Estrada
9 and the Class. Katherine Den Bleyker, Esq. of O’Hagan Meyer on behalf of AccuFleet
10 International, Inc.

11 The Court granted final approval of the settlement in this matter on September 27, 2023
12 and the settlement was due to be funded by Defendant on October 18, 2023. Defendant has
13 represented that, due to unforeseeable financial circumstances, Defendant requires additional
14 time to fund the settlement, and as a result, the settlement will be funded and payments therefrom
15 will be disbursed at a later date than initially contemplated (this means, payments to Plaintiffs,
16 Participating Class Members, and PAGA Members have been delayed).

17 The Honorable Court made the following orders:

- 18 1. The Court urges the parties to meet and confer and obtain an opinion letter from
19 Defendant’s accountant regarding Defendant’s financial circumstances and/or the
20 Employee Retention Credit that Defendant is proposing to use, in large part, to fund
21 the settlement, and after the opinion letter is obtained and reviewed, to propose a
22 formal mechanism to ensure that Defendant’s Employee Retention Credit will be
23 applied to the Court’s judgment and to fund the settlement, and to propose a form of
24 notice to the Class if they are not being paid right away.
- 25 2. The Status Conference is continued to November 30, 2023 at 9:30 a.m. in Department
26 SSC17;
- 27 3. The parties are to file a joint status report by November 21, 2023, and if there is a
28 proposed stipulation with a form of a notice, it can be submitted to the Court for

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consideration along with the joint status report;

4. Plaintiffs are to give notice; and

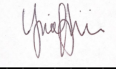
5. The Settlement Administrator is to post a copy of this Notice on its website in order to make information available to the Participating Class Members and PAGA Members of the delay in funding and disbursement of the settlement.

Attached hereto as “**EXHIBIT A**” is a true and correct copy of the Court’s Order Granting Motion for Final Approval of Class action Settlement and Judgment Thereon and attached hereto as “**EXHIBIT B**” is the Court’s Minute Order entered on October 24, 2023.

Dated: November 29, 2023

LAWYERS for JUSTICE, PC

By:



Joanna Ghosh
Yasmin Hosseini
Attorneys for Plaintiffs and the Class

EXHIBIT A

FILED
Superior Court of California
County of Los Angeles

SEP 27 2023

David W. Slayton, Executive Officer/Clerk of Court
By: N. Navarro, Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

JOSE DIAZ, individually, and on behalf of
other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;
MATTHEW VIGIL, DIANA ESTRADA,
individually, and on behalf of other
members of the general public similarly
situated;

Plaintiffs,

v.

ACCUFLEET INTERNATIONAL, INC.,
an unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 20STCV04183

~~PROPOSED~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT

And Judgment Thereon **CK**

Date: September 27, 2023
Time: 9:00 a.m.
Dept.: SSC-17

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1 **I. BACKGROUND**

2 Plaintiffs Jose Diaz, Matthew Vigil, and Diana Estrada sue their former
3 employer, Defendant Accufleet International Inc., for alleged wage and hour violations.
4 Defendant is headquartered in Houston, Texas, and provides services to the aviation
5 industry, including upholstery and linen care, ground handling, and cabin cleaning for
6 airlines. It operates in various markets within California, including Los Angeles and
7 San Diego. Plaintiffs seek to represent a class of Defendant’s current and former non-
8 exempt employees.

9 Plaintiffs filed their complaint January 30, 2019. On July 29, 2020, Plaintiffs
10 filed the operative First Amended Complaint (“FAC”), which alleges causes of action
11 for: (1) unpaid overtime (Labor Code §§ 510, 1198); (2) unpaid meal period premiums
12 (Labor Code §§ 226.7, 512(a)); (3) unpaid rest period premiums (Labor Code § 226.7);
13 (4) unpaid minimum wages (Labor Code §§ 1194, 1197, 1197.1); (5) final wages not
14 timely paid (Labor Code §§ 201, 202); (6) wages not timely paid during employment
15 (Labor Code § 204); (7) non-compliant wage statements (Labor Code § 226(a)); (8)
16 failure to keep requisite payroll records (Labor Code § 1174(d)); (9) unreimbursed
17 business expenses (Labor Code §§ 2800, 2802); (10) violation of Business &
18 Professions Code §§ 17200, et seq.); and (11) violation of the Private Attorneys General
19 Act of 2004 (Labor Code § 2698, et seq.) (“PAGA”).

