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Superior Court of California
County of Los Angeles
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David W. Slayton, Executive Officer / Clerk of Court

By: P. Herrera Deputy

Attorneys for Plaintiffs
SYDNEY ELLIOT-BRAND, BERNARDO
BUCHSBAUM, and JOSIE MEISTER,
and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SYDNEY ELLIOTT-BRAND, BERNARDO
BUCHSBAUM, and JOSIE MEISTER,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

KFORCE, INC.; KFORCE FLEXIBLE
SOLUTIONS, LLC, and DOES 1-20, inclusive,

Defendants.

Case No. 20STCV49193

**[PROPOSED] JUDGMENT AND ORDER
GRANTING FINAL APPROVAL OF CLASS,
COLLECTIVE, AND PAGA SETTLEMENT**

Assigned to the Honorable Elihu M. Berle
Dept.: 6

Complaint Filed: December 24, 2020
FAC Filed: January 7, 2022

RECITALS

On September 3, 2020, Plaintiff Bernardo Buchsbaum, on behalf of himself and other allegedly similarly aggrieved employees, filed a PAGA lawsuit against Defendants in the Superior Court of the State of California, San Diego County, Case No. Case No. 37-2020-00030994-CU-OE-CTL. On January 19, 2021, Plaintiff Buchsbaum filed a First Amended Complaint, clarifying the group of aggrieved employees he sought to represent. Plaintiff Buchsbaum's PAGA action is based on a misclassification theory and multiple resulting alleged California Labor Code violations, including failure to: pay minimum wages, pay overtime wages, provide meal and rest breaks, provide accurate wage statements, reimburse business expenses, and pay unused, vested vacation wages.

1 On December 24, 2020, Plaintiff Sydney Elliott-Brand filed a class action complaint in the
2 Superior Court of the State of California, Los Angeles County, Case No. 20STCV49193. The
3 Complaint, also based on a misclassification theory, alleged nine causes of action, as follows:
4 (1) Failure To Pay Minimum Wages; (2) Failure To Pay Overtime Wages; (3) Failure To Pay All
5 Wages; (4) Failure To Provide Meal Periods; (5) Failure To Permit Rest Breaks; (6) Failure To
6 Reimburse All Business Expenses; (7) Failure To Provide Accurate And Itemized Wage Statements;
7 (8) Failure To Pay All Wages And Vacation Pay Due Upon Separation Of Employment; and
8 (9) Violation Of Business And Professions §§ 17200, *et seq.*

9 On July 31, 2021, Plaintiff Darryn Lewis filed a putative collective action complaint in the
10 U.S. District Court for the Southern District of California alleging a single cause of action for failure
11 to pay overtime pay under the Fair Labor Standards Act, 29 U.S.C. section § 201 *et. seq.*, also based
12 on a misclassification theory.

13 On January 7, 2022, Plaintiff Sydney Elliott-Brand filed a First Amended Complaint, adding
14 Bernardo Buchsbaum and Josie Meister as named plaintiffs and adding claims under the California
15 Private Attorneys General Act of 2004, California Labor Code Section 2968, *et seq.* (“PAGA”), and
16 Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

17 On November 12, 2021, the Parties mediated with Henry J. Bongiovi, a very experienced
18 mediator of wage and hour class actions. In advance of the mediation, the Parties engaged in
19 informal discovery, whereby Defendants provided the following information related to Defendants’
20 employees: (1) the number of Class Members, FLSA Collective Members and PAGA Group
21 Members; (2) workweeks worked; (3) the number of pay periods; (4) company policies pertaining to
22 wage and hour issues; and (5) all pay data for Class Members, FLSA Collective Members and PAGA
23 Group Members. The Parties have entered into a Settlement Agreement which, subject to approval by
24 this Court, fully releases Defendants from all class, collective and PAGA claims in this action in
25 exchange for lump sum payment of \$3,250,000. The lump sum is allocated as follows: \$1,500,000 for
26 the resolution of the Class Action for California class members for California Labor Code and FLSA
27 claims (“Class Members”), \$1,500,000 for the resolution of the claims of non-California class
28 members for claims under the FLSA (“FLSA Collective Members”), and \$250,000 for the resolution

1 of the PAGA claims (“PAGA Group Members”) (Class Members, FLSA Collective Members and
2 PAGA Group Members are collectively referred to herein as “Class and Collective Members”). The
3 Escalator Clause in section 9.3 of the Joint Stipulation of Settlement was triggered, and Defendant
4 elected to pay a proportional amount in addition to the allocated Class Settlement Payment and FLSA
5 Settlement Payment. As a result, this increased the original Gross Settlement Amount (“GSA”) of
6 \$3,250,000.00 to \$3,411,877.66. Furthermore, the calculations for the Settlement Payments are to be
7 based on the updated GSA with the additional Escalator amount.

