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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 DAVID CHAVEZ and VINCENT
13 SLAUGHTER, on behalf of themselves and all
others similarly situated,

14 Plaintiffs,

15 vs.

16 STELLAR MANAGEMENT GROUP VII,
17 LLC; STELLAR MANAGEMENT GROUP,
INC. d/b/a QSI QUALITY SERVICE
18 INTEGRITY; THE VINCIT COMPANY, LLC
d/b/a THE VINCIT GROUP and VINCIT
19 ENTERPRISES,

20 Defendants.

Case No.: 3:19-cv-01353-JCS

Hon. Joseph C. Spero

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF SETTLEMENT**

Date: March 18, 2022

Time: 9:30 a.m.

Courtroom: G, 15th Floor

Filed: March 13, 2019

Trial Date: None

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1 The Motion for Final Approval of Settlement filed by Plaintiffs David Chavez and Vincent
2 Slaughter (“Plaintiffs”) in this action (the “Action”), came on for remote hearing on March 18, 2022
3 at 9:30 a.m., by remote videoconference via the online platform Zoom, in Courtroom G, 15th Floor,
4 of the above captioned court, the Honorable Joseph C. Spero presiding.

5 Upon consideration of Plaintiffs’ Motion for Final Approval of Settlement (“Motion”)
6 seeking final Court approval of the parties’ settlement of this Action on the terms set forth in the
7 Class Action Settlement Agreement and Release, including its First, Second, and Third
8 Amendments, filed at ECF 134-2, 141-1, 147-1, and 153-1 (together, “Settlement Agreement”), and
9 having reviewed and considered the terms and conditions of the proposed settlement as set forth in
10 the Settlement Agreement and the terms of which are incorporated in this Order; and no opposition
11 to the Motion having been submitted; and the Court having jurisdiction to consider the Motion and
12 the relief requested therein, and venue being proper before the Court; and due and proper notice of
13 the Motion having been provided; and upon the hearing on the Motion and after due deliberation,
14 and good and sufficient cause appearing therefore;

15 **THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:**

16 1. Capitalized terms used in this Order that are not otherwise identified herein have the
17 meaning assigned to them in the Settlement Agreement.

18 2. The Court has jurisdiction over the claims of the Rule 23 Class Members and
19 Collective Members asserted in this proceeding and over all Parties to the action.

20 3. The parties litigated this case for close to three years. During the course of the
21 litigation, the Court became very familiar with the claims, defenses, competing facts and legal
22 theories presented by the parties, as well as the work of counsel in presenting them. Among other
23 things, the Court considered and decided multiple pleadings motions and discovery disputes. These
24 motions presented complex, difficult and sometimes novel issues for the parties to develop and the
25 Court to resolve. They also evidenced that the parties conducted extensive discovery, depositions,
26 and investigation to support and vet their positions during the course of the case. Through lengthy
27 arms-length negotiations and this Court’s guidance, the parties have prepared and revised the
28 Settlement Agreement at issue.

1 4. With this history, the Court has now considered Plaintiffs’ motion for final approval
2 of the proposed settlement by weighing the strength of the case; the risk, expense, complexity, and
3 likely duration of further litigation; the risk of maintaining class action status throughout the trial;
4 the amount offered in settlement; and the extent of discovery completed, among other factors. *See*
5 *Chun-Hoon v. McKee Foods Corp.*, 716 F.Supp.2d 848, 850-51 (N.D. Cal. 2010) (quoting *Class*
6 *Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291 (9th Cir. 1992)). The Court concludes based on
7 these factors, as well as the terms of the settlement itself and the history of the lengthy arms-length
8 negotiations that resulted in an agreement of these terms, that the settlement is “fair, adequate, and
9 reasonable.” *Staton v. Boeing Co.*, 327 F.3d 938, 959 (9th Cir. 2003).