20 On September 22, 2021, the parties attended a full-day mediation with mediator
21 Eve Wagner and reached an agreement to settle the action.

22 A copy of the Settlement Agreement was filed with the Court, attached to the
23 Declaration of Edwin Aiwazian filed February 9, 2022, as Exhibit 1. The matter was
24 set for hearing and on March 3, 2022, the Court issued a “checklist” to the parties
25 pertaining to deficiencies in the proposed settlement. After hearing on March 4, 2022,

1 the matter was continued to May 2, 2022, with papers to be filed sixteen court days in
2 advance. The supplemental papers were not timely filed, necessitating that the matter
3 be continued. See Minute Order of April 12, 2022.

4 The revised papers were filed April 29, 2022 and the matter was heard on
5 August 31, 2022. As discussed with counsel on the record, the matter was continued to
6 January 6, 2023 after Plaintiffs repeatedly failed to provide admissible evidence in
7 support of the motion for preliminary approval of settlement. A written order was
8 issued.

9 The first admissible evidence tendered by Class Counsel in support of the
10 motion was filed December 13, 2022. The matter of the preliminary approval motion
11 was then continued to April 19, 2023. All references below are to the amended
12 settlement agreement attached as Exhibit 1 to the Further Supplemental Declaration of
13 Edwin Aiwazian filed December 13, 2022.

14 The settlement was preliminarily approved on April 19, 2023, subject to certain
15 conditions with which there was compliance. Notice was given to the Class Members
16 as ordered (see Declaration of Yami Burns (“Burns Decl.”)). Now before the Court is
17 Plaintiff’s motion for final approval of the Settlement Agreement, including for
18 payment of fees, costs, and a service award to the named plaintiffs. For the reasons set
19 forth below, the Court grants final approval of the settlement.

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1 **II. THE TERMS OF THE SETTLEMENT**

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3 **A. SETTLEMENT CLASS DEFINITION**

4 “Class” or “Class Member(s)” means all individuals who worked for AccuFleet
5 International, Inc. as hourly-paid and/or non-exempt employees in California at any
6 time during the Class Period. (¶5)

7 “Class Period” means January 31, 2016 through the date of Preliminary
8 Approval of the Settlement. (¶6)

9 “PAGA Member” or “PAGA Members” means all individuals who worked for
10 AccuFleet International, Inc. as hourly-paid and/or non-exempt employees in California
11 at any time during the PAGA Period. (¶26)

12 “PAGA Period” means the time period between November 27, 2018 through the
13 date of preliminary approval of the settlement (¶28)

14
15 **B. THE MONETARY TERMS OF SETTLEMENT**

16 The essential monetary terms are as follows:

- 17 • The original Gross Settlement Amount (“GSA”) was **\$775,000** (¶17). This
18 includes payment of a PAGA penalty of **\$100,000** to be paid 75% to the LWDA
19 (\$75,000) and 25% to the Aggrieved Employees (\$25,000) (¶27).
 - 20 ○ Escalator Clause: As of September 22, 2021, Defendant represented that
21 the number of total Workweeks through September 22, 2021 was 8,839.
22 If the actual number of Workweeks during the Class Period as of
23 September 22, 2021 is more than 10% greater than this estimate (i.e., if
24 the actual Workweeks during the Class Period as of September 22, 2021
25 is greater than 9,722.90, then Defendant has the option to either: (a) de-

1 escalate the Settlement so that the Class Period and PAGA Period end on
2 the date that the total Workweeks add up to 9,722.90; or (b) permit the
3 Gross Settlement Amount to be increased on a proportional basis for
4 Workweeks in excess of 9,722.90. (¶53)

- 5 ○ The settlement administrator represents that the total number of
6 Workweeks during the Class Period was eleven thousand four hundred
7 fifteen (11,415), which exceeds the Escalator Clause by one thousand six
8 hundred ninety-three (1,693), and that the additional amount due pursuant
9 to the Escalator Clause is \$57,409.41. (Burns Decl. ¶12.) Accordingly, the
10 escalated GSA is **\$832,409.41**. The original GSA of \$775,000 was the
11 amount disclosed to the Class on the Notice form. (*Id.* at Exhibit A.)
- 12 ● The Net Settlement Amount (“Net”) (**\$417,504.31**) is calculated by subtracting
13 from the escalated GSA the amounts approved below:
 - 14 ○ **\$271,250.00** for attorney fees;
 - 15 ○ **\$18,655.10** for attorney costs (*Ibid.*);
 - 16 ○ **\$15,000** for service awards to the proposed class representatives (¶57);
 - 17 and
 - 18 ○ **\$10,000** for settlement administration costs (¶58)
 - 19 ○ **\$100,000** for PAGA penalties.
- 20 ● Employer-side payroll taxes will be paid separately and in addition to the GSA
21 (¶52).
- 22 ● The average settlement share will be approximately \$1,276.76. ($\$417,504.31$
23 Net \div 327 class members = \$1,172.99). In addition, each PAGA Member will
24 receive a portion of the PAGA penalty, estimated to be \$111.61 per PAGA
25