8 Following the filing of Plaintiff’s Motion for Preliminary Approval of Class, Collective, and
9 Representative Action Settlement, and after receiving input from the Court, the Parties amended the
10 original settlement agreement between the Parties and on or about June 15, 2022, entered into the
11 operative settlement agreement, along with an Addendum, which Plaintiff filed with the Court.
12 Thereafter, on September 21, 2022, the Court granted preliminary approval. Notice was given to the
13 Class and Collective Members as ordered.

14 Plaintiff’s Motion for Final Approval was filed with the Court on December 16, 2022, a copy
15 of the Motion was sent to the LWDA, and a hearing was held before this Court on March 6, 2023 at
16 9:00 a.m. Appearing at the hearing were Jonathan Lebe of Lebe Law, APLC for Plaintiffs and as
17 Proposed Class Counsel for the Class, and Justin T. Curley of Seyfarth Shaw LLP for Defendants.

18 The Court has considered the moving and supporting papers, Stipulation of Settlement, and all
19 other papers filed in this Litigation.

20 **FINDINGS AND ORDERS**

21 **NOW THEREFORE, IT IS HEREBY FOUND AND ORDERED:**

22 **Investigation in the Class and Collective Action**

23 The Parties have conducted significant investigation of the facts and law during the
24 prosecution of this Litigation. Such discovery and investigations have included the exchange of
25 information and documents pursuant to informal discovery. Counsel for the Parties have further
26 investigated the applicable law as applied to the facts discovered regarding the alleged claims of the
27 Class and Collective Members and potential defenses thereto and the damages claimed.

1 **Benefits of Settlement to Class and Collective Members**

2 Plaintiffs recognize the expense and length of continued proceedings necessary to continue
3 the litigation against Defendants through trial and through any possible appeals. Plaintiffs have
4 also taken into account the uncertainty and risk of the outcome of further litigation, and the
5 difficulties and delays inherent in such litigation, including those involved in class certification.
6 Plaintiffs are also aware of the burdens of proof necessary to establish liability for the claims
7 asserted in the Litigation, Defendants' defenses thereto, and the difficulties in establishing
8 damages for Class and Collective Members. Plaintiffs have also considered the significant
9 settlement negotiations conducted by the Parties, and the advice of the neutral mediator. Based
10 on the foregoing, Plaintiffs have determined that the terms and conditions for resolution of the
11 Litigation, set forth in the Stipulation, are fair, adequate and reasonable, and in the best interests of
12 all Class and Collective Members.

13 **Plaintiff and the Class and Collective Members' Claims**

14 Plaintiffs and the Class and Collective Members contend that the claims, contentions, and
15 allegations by Plaintiff, individually and on behalf of the Class and Collective Members, in
16 the Litigation have merit and give rise to liability on the part of Defendants. Neither the
17 Stipulation nor any documents referred to herein, or any action taken to carry out the Stipulation is
18 or may be construed as or may be used as, an admission by or against the Class and Collective
19 Members or Class Counsel as to the merits or lack thereof of the Litigation.

20 **Defendants' Denials of Wrongdoing**

21 Defendants have denied and continue to deny each of the claims, contentions, and damages
22 alleged by Plaintiffs, individually and on behalf of the Class and Collective Members, in the
23 Litigation. Defendants adamantly deny any wrongdoing or legal liability arising out of any of the facts
24 or conduct alleged in the Litigation, and believe that they have valid defenses to Plaintiffs' and the
25 Class and Collective Members' claims as to liability, class certification, and damages. Neither the
26 Stipulation, nor any document referred to or contemplated herein, nor any action taken to carry out the
27 Stipulation, may be construed as, or may be used as an admission, concession or indication by or
28 against Defendants of any fault, wrongdoing, or liability whatsoever, including any concession that

1 certification of a class or collective would be appropriate in the Litigation or any other case.

2 **Operation of the Settlement**

3 Pursuant to the Order Granting Preliminary Approval of Class Action Settlement and Setting a
4 Final Approval Hearing (“Preliminary Approval Order”) dated September 21, 2022, this
5 Court conditionally certified the Class and granted preliminary approval to the Stipulation of
6 Settlement. The Preliminary Approval Order also approved of the proposed forms of notice. The
7 Court entered the Preliminary Approval Order after review and consideration of all of the
8 pleadings filed and representations and arguments made in connection herewith.

9 In compliance with the Preliminary Approval Order, the Class and Collective Notices
10 were sent to all Class and Collective Members via first class mail. Furthermore, follow-up mailings
11 were performed for returned mail. The notice program was timely completed on January 16, 2023.

