

COPY

1 THE TIDRICK LAW FIRM LLP
2 STEVEN G. TIDRICK, SBN 224760
3 JOEL B. YOUNG, SBN 236662
4 1300 Clay Street, Suite 600
5 Oakland, CA 94612
6 Telephone: (510) 788-5100
7 Facsimile: (510) 291-3226
8 E-mail: sgt@tidricklaw.com
9 E-mail: jby@tidricklaw.com

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

MAR 13 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By: Aldwin Lim, Deputy

6 Attorneys for Plaintiffs NATHAN
7 FLOWERS and DONDAY ORR

8 JONES DAY
9 Christopher Lovrien (SBN 230546)
10 555 South Flower Street
11 Fiftieth Floor
12 Los Angeles, CA 90071-2300
13 Telephone: (213) 489-3939
14 Facsimile: (213) 243-2539

RECEIVED
LOS ANGELES SUPERIOR COURT

MAR 10 2020

S. DREW

11 JONES DAY
12 Cindi L. Ritchey (State Bar No. 216899)
13 4655 Executive Drive. Ste. 1500
14 San Diego, California 92121
15 Telephone: (858) 314-1200
16 Facsimile: (844) 345-3178

15 Attorneys for Defendant
16 LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

17 ADDITIONAL COUNSEL LISTED ON NEXT PAGE

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF LOS ANGELES

20 NATHAN FLOWERS and DONDAY ORR,
21 on behalf of themselves and all others similarly
22 situated,

23 Plaintiffs,

24 v.

25 LOS ANGELES COUNTY
26 METROPOLITAN TRANSPORTATION
27 AUTHORITY; and DOES 1 TO 50,

28 Defendants.

Civil Case No. BC515136

Class Action

ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE WILLIAM F. HIGHBERGER,
DEPARTMENT 10

STIPULATION AND ~~PROPOSED~~
ORDER REGARDING SETTLEMENT

Trial Date: None Set

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDITIONAL COUNSEL

OFFICE OF THE COUNTY COUNSEL

COUNTY OF LOS ANGELES

Mary C. Wickham, County Counsel

Charles M. Safer (SBN 82771)

Assistant County Counsel

Ronald W. Stamm (State Bar No. 91919)

Principal Deputy County Counsel

One Gateway Plaza

Los Angeles, CA 90012

Telephone: (213) 922-2525

Facsimile: (213) 922-2530

Attorneys for Defendant

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

1 Plaintiff Donday Orr (“Plaintiff”) and Defendant Los Angeles County Metropolitan
2 Transportation Authority (“Defendant” or “LACMTA”) (collectively the “Parties”), through
3 their respective counsel of record, having considered the guidance provided by the Court at
4 the hearings on Plaintiff’s motion for preliminary approval of class settlement on December 4,
5 2019 and February 7, 2020, hereby stipulate and agree as follows, subject to Court approval:

6 1) Plaintiffs’ claims under the Labor Code Private Attorneys General Act of 2004,
7 Labor Code § 2698 *et seq.* (“PAGA”) are dismissed with prejudice, in light of
8 authorities cited by Defendant in its February 7, 2020 filing indicating that PAGA
9 is inapplicable to public entity employers;

10 2) The Joint Stipulation of Class Action Settlement, filed October 1, 2019, is
11 modified as follows:

12 a. For All Class Members (*i.e.*, both former employees and current
13 employees):

14 i. There shall be no waiver of rights and benefits under California
15 Civil Code Section 1542; and

16 ii. There shall be no release of unknown claims;

17 iii. There shall be no release of PAGA claims, because there are no
18 such claims to release given that they are dismissed with prejudice;

19 b. For All Former Employees:

20 i. There shall be no release of any damages claims; and

21 ii. Former employees shall constitute a subclass certified for injunctive
22 relief only;

23 3) For All Current employees: Damages claims will be released as set forth in the
24 Joint Stipulation of Class Action Settlement, filed October 1, 2019, except as
25 modified above for all class members, and except as to any class members who opt
26 out (who will release no claims). The release of damages claims by current
27 employees is reasonable because current employees: (1) will obtain substantial
28 financial benefit from the injunctive relief; and (2) have the right to opt out.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Indeed, courts recognize that injunctive relief can have monetary value. *See In re Netflix Privacy Litig.*, 2013 WL 1120801, *7 (N.D. Cal. Mar. 18, 2013) (“the settlement amount . . . includes the size of the cash distribution, the *cy pres* method of distribution, and the injunctive relief”). Accordingly, courts have approved injunctive relief-only class action settlements that released claims for damages. *See, e.g., Cellphone Termination Fee Cases*, 180 Cal. App. 4th 1110, 1115-17 (2009); *Goldkorn v. County of San Bernardino*, 2012 U.S. Dist. LEXIS 17934, at *6-8 (C.D. Cal. Feb. 13, 2012).

- 4) This action has not resulted in the tolling of any damages claims of any individuals currently or formerly employed by Defendant as bus or train operators, per *Jolly v. Eli Lilly & Co.*, 44 Cal. 3d 1103 (1988).

IT IS SO STIPULATED.

Dated: March 10, 2020

THE TIDRICK LAW FIRM LLP

Steven G. Tidrick, SBN 224760
Joel B. Young, SBN 236662
Attorneys for Plaintiff

Dated: March 10, 2020

JONES DAY

/s/ Cindi L. Ritchey

Cindi L. Ritchey, SBN 216899
Attorneys for Defendant

[PROPOSED] ORDER

Having considered the stipulation of the Parties, and good cause appearing therefore, the Court adopts and orders the foregoing, and grants preliminary approval of the Joint Stipulation of Class Action Settlement, filed October 1, 2019, as modified herein.

SO ORDERED:

Dated 3/13, 2020

WILLIAM F. HIGHBERGER, JUDGE

Hon. William F. Highberger
Los Angeles Superior Court Judge