10 5. The Court also finds, for purposes of settlement, that the requirements of Rule 23(a)
11 of the Federal Rules of Civil Procedure are satisfied for the Rule 23 Settlement Class: (1) the Class
12 is sufficiently numerous that joinder of all members is impracticable; (2) there are questions of law
13 or fact common to the Class; (3) the claims or defenses of Plaintiffs are typical of the claims or
14 defenses of the Class Members; and (4) Plaintiffs will fairly and adequately protect the interests of
15 the Class Members.

16 a. **Numerosity**: Plaintiffs meet the criteria of Rule 23(a)(1) of the Federal Rules
17 of Civil Procedure because there are approximately 1,901 class members, making joinder
18 impractical. Additionally, these class members are ascertainable through Defendants’ records.

19 b. **Common Questions**: Plaintiffs meet the criteria of Rule 23(a)(2) because the
20 Class claims turn upon answers to overarching common questions regarding Defendants’ policies
21 and procedures that are capable of class-wide resolution for settlement purposes. The Court finds
22 that for settlement purposes, the common questions raised by Class Members, include: whether,
23 *inter alia*, Sanitation Workers were required to – and should be paid for – unrecorded off the clock
24 work, including time spent donning and doffing personal protective equipment; whether such
25 donning and doffing time spent during meal and rest breaks were required and renders such breaks
26 on-duty, untimely, or cut short; and whether Sanitation Workers were required to purchase items
27 for work and should be reimbursed for such purchases.

28 c. **Typicality**: Plaintiffs meet the criteria of Rule 23(a)(3) for settlement

1 purposes because the claims of the Class Representatives are typical of the claims of the Rule 23
2 Settlement Class in that all their claims are based on the same Defendants' policies and legal
3 theories, and Plaintiffs were subject to and allege they were harmed by the same policies as other
4 Rule 23 Settlement Class Members.

5 d. **Adequacy**: Plaintiffs meet the criteria of Rule 23(a)(4) because the named
6 Plaintiffs are adequate class representatives in that they do not have any conflicts with the class, are
7 committed to representing the interests of the members of the class, and are represented by counsel
8 with extensive experience and expertise in class action litigation, including wage-and-hour class
9 actions.

10 6. The Court finds, for purposes of settlement only, that the requirements of Rule
11 23(b)(3) of the Federal Rules of Civil Procedure are met because there are common questions of
12 fact and law regarding Defendants' policies and procedures, including those identified above, that
13 in the context of a settlement, predominate over any individual issues. Moreover, a class action
14 settlement is superior to other available methods for the fair and efficient adjudication of the
15 controversy because the injury suffered by each member of the Class, while meaningful on an
16 individual basis, is not of such magnitude as to make the prosecution of individual actions against
17 Defendants economically feasible, and the class action settlement device provides the benefits of
18 single adjudication, economies of scale, and comprehensive supervision by a single court.

19 7. The Court finds that the terms of the Settlement are within the range of approval,
20 pursuant to Rule 23 of the Federal Rules of Civil Procedure and applicable law. The Court finds
21 that: (1) the settlement amount is fair and reasonable as to the Rule 23 Class Members when
22 balanced against the probable outcome of further litigation relating to class certification, liability
23 and damages issues, and potential appeals; (2) significant discovery, investigation, research, and
24 litigation have been conducted such that counsel for the Parties at this time are able to reasonably
25 evaluate their respective positions; (3) settlement at this time will avoid substantial costs, delay, and
26 risks that would be presented by the further prosecution of the litigation; and (4) the proposed
27 Settlement has been reached as the result of intensive, serious, and non-collusive negotiations
28 between the Parties. Accordingly, the Court finds that the Settlement was entered into in good faith

1 with respect to the California Class.

2 8. For purposes of settlement only, the Rule 23 Settlement Class is certified pursuant to
3 Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure as a class action on behalf of the
4 Class, defined as follows: “Plaintiffs and all individuals employed by Defendants in a Covered
5 Position in the State of California at any time from March 13, 2015 through and including December
6 31, 2020.”