12 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class Action
13 Settlement (“Motion for Final Approval”), including approval of a service award for the Named
14 Plaintiffs and Class Counsel’s Application for attorneys’ fees and costs. The Court has read, heard, and
15 considered all the pleadings and documents submitted, all other papers filed in the Litigation, and the
16 representations and arguments made in connection with the Motion and Application which came on for
17 hearing on March 6, 2023. Appearing at the hearing for Plaintiff were Jonathan M. Lebe of Lebe Law,
18 APLC, as Proposed Class Counsel for the Class, and Justin T. Curley of Seyfarth Shaw LLP for
19 Defendants.

20 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
21 FOLLOWS:

22 1. This Court finds that the Stipulation of Settlement appears to be the product of serious,
23 informed, non-collusive negotiations, has no obvious deficiencies, and does not improperly grant
24 preferential treatment to any individuals. The Court finds that the Stipulation was entered into in
25 good faith pursuant to California Code of Civil Procedure section 877.6. The Court further finds
26 that the Stipulation is fair, reasonable and adequate and that the Plaintiff has satisfied the standards for
27 final approval of a class action settlement under California law. Under the provisions of California
28 Code of Civil Procedure section 382 and Federal Rule of Civil Procedure 23, as approved for use by

1 the California state court in *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971), the trial court has
2 discretion to certify a class where:

3 [Q]uestions of law or fact common to the members of the class predominate over
4 any questions affecting only individual members, and that a class action
5 is superior to the available methods for fairly and efficiently
6 adjudicating the controversy Fed. R. Civ. Proc. 23.

6 Certification of a settlement class is the appropriate judicial device under these circumstances.

7 The Court, for purposes of this Order, adopts all defined terms as set forth in the Stipulation.

8 2. The Court has jurisdiction over the subject matter of the Litigation, the Class
9 Representative, the Settlement Class Members, the Settlement FLSA Collective Members, the PAGA
10 Group Members and Defendants.

11 3. The Court finds that the dissemination of the Notice of Proposed Class Action Settlement
12 and Notice of Proposed Collective Action Settlement as provided for in the Order Granting
13 Preliminary Approval, constituted the best notice practicable under the circumstances to all Class
14 and Collective Members, and fully met the requirements of California and federal law and
15 due process under the United States Constitution. Based on evidence and other material submitted
16 in conjunction with the Settlement Hearing, the actual notice to the Class and Collective Members
17 was adequate.

18 4. The Court approves the settlement of the above-captioned action, as set forth in the
19 Stipulation, each of the releases and other terms, as fair, just, reasonable, and adequate as to the
20 Settling Parties and Settlement Class Members and Settlement FLSA Collective
21 Members. The Parties are directed to perform in accordance with the terms set forth in the
22 Stipulation of Settlement, the Order Granting Preliminary Approval, and this Final Approval Order
23 and Judgment.

24 5. Except as otherwise provided in the Stipulation, the Settling Parties are to bear their own
25 costs and attorneys' fees.

26 6. Solely for purposes of effectuating this Stipulation, this Court has certified a class of
27 all Settlement Class Members, as those terms are defined in and by the terms of the Stipulation, and
28

1 the Court deems this definition sufficient for purposes of California Rules of Court 3.765(a) and
2 3.771. The Court hereby certifies the following Class for settlement purposes only:

3 7. All Settlement Class Members as defined by section 1.5 of the Stipulation during the
4 Class Period as defined by section 1.6 of the Stipulation and who did not timely and properly opt
5 out of the Settlement as defined by section 1.40 of the Stipulation, and all Settlement FLSA
6 Collective Members as defined in 1.13 of the Stipulation during the FLSA Period as defined in 1.16
7 of the Stipulation and who timely opt in to the FLSA Collective Action by cashing or depositing
8 their FLSA settlement checks as defined in section 1.41 of the Stipulation.¹

9 8. The Court hereby confirms Jonathan M. Lebe of Lebe Law, APLC as class counsel
10 for the Settlement Class Members, the Settlement FLSA Collective Members, and the PAGA Group
11 Members.

12 9. The Court hereby confirms the Plaintiffs Sydney Elliott-Brand, Bernardo Buchsbaum,
13 and Josie Meister as the Class Representatives in this Action.

14 10. All objections to the settlement have been withdrawn and there are no objections for the
15 Court to rule upon.

16 11. With respect to the Settlement Class and for purposes of approving the settlement
17 only and for no other purpose, this Court finds and concludes that: (a) the Settlement Class Members
18 are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions
19 of law or fact common to the Settlement Class Members, and there is a well-defined community
20 of interest among the Settlement Class Members with respect to the subject matter of the claims
21 in the Litigation; (c) the claims of the Class Representative is typical of the claims of the Settlement
22 Class Members; (d) the Class Representative has fairly and adequately protected the interests of the
23 Settlement Class Members; (e) a class action is superior to other available methods for an efficient
24 adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e.,
25

26 ¹ The Settlement FLSA Collective Action Members shall exclude Michael Blasche, Ashley Ford,
27 Jacalyn Guitard, Jolene Holthaus, Alexander Lomaglio, Damon Marshall, Maxwell Olson,
28 Dweepkumar Shah, Rachael Trimboli/Miller and Sam Whiteman, who separately settled and released
their FLSA claims as approved by the court in *Whiteman v. Kforce Inc.*, 8:22-cv-00056-VMC-CPT
(M.D. Fl.).