1 Member. (\$25,000 or 25% of \$100,000 PAGA penalty ÷ 224 PAGA Members =
2 \$111.61).

- 3 • There is no Claim Requirement (Notice p. 5).
- 4 • The settlement is not reversionary (§17).
- 5 • Individual Settlement Share Calculation: The Settlement Administrator will
6 determine the total number of Workweeks for each Participating Class Member
7 and the total aggregated number of Workweeks worked by all Participating Class
8 Members during the Class Period. The Settlement Administrator has been
9 provided with such information, by Defendant, as necessary to calculate each
10 Participating Class Member's Workweeks and the aggregated number of
11 Workweeks. The amount that each Participating Class Member will be eligible
12 to receive was calculated by dividing each Participating Class Member's
13 individual Workweeks by the total Workweeks of all Participating Class
14 Members, and multiplying the resulting fraction by the Net Settlement Amount.
15 (§61.a)
- 16 • Individual PAGA Payment Calculations: The Settlement Administrator
17 determined the total number of PAGA Workweeks for each PAGA Member and
18 the total aggregated number of PAGA Workweeks worked by all PAGA
19 Members during the PAGA Period. The Settlement Administrator was provided
20 with such information, by Defendant to calculate each PAGA Member's PAGA
21 Workweeks and the aggregated number of PAGA Workweeks. The amount that
22 each PAGA Member will receive was calculated by dividing each PAGA
23 Member's individual PAGA Workweeks by the total PAGA Workweeks of all
24 PAGA Members, and multiplying the resulting fraction by the Employee PAGA
25

1 Portion. PAGA Members shall receive their Individual PAGA Payment
2 regardless of whether they opt out of the Class Settlement. (§61.b)

- 3 • Tax Withholdings: All Individual Settlement Shares will be allocated as 33.33%
4 wages and 66.66% interest, penalties and non-wage damages. The Individual
5 PAGA Payments are non-wage payments that will be reported on an IRS Form-
6 1099 by the Settlement Administrator (if required). (§61.c)
- 7 • Funding of the Gross Settlement Amount: Within twenty-one (21) calendar days
8 of the Effective Date of the Settlement, Defendant will deposit the Gross
9 Settlement Amount into a Qualified Settlement Fund to be established by the
10 Settlement Administrator. Defendant shall provide all information necessary for
11 the Settlement Administrator to calculate necessary payroll taxes including its
12 official name, eight (8) digit state unemployment insurance tax ID number, and
13 other information requested by the Settlement Administrator, no later than seven
14 (7) calendar days of the Effective Date. (§54)
- 15 • Distribution of the Gross Settlement Amount: Within fourteen (14) calendar
16 days of the funding of the Settlement, the Settlement Administrator will issue the
17 following payments: (1) Individual Settlement Payment checks to all
18 Participating Class Members and Individual PAGA Payment checks to all
19 PAGA Members; (2) LWDA Payment to the LWDA; (3) the Class
20 Representative Incentive Payments to Plaintiffs; (4) Class Counsel' s Fees and
21 Costs to Class Counsel, and (5) Settlement Administration Costs to the
22 Settlement Administrator. (§55)
- 23 • Uncashed Settlement Payment Checks: Any checks issued by the Settlement
24 Administrator to Participating Class Members and PAGA Members will be
25 negotiable for at least one hundred eighty (180) calendar days. If a Participating

1 Class Member or PAGA Member does not cash his or her check within 180
2 days, the check will be cancelled. Pursuant to California Code of Civil Procedure
3 Section 384, all funds associated with such cancelled checks will be transmitted
4 to Legal Aid at Work. The Parties each represent that they do not have any
5 significant affiliation or involvement with the proposed cy pres recipient. (¶74)