7 9. For the purpose of facilitating the settlement, the Court designates Plaintiffs David
8 Chavez and Vincent Slaughter, as the Class Representatives. Also, for the purpose of facilitating
9 the settlement, the Court designates Carolyn H. Cottrell, Ori Edelstein, and Michelle S. Lim of
10 Schneider Wallace Cottrell Konecky LLP as Class Counsel.

11 10. The Court finds that no class member has objected to the settlement or the motion for
12 attorneys’ fees and costs, that no class member has disputed his or her workweeks for calculating
13 the settlement awards, and that no class member has requested to opt out of the settlement.

14 11. The Court finds that due and proper notice of the Settlement was provided to all Rule
15 23 Settlement Class Members, including notice of the right to object to the proposed Settlement,
16 the right to object to Class Counsel’s application for attorneys’ fees and costs, the right to appear in
17 person or by counsel at the Fairness Hearing and be heard and the right to Opt Out. The Court finds
18 that the notice provided was the best means of providing notice to the Class Members under the
19 circumstances. The Court further finds that it was due and sufficient notice of the Settlement and
20 the Fairness Hearing to all persons affected by and/or entitled to participate in the Settlement or the
21 Fairness Hearing, in full compliance with the requirements of due process and Federal Rule of Civil
22 Procedure 23(c)(2)(B), (e)(1), and (h)(1). The Court further finds that the Notice of Settlement fully
23 and accurately informed the Rule 23 Class Members of all material elements of the proposed
24 Settlement, of their right to be excluded from the Settlement, and of their right and opportunity to
25 object to the Settlement. A full opportunity has been afforded to the Rule 23 Class Members to
26 participate in this hearing and all Rule 23 Class Members and other persons wishing to be heard
27 have been heard. Accordingly, the Court determines that all Rule 23 Class Members, since none
28 timely and properly executed a request for exclusion, are bound by this Order and the Judgment.

1 12. The Court hereby makes final its earlier conditional certification of the FLSA
2 Settlement Collective, in accordance with the Settlement, for purposes of this Settlement only. The
3 FLSA Settlement Collective is defined as follows: “all individuals employed by Defendants in a
4 Covered Position anywhere in the United States of America at any time from March 13, 2016
5 through and including December 31, 2020.” In turn, Opt-In Plaintiffs are “Plaintiff Slaughter, all
6 Collective Members that filed a consent form to join this Action prior to preliminary approval, and
7 all additional Collective Members who opt in to the Action and consent to the terms of the
8 Settlement by negotiating their Settlement Award check.”

9 13. The Court hereby confirms its approval of the terms and conditions contained in the
10 Settlement as to the Collective of Opt In Plaintiffs as set forth in its September 27, 2021 Order. See
11 ECF 154. The Court has already found that the terms of the Settlement represent a fair and
12 reasonable resolution of a *bona fide* dispute, and are within the range of possible approval, pursuant
13 to the FLSA and applicable law.

14 14. The Court finds that: (1) the settlement amount is fair and reasonable as to the
15 Collective when balanced against the probable outcome of further litigation relating to collective
16 decertification, liability and damages issues, and potential appeals; (2) significant discovery,
17 investigation, research, and litigation have been conducted such that counsel for the Parties at this
18 time are able to reasonably evaluate their respective positions; (3) settlement at this time will avoid
19 substantial costs, delay, and risks that would be presented by the further prosecution of the litigation;
20 and (4) the proposed Settlement has been reached as the result of intensive, serious, and non-
21 collusive negotiations between the Parties. Accordingly, the Court finds that the Settlement was
22 entered into in good faith with respect to the Collective.

23 15. The Court further finds that the Notice of Settlement fully and accurately informed
24 the Collective Members of all material elements of the Settlement. Accordingly, the Court
25 determines that all Collective Members who submit timely opt-ins are bound by this Order and the
26 Judgment.

