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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

JOSE DAMIAN CASTILLO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

GIBSON OVERSEAS, INC., a California Corporation;
and DOES 1 through 10, inclusive,

Defendants.

EZEQUIEL HERRERA, individually, and on behalf of
other members of the general public similarly situated,

Plaintiff,

vs.

GIBSON OVERSEAS, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVDS2022537 [Castillo]
Case No.: CIVSB2024673 [Herrera]

[Assigned to the Hon. Judge David Cohn,
Dept. S26, for all purposes]

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 6, 2022
Time: 10:00 a.m.
Courtroom: S26
Judge: David S. Cohn

Castillo Action Filed: October 13, 2020
Herrera Action Filed: November 2, 2020
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Plaintiffs Jose Damian Castillo and Ezequiel Herrera ("Plaintiffs") and Defendant Gibson
3 Overseas, Inc. ("Defendant") have reached terms of settlement for a putative class action.

4 Plaintiffs have filed a motion for final approval of a class action settlement of the claims asserted
5 against Defendant in this action, memorialized in the JOINT STIPULATION OF CLASS ACTION
6 AND PAGA ACTION SETTLEMENT (*see* Declaration of H. Scott Leviant In Support of Plaintiffs'
7 Motion for Final Approval of Class Action Settlement ["Leviant Decl."], at Exh. 1). The JOINT
8 STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT is referred to herein as
9 the "Agreement" or "Settlement."

10 After reviewing the Agreement, the Notice process, and other related documents, and having
11 heard the argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS FOLLOWS:**

12 1. The Court finds that the terms of the proposed class action Settlement are fair,
13 reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. In granting final
14 approval of the class action settlement the Court has considered the factors identified in *Dunk v. Ford*
15 *Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal.
16 App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006).

17 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
18 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
19 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
20 their respective positions. The Court also finds that settlement at this time will avoid additional
21 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
22 of the action. The Court finds that the risks of further prosecution are substantial.

23 3. The parties' Settlement is granted final approval. The Court has considered all relevant
24 factors for determining the fairness of the settlement, and has concluded that all such factors weigh in
25 favor of granting final approval. In particular, the Court finds that the settlement was reached following
26 meaningful discovery and investigation conducted by Class Counsel; that the settlement is the result of
27 serious, informed, adversarial, and arm's-length negotiations between the Parties; and that the terms of
28 the settlement are in all respects fair, adequate, and reasonable. The Settlement Class meets the

1 requirements for conditional certification for settlement purposes only under Code of Civil Procedure
2 § 382.

3 4. The Class Notice provided to the Settlement Class complied with the requirements of
4 Code of Civil Procedure § 382, Civil Code § 1781, Rules of Court 3.766 and 3.769, the California and
5 United States Constitutions, and any other applicable law, and constituted the best notice practicable
6 under the circumstances, by providing individual notice to all Settlement Class Members who could be
7 identified through reasonable effort, and by providing due and adequate notice of the proceedings and
8 of the matters set forth therein to the other Settlement Class Members. The Class Notice fully satisfied
9 the requirements of due process.

10 5. The following persons are certified as Class Members solely for the purpose of entering
11 a settlement in this matter:

12 All persons who worked for any Defendant in California as an hourly paid, non-
13 exempt employee during the Class Period (the “Class Period” is October 13, 2016
through January 19, 2022).

14 (Settlement, ¶¶ 3-4.)

15 6. The Court also defines the following “PAGA Employees” impacted by the proposed
16 settlement of PAGA claims:

17 All Class Members that worked at any time during the PAGA Period (the
18 “PAGA Period” means the period between October 13, 2019 through January 19,
2022).

19 (Settlement, ¶¶ 9-10.)

20 7. Plaintiffs Jose Damian Castillo and Ezequiel Herrera are appointed the Class
21 Representatives. The Court finds that Moon & Yang, APC and Capstone Law APC, Plaintiffs’
22 counsel, are adequate, as they are experienced in wage and hour class action litigation and have no
23 conflicts of interest with absent Class Members, and that they adequately represented the interests of
24 absent class members in the Litigation. Moon & Yang, APC and Capstone Law APC are appointed
25 Class Counsel.

26 8. No Settlement Class Members timely requested exclusion from the Class. All Class
27 Members are Settlement Class Members, bound by the Final Approval Order and Judgment in the
28 Action.

1 9. Upon entry of this Final Approval Order and the subsequent Judgment, funding of the
2 Settlement and compensation to the Settlement Class Members shall be implemented pursuant to the
3 terms of the Settlement.

4 10. In addition to any recovery that Plaintiffs may receive under the Settlement as
5 Settlement Class Members, and in recognition of the Plaintiffs' efforts on behalf of the Settlement
6 Class, the Court hereby approves the payment of enhancement awards to Plaintiffs Jose Damian
7 Castillo and Ezequiel Herrera in the amount of **\$10,000** each (for a total of \$20,000).

8 11. The Court approves the payment of attorneys' fees to Class Counsel in the amount of
9 **\$250,000.00**, with 50% of that amount (**\$125,000.00**) awarded to Moon & Yang, APC and 50% of that
10 amount (**\$125,000.00**) awarded to Capstone Law APC, pursuant to a disclosed fee sharing agreement.
11 Litigation expenses are approved by the Court in the amount of **\$22,813.75**, with **\$13,391.65** awarded
12 to Moon & Yang, APC and **\$9,422.10** awarded to Capstone Law APC.

13 12. The Court approves and orders payment in the amount of **\$13,000.00** to CPT Group,
14 Inc. of its services as the Settlement Administrator, as set forth in the Notice to the Class.

15 13. Upon completion of administration of the Settlement, the Parties shall file a declaration
16 stating that all amounts payable under the Settlement have been paid and that the terms of the
17 Settlement have been completed.

18 14. The Court sets a non-appearance case review regarding compliance with all fund
19 distribution requirements under the Settlement for 1-2/10/24, 202⁴~~2~~, at 9:00,
20 in Dept. S26 of the above-entitled Court. A Final Report, including any