6 7 **C. TERMS OF RELEASES**

- 8 • Release by Participating Class Members, PAGA Members, the LWDA and the
9 State of California: It is the desire of Plaintiffs, Participating Class Members,
10 and Defendant to fully, finally, and forever settle, compromise, and discharge the
11 claims asserted in the Operative Complaint. Upon the funding of the Gross
12 Settlement Amount, in exchange for the consideration set forth in this
13 Agreement, Participating Class Members shall fully release and discharge the
14 Released Parties from any and all Class Released Claims for the Class Period.
15 This release shall be binding on all Participating Class Members, including each
16 of their respective attorneys, agents, spouses, executors, representatives,
17 guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit
18 of the Released Parties, who shall have no further or other liability or obligation
19 to any Class Member with respect to the Released Claims, except as expressly
20 provided herein. All PAGA Members, regardless of whether they submit timely
21 and valid Requests for Exclusion from the Settlement Class, will release all
22 PAGA Released Claims for the PAGA Period. The State of California and the
23 LWDA will also release all PAGA Release Claims, as well as all claims that
24 could have been premised on the claims, causes of action or legal theories
25 described the Operative Complaint. (¶78)

- 1 • “Class Released Claims” shall collectively mean any and all claims, demands,
2 rights, liabilities and causes of action that were pled in Plaintiffs’ Operative
3 Complaint, or which could have been pled in the Operative Complaint based on
4 the factual allegations therein, that arose during the Class Period, including but
5 not limited to causes of action for failure to pay overtime wages (Cal. Lab. Code
6 §§ 204, 510, 1194, 1197, 1198, and applicable provisions of the relevant
7 Industrial Wage Order); failure to provide meal periods and associated premium
8 payments (Cal. Lab. Code §§ 226.7, 512, and applicable provisions of the
9 relevant Industrial Wage Order); failure to provide rest periods and associated
10 premium payments (Cal. Lab. Code §§ 226.7, 512, 516, and applicable
11 provisions of the relevant Industrial Wage Order); failure to pay minimum wage
12 (Cal. Lab. Code §§ 558, 1194, 1197, 1197.1, 1198 and applicable provisions of
13 the relevant Industrial Wage Order); failure to timely pay wages upon
14 termination of employment and waiting time penalties (Cal. Lab. Code §§ 201,
15 202, 203); failure to timely pay wages during employment (Cal. Lab. Code §§
16 204); failure to furnish accurate wage statements (Cal. Lab. Code § 226, et seq.);
17 failure to keep requisite payroll records (Cal. Lab. Code § 1174); failure to
18 reimburse business expenses (Cal. Lab. Code §§2800, 2802); all claims for
19 unfair competition (Cal. Bus. & Prof. Code §§ 17200, et seq.), and all claims for
20 attorneys’ fees and costs relating to the Class Claims, that could have been
21 premised on the facts, claims, causes of action or legal theories described above
22 or that could have been premised on the facts, claims, causes of action or legal
23 theories described above. (¶37)
- 24 • “PAGA Released Claims” shall mean all claims, demands, rights, liabilities and
25 causes of action for penalties under California Labor Code Private Attorneys

1 General Act of 2004 against the Released Parties, based on the letter to the Labor
2 & Workforce Development Agency on November 27, 2019, that arose during the
3 PAGA Period, including but not limited to claims for civil penalties for
4 violations of Labor Code 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551,
5 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802, and applicable Wage
6 Orders of the Industrial Welfare Commission, including but not limited to
7 Industrial Welfare Commission Wage Order Nos. 4-2001 and 9-2001, and all
8 related claims for attorneys' fees and costs. (¶29)

- 9 • “Released Parties” shall mean Defendant and each of its parent companies,
10 subsidiaries, affiliates, d/b/a's, current and former management companies,
11 shareholders, members, owners, agents (including without limitation, any
12 investment bankers, accountants, insurers, reinsurers, attorneys and any past,
13 present or future officers, directors, and exempt, executive employees) and any
14 of its predecessors, successors, and assigns. (¶38, as amended by Order of May
15 8, 2023)
- 16 • The named Plaintiffs will also provide a general release and a waiver of the
17 protections of Cal. Civ. Code §1542. (¶79)
- 18 • The releases are effective upon the funding of the Gross Settlement Amount,
19 which will occur within twenty-one (21) calendar days of the Effective Date of
20 the Settlement. (¶54)

21 22 **III. ANALYSIS OF SETTLEMENT AGREEMENT**

23 “Before final approval, the court must conduct an inquiry into the fairness of the
24 proposed settlement.” Cal. Rules of Court, rule 3.769(g). “If the court approves the
25 settlement agreement after the final approval hearing, the court must make and enter

1 judgment. The judgment must include a provision for the retention of the court's
2 jurisdiction over the parties to enforce the terms of the judgment. The court may not
3 enter an order dismissing the action at the same time as, or after, entry of judgment.”
4 Cal. Rules of Court, rule 3.769(h).

5 As discussed more fully in the Order conditionally approving the settlement dated
6 April 19, 2023, “[i]n a class action lawsuit, the court undertakes the responsibility to
7 assess fairness in order to prevent fraud, collusion or unfairness to the class, the
8 settlement or dismissal of a class action. The purpose of the requirement [of court
9 review] is the protection of those class members, including the named plaintiffs, whose
10 rights may not have been given due regard by the negotiating parties.” See *Consumer*
11 *Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal. App.4th 46, 60
12 [internal quotation marks omitted]; see also *Wershba v. Apple Computer, Inc.* (2001) 91
13 Cal.App.4th 224, 245 (“*Wershba*”), disapproved on another ground in *Hernandez v.*
14 *Restoration Hardware* (2018) 4 Cal.5th 260 [Court needs to “scrutinize the proposed
15 settlement agreement to the extent necessary to reach a reasoned judgment that the
16 agreement is not the product of fraud or overreaching by, or collusion between, the
17 negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and
18 adequate to all concerned.”] [internal quotation marks omitted].

19 “The burden is on the proponent of the settlement to show that it is fair and
20 reasonable. However ‘a presumption of fairness exists where: (1) the settlement is
21 reached through arm's-length bargaining; (2) investigation and discovery are sufficient to
22 allow counsel and the court to act intelligently; (3) counsel is experienced in similar
23 litigation; and (4) the percentage of objectors is small.” See *Wershba, supra*, 91
24 Cal.App.4th at pg. 245, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794,
25 1802. Notwithstanding an initial presumption of fairness, “the court should not give

1 rubber-stamp approval.” See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th
2 116, 130. “Rather, to protect the interests of absent class members, the court must
3 independently and objectively analyze the evidence and circumstances before it in order
4 to determine whether the settlement is in the best interests of those whose claims will be
5 extinguished.” *Ibid.*, citing 4 Newberg on Class Actions (4th ed. 2002) § 11:41, p. 90. In
6 that determination, the court should consider factors such as “the strength of plaintiffs’
7 case, the risk, expense, complexity and likely duration of further litigation, the risk of
8 maintaining class action status through trial, the amount offered in settlement, the extent
9 of discovery completed and stage of the proceedings, the experience and views of
10 counsel, the presence of a governmental participant, and the reaction of the class
11 members to the proposed settlement.” *Id.* at 128. This “list of factors is not exclusive and
12 the court is free to engage in a balancing and weighing of factors depending on the
13 circumstances of each case.” *Wershba, supra*, 91 Cal.App.4th at pg. 245.)

14 **A. A PRESUMPTION OF FAIRNESS EXISTS**

15 The Court preliminarily found in its Order of April 19, 2023 that the presumption
16 of fairness should be applied. No facts have come to the Court’s attention that would
17 alter that preliminary conclusion. Accordingly, the settlement is entitled to a presumption
18 of fairness as set forth in the preliminary approval order.

19 **B. THE SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE**

20 The settlement was preliminarily found to be fair, adequate and reasonable.
21 Notice has now been given to the Class and the LWDA. The notice process resulted in
22 the following:

23 Number of class members: 327

24 Number of notices mailed: 327

25 Number of undeliverable notices: 3

1 Number of opt-outs: 0

2 Number of objections: 0

3 Number of participating class members: 327

4 (Burns Decl. ¶¶3-11.)

5 The Court finds that the notice was given as directed and conforms to due process
6 requirements. Given the reactions of the Class Members and the LWDA to the proposed
7 settlement and for the reasons set for in the Preliminary Approval order, the settlement is
8 found to be fair, adequate, and reasonable.

9 **C. CLASS CERTIFICATION IS PROPER**

10 For the reasons set forth in the preliminary approval order, certification of the
11 Class for purposes of settlement is appropriate.

12 **D. ATTORNEY FEES AND COSTS**

13 Class Counsel requests **\$271,250** (32.59% of escalated GSA) for attorney fees and
14 **\$18,655.10** for costs. (MFA at 1:4-7.)

15 Courts have an independent responsibility to review an attorney fee provision and
16 award only what it determines is reasonable. *Garabedian v. Los Angeles Cellular*
17 *Telephone Company* (2004) 118 Cal.App.4th 123, 128. A percentage calculation is
18 permitted in common fund cases. *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480,
19 503.

20 In the instant case, fees are sought pursuant to the percentage method, as cross-
21 checked by lodestar. (MFA at pp. 16-30.) The Settlement Agreement originally
22 provided for attorney fees of \$271,250 which was 35% of the original GSA (¶56). The
23 same amount of \$271,250 is now requested and is approximately 32.59% of the escalated
24 GSA of \$832,409.41.

1 A lodestar is calculated by multiplying the number of hours reasonably expended
2 by the reasonable hourly rate. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084,
3 1095-1096 (*PLCM*). “Generally, “[t]he lodestar is calculated using the reasonable rate
4 for comparable legal services in *the local community* for noncontingent litigation of the
5 same type, multiplied by the reasonable number of hours spent on the case.’ ”
6 *Environmental Protection Information Center v. Dept. of Forestry & Fire Protection*
7 (2010) 190 Cal.App.4th 217, 248, quoting *Nichols v. City of Taft* (2007) 155
8 Cal.App.4th 1233, 1242-1243.

9 As to the reasonableness of the rate and hours charged, trial courts consider
10 factors such as “the nature of the litigation, its difficulty, the amount involved, the skill
11 required in its handling, the skill employed, the attention given, the success or failure,
12 and other circumstances.” *PLCM, supra*, 22 Cal.4th at p. 1096. “The evidence should
13 allow the court to consider whether the case was overstaffed, how much time the
14 attorneys spent on particular claims, and whether the hours were reasonably expended.”
15 *Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320.

16 Attorney Aiwazian represents that his firm, Lawyers for Justice, PC, spent 749.10
17 hours on the action. (Declaration of Edwin Aiwazian ISO Final ¶12.) At a blended
18 hourly rate of \$650 (*id.* at ¶13), counsel incurred a lodestar of \$486,915 which implies a
19 multiplier of 0.55 to reach the requested fees. In support, he attaches an Attorney Task
20 and Time Chart detailing the hours and tasks performed on the case (*id.* at Exhibit A),
21 though the chart does not specify which attorneys at his firm performed each task. He
22 further represents that his firm has been awarded attorneys’ fees compensating them at
23 the blended hourly rate of at least \$650 by courts granting approval of settlements in
24 other wage-and-hour cases, with examples. (*Id.* at ¶13.) These, however, appear to be
25 implied rates deduced by taking the fees awarded and dividing by the hours worked

1 rather than the Court's approval of the specific rates (see e.g. *Dugan v. TEC Equipment*
2 *Inc.* 19STCV10591 (represented to have been approved at \$936.47 per hour) and
3 *Greenwood v. Scan Health Plan* (BC715157)(represented to have been approved at
4 \$919.57 per hour).(Aiwazian Dec. ISO Final ¶ 13). The Court expresses no view as to the
5 propriety of the blended rate nor would it award a lodestar enhancement given the work
6 performed, including the inability to present a timely and properly supported motion until
7 fifteen months after a settlement was reached in principle. See Order of August 31, 2022.
8 However, the **\$271,250** fee request represents a reasonable percentage of the total funds
9 paid by Defendant. Further, the notice expressly advised class members of the fee
10 request, and no one objected. (Burns Decl. ¶9, Exhibit A thereto.) Accordingly, the
11 Court awards fees in the amount of **\$271,250**.

12 Class Counsel requests **\$18,655.10** in costs. This is less than the \$25,000 cap
13 provided in the settlement agreement (¶56). The amount was disclosed to Class
14 Members in the Notice, and no objections were received. (Burns Decl. ¶9, Exhibit A
15 thereto.) Costs include: Mediation (\$7,450), Court Reporter and Videography Service
16 (\$4,536.75) and Case Anywhere (\$2,232). (Aiwazian Decl. ISO Final ¶20, Exhibit B.)

17 The costs appear to be reasonable and necessary to the litigation, are reasonable
18 in amount, and were not objected to by the class.

19 For all of the foregoing reasons, costs of **\$18,655.10** are approved.

20 **E. SERVICE AWARDS TO CLASS REPRESENTATIVES**

21 Service awards are established in California and the Ninth Circuit in class
22 actions. See *Cellphone Termination Fee Case* (2010), 186 Cal.App.4th 1380, 1393-
23 1394 (noting the "scholarly debate about the propriety of individual awards to named
24 plaintiffs" and the "surprising dearth of California authority directly addressing this
25 question"); *In re Apple Device Litigation* (9th Cir. 2022) 50 F. 4th 769, 785; *Roes, 1-2 v.*

1 SFBSC Mgmt., LLC (9th Cir. 2019) 944 F.3d 1035, 1057 (reasonable incentive
2 awards are permitted to compensate class representatives for work on behalf of the class
3 and financial or reputational risk undertaken in bringing the action).