Class Counsel, are qualified to serve as counsel for Plaintiffs in their individual and representative capacity and for the Settlement Class Members.

12. Defendants shall fund Settlement Sum pursuant to the terms of the Stipulation.

13. The Court approves the Individual Settlement Amounts, which shall be distributed pursuant to the terms of the Joint Stipulation of Class Action Settlement and Release.

14. Out of the total Settlement Sum and through the Claims Administrator, Defendants shall pay (a) to Class Counsel attorneys' fees in the amount of \$1,083,333.33 and reimbursement of costs in the amount of \$11,282.48; (b) service awards to the Class Representatives Sydney Elliott-Brand, Bernardo Buchsbaum, and Josie Meister to reimburse them for their unique services in the amount of \$7,500 each; (c) the sum of \$187,500.00 to the Labor and Workforce Development Agency for its share of civil penalties under the Labor Code's Private Attorneys General Act; and (d) \$13,500.00 to the Settlement Administrator, CPT Group, Inc., for its fees and costs relating to the settlement administration process. The Court finds that these amounts are fair and reasonable.

Defendants are directed to make such payments in accordance with the terms of the Stipulation.

15. In the event that the Effective Date occurs, the action captioned as *Sydney Elliott-Brand, et al. v. KFORCE, INC., et al.* Los Angeles County Case Number Case No. 20STCV49193, shall be resolved pursuant to the terms of the Stipulation by entry of this Order and Judgment. Further, the Court finds and determines that in the event that the Effective Date occurs, all Class and Collective Members, except (1) Jessica Cook, (2) Brianna Pratt, (3) Danielle Buford, (4) Rachael Trimboli/Miller, (5) John Reed, (6) Chantay Crawford, (7) Jonathan Kaker, (8) Khyran Shank, and (9) Ayanna Armatrading, who timely requested exclusion from the Stipulation, are bound by the Stipulation of Settlement, have released their claims as set forth in the Stipulation, and are permanently barred from prosecuting against Defendants any individual, class, ~~collective, or PAGA~~ claims released pursuant to terms of the Stipulation. ~~However, all Class Members, including (1) Jessica Cook, (2) Brianna Pratt, (3) Danielle Buford, (4) Rachael Trimboli/Miller, (5) John Reed, (6) Chantay Crawford, (7) Jonathan Kaker, (8) Khyran Shank, and (9) Ayanna Armatrading, are bound by the Stipulation as to the claims under the Private Attorneys General Act (PAGA), have released their claims under the Private Attorneys General Act against Defendants as set forth in the Stipulation, and are permanently barred from prosecuting~~

1 ~~against Defendants any Private Attorneys General Act claims released pursuant to the Stipulation.~~

2 (1) Jessica Cook, (2) Brianna Pratt, (3) Danielle Buford, (4) Rachael Trimboli/Miller, (5) John Reed,
3 (6) Chantay Crawford, (7) Jonathan Kaker, (8) Khyran Shank, and (9) Ayanna Armatrading will each
4 receive a PAGA settlement payment only.

5 16. Settlement Checks not cashed within 180 days after issuance will be handled in
6 accordance with section 4.11 in the Stipulation of Settlement.

7 17. Final Judgment is hereby entered based on the Parties' Settlement. The Court reserves
8 exclusive and continuing jurisdiction over the Litigation, the Class Representative, the Class
9 Members, the FLSA Collective Members, the PAGA Group Members and Defendants for the
10 purposes of supervising the implementation, enforcement, construction, administration, and
11 interpretation of the Stipulation.

12 18. The Court sets an OSC hearing regarding compliance with all settlement fund
13 distribution requirements under the Stipulation for November 15, 2023 at 8:30 a.m., in the above-
14 entitled Court. A declaration from the Settlement Administrator regarding compliance shall be filed
15 with the Court no later than November 8, 2023. No appearance by the parties is required at the OSC
16 re compliance hearing if the Settlement Administrator's declaration is timely filed and the
17 Settlement Administrator reports that all of the distributions under the Settlement are complete.

18 19. In accordance with California Rule of Court 3.771(b), the parties are ordered to give
19 notice of this final Order and the Judgment to all Class Members by posting the Order and the
20 Judgment on the Settlement Administrator's website.

21 IT IS SO ORDERED.

22
23 DATED: T & A AGH



Elihu M. Berle

Elihu M. Berle / Judge

24 HON. ELIHU M. BERLE
25 Judge of the Superior Court
26
27
28