27 16. The Court approves the PAGA Payment to the Labor and Workforce Development
28 Agency (“LWDA”) for Plaintiffs’ claims pursuant to the California Private Attorney General Act

1 of 2004.

(as reduced in the Court's separate order)

2 17. By separate orders, the Court finds that the award of Plaintiffs' attorneys' fees and
 3 costs is fair, reasonable and appropriate, and approves the service awards as well.

4 18. The Court approves payment to the Settlement Administrator, Kroll Settlement
 5 Administration LLC f/k/a Heffler Claims Group ("Kroll"), of \$81,361.00 out of the Gross
 6 Settlement Amount, based on the supplemental declaration of Scott M. Fenwick verifying the
 7 administrator's reasonable costs in fulfilling the settlement administration in this case.

8 19. The Court finds that the terms of the Settlement Agreement are fair, reasonable, and
 9 adequate and are hereby approved on a final basis pursuant to Federal Rule of Civil Procedure 23(e).
 10 Specifically, the Court approves in full the Settlement Agreement. The Parties shall comply with
 11 and implement the Settlement Agreement according to its terms.

12 20. The Court retains jurisdiction with respect to all matters arising from or related to the
 13 implementation of the Settlement Agreement or this Order.

14 21. Accordingly, good cause appearing, the Court hereby approves following
 15 implementation schedule:

16 Effective Date 17 18 19 20 21 22 23 24	The latest of the following dates: (i) if there are one or more objections to the settlement that are not subsequently withdrawn, then the date after the expiration of time for filing a notice of appeal of the Court's Final Approval Order, assuming no appeal or request for review has been filed; (ii) if there is a timely objection and appeal by one or more objectors, then the date after such appeal or appeals are terminated (including any requests for rehearing) resulting in the final judicial approval of the Settlement; or (iii) if there are no timely objections to the settlement, or if one or more objections were filed but subsequently withdrawn before the date of Final Approval, then the first business day after the Court's order granting Final Approval of the Settlement is entered
25 26 Deadline for Kroll to calculate the employer share of taxes and provide Defendants with the total amount of Defendants' Payroll Taxes 27	Within 5 business days after final Settlement Award calculations are approved 28

1	Deadline for Kroll to make payments under the Settlement to Participating Individuals, the LWDA, Class Representatives, Plaintiffs' counsel, and itself	Within 30 days after the Effective Date or as soon as reasonably practicable
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3	Deadline for Kroll to send a reminder letter via U.S. mail and, if applicable, email to those Participating Individuals that have not cashed their settlement check	90 days before the check-cashing deadline
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5	Deadline for Kroll to place a call to Participating Individuals that have not cashed their settlement check, to promptly attempt to obtain a valid mailing addresses for such individuals, and to send second checks to such individuals	60 days before the check-cashing deadline
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9	Check-cashing deadline	180 days after issuance
10	Deadline for Kroll to tender uncashed check funds to cy pres recipient Legal Aid at Work or redistribute such uncashed funds to Participating Individuals who cashed their Settlement Award checks	As soon as practicable after check-cashing deadline Participants shall have 180 days to cash redistributed checks if such checks are issued.
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13	Deadline for Kroll to provide written certification of completion of administration of the Settlement to counsel for all Parties and the Court	Within 21 business days after the distribution of any uncashed funds
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16 22. The Court further ORDERS that, pending further order of this Court, all proceedings

17 in the above-captioned Action, except those contemplated herein and in the Settlement, are stayed,

18 and all deadlines are vacated.

19 23. The Court will separately enter a Judgment and Dismissal of this Action with

20 prejudice consistent with the terms of this Order.

21

22 **IT IS SO ORDERED.**

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24 Dated: March 18, 2022

25 

26 HON. JOSEPH C. SPERO

27 United States Chief Magistrate Judge

28 Northern District of California