4 Their apparent purpose is to reimburse actual expenses or to compensate a plaintiff
5 where the market would not otherwise produce a plaintiff. *In Re Continental Securities*
6 *Litigation* (7th Cir. 1992) 962 F. 2d 566, 571-572.

7 Under existing California and Ninth Circuit authority they are permitted where
8 there is a showing of the time and effort expended by the individual and a reasoned
9 explanation of financial or other risks undertaken by the class representative. See *Clark*
10 *v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807; see also
11 *Cellphone Termination Cases* (2010) 186 Cal.App.4th 1380, 1394-1395 [“Criteria courts
12 may consider in determining whether to make an incentive award include: (1) the risk to
13 the class representative in commencing suit, both financial and otherwise; (2) the
14 notoriety and personal difficulties encountered by the class representative; (3) the amount
15 of time and effort spent by the class representative; (4) the duration of the litigation and;
16 (5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of
17 the litigation. (Citations.)”]. Although no amount is set, in the Ninth Circuit many courts
18 have found \$5,000 presumptively reasonable. See *Morrison v. Am. Nat'l Red*
19 *Cross* (N.D.Cal. Jan. 8, 2021, No. 19-cv-02855-HSG) 2021 U.S.Dist.LEXIS 4043, at *24
20 (citing cases).

21 In determining the reasonableness of a requested incentive award, some courts
22 have considered, among other factors, the proportionality between the incentive award
23 requested and the average class member's recovery. *Id.* See also *Munoz v. BCI Coca-*
24 *Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412-413. (Service award
25

1 that was approximately twice what was paid to class members was appropriate exercise
2 of Court's discretion).

3 I/n addition, a service award is not additional consideration for a release of
4 additional claims. See *Grady v. RCM Techs., Inc.* (C.D.Cal. May 2, 2023, No. 5:22-cv-
5 00842 JLS-SHK) 2023 U.S.Dist.LEXIS 84145, at *24-32 and cases cited therein.

6 Class Representatives Jose Diaz, Matthew Vigil, and Diana Estrada each request
7 an enhancement award of **\$7,500**. (MFA at 31:7-11.) In similar declarations, each
8 Plaintiff represents that his or her contributions to this action include: gathering
9 documents concerning his or her employment with Defendant, reviewing documents
10 with his or her attorneys and answering their questions, providing guidance regarding the
11 duties of non-exempt employees, helping develop a strategy as to what documents and
12 information to obtain from Defendant, describing the policies, practices, and procedures
13 of Defendant, reviewing Defendant's discovery requests, locating documents, and
14 providing documents, responses, and supplemental responses to his or her attorneys, and
15 reviewing the settlement. Plaintiff Diaz estimates spending 59 hours on the case,
16 Plaintiff Vigil estimates 46 hours, and Plaintiff Estrada estimates 52 hours. (Declaration
17 of Jose Diaz ISO Final ¶¶2-5; Declaration of Matthew Vigil ISO Final ¶¶2-5;
18 Declaration of Diana Estrada ISO Final ¶¶2-5.) . None indicates having incurred the risk
19 of being responsible for costs nor does any indicate that his or her employability was
20 impacted by acting as a plaintiff in this action.

21 In light of the above-described contributions to this action, and in
22 acknowledgment of the benefits obtained on behalf of the class, a **\$5,000** service award
23 to each Plaintiff is reasonable and approved.

24 //

25 //

1 **F. SETTLEMENT ADMINISTRATION COSTS**

2 The Settlement Administrator, Phoenix Class Action Administration Solutions,
3 requests **\$10,000** in compensation for its work in administrating this case. (Burns Decl.
4 ¶17.) At the time of preliminary approval, costs of settlement administration were
5 estimated at \$10,000 (¶58). Class Members were provided with notice of this amount
6 and did not object. (Burns Decl. ¶9, Exhibit A thereto.)

7 Accordingly, settlement administration costs are approved in the amount of
8 **\$10,000.**

9 *The court finds based on the declaration of the*
10 **IV. CONCLUSION AND ORDER** *and Judgment: settlement,*
Administrator that no class member has opted out of the

11 The Court hereby:

- 12 (1) Grants class certification for purposes of settlement;
- 13 (2) Grants final approval of the settlement as fair, adequate, and reasonable;
- 14 (3) Awards **\$271,250** in attorney fees to Class Counsel, Lawyers for Justice, PC;
- 15 (4) Awards **\$18,655.10** in litigation costs to Class Counsel;
- 16 (5) Approves payment of **\$75,000** (75% of \$100,000 PAGA penalty) to the LWDA;
- 17 (6) Awards **\$5,000 each** as a Class Representative Service Awards to Jose Diaz,
18 Matthew Vigil, and Diana Estrada;
- 19 (7) Awards **\$10,000** in settlement administration costs to Phoenix Class Action
20 Administration Solutions;
- 21 ~~(8) Orders class counsel to lodge a proposed Judgment, consistent with this ruling~~
22 ~~and containing the class definition, full release language, and a statement that no~~
23 ~~class members opted out by _____;~~

1 (9) Orders class counsel to provide notice to the class members pursuant to
2 California Rules of Court, rule 3.771(b) and to the LWDA pursuant to Labor
3 Code §2699 (1)(3); and

4 (10) Sets a Non-Appearance Case Review re: Final Report re: Distribution of
5 Settlement Funds for

6 PK May 31, 2024, at 4:30pm

7 Final Report is to be filed by

8 CAF May 24, 2024. If there is unpaid residue

9 or unclaimed or abandoned class member funds and/or interest thereon to be

10 distributed to Legal Aid at Work, Plaintiffs' counsel shall also submit an

11 Amended Judgment pursuant to Cal. Code of Civ. Pro. § 384 and give notice of

12 the Judicial Council of California upon entry of the Amended Judgment, when

13 entered, pursuant to Cal. Code of Civ. Pro. §384.5.

14
15
16 Dated: Sept. 27, 2023

Carolyn B. Kuhl

CAROLYN B. KUHL

Judge of the Superior Court

EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 17

20STCV04183

JOSE DIAZ, et al. vs ACCUFLEET INTERNATIONAL, INC.

October 24, 2023

11:00 AM

Judge: Honorable Maren Nelson
Judicial Assistant: Nancy Navarro
Courtroom Assistant: Andre Williams

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Joanna Ghosh (Telephonic); Yasmin Hosseini (Telephonic)

For Defendant(s): Katherine Den Bleyker (Telephonic)

NATURE OF PROCEEDINGS: Status Conference re: Administration of Approved Settlement

Status Conference is held.

Court and counsel discuss issues regarding funding of the Judgment.

Counsel are to further meet and confer.

Further Status Conference is scheduled for 11/30/2023 at 09:30 AM in Department 17 at Spring Street Courthouse.

Counsel for Plaintiff is to give notice.

1 **PROOF OF SERVICE**

2 *STATE OF CALIFORNIA, COUNTY OF LOS ANGELES*

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action. My business address is 410 West Arden Avenue, Suite 203,
5 Glendale, California 91203.

6 On November 30, 2023, I served the foregoing document(s) described as:

- 7 • **NOTICE REGARDING OCTOBER 24, 2023 STATUS CONFERENCE AND
8 DELAY IN FUNDING AND DISBURSEMENT OF SETTLEMENT**

9 on interested parties in this action by Electronic Service as follows:

10 Katherine Den Bleyker
11 (kdenbleyker@ohaganmeyer.com)
12 **O'Hagan Meyer,LLP**
13 550 S. Hope Street, Suite 2400
14 Los Angeles, CA 90071

15 *Attorneys for Defendant Accufleet International, Inc.*

16 **[X] BY ELECTRONIC SERVICE**

17 Pursuant to the Court's Order regarding Electronic Service, I caused the documents
18 described above to be E-Served through Case Anywhere by electronically mailing a true
19 and correct copy through Case Anywhere to the individual(s) listed above.

20 State of California, Labor & Workforce Development Agency
21 Web URL:
22 <http://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

23 **[X] BY ONLINE SUBMISSION**

24 The foregoing document was transmitted to the California Labor and Workforce
25 Development Agency through the online system established for the submission of notices
26 and documents, in conformity with California Labor Code section 2699(1). I did not
27 receive, within a reasonable time after the transmission, any electronic message or other
28 indication that the transmission was unsuccessful.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

Executed on November 30, 2023, at Glendale, California.



Emilio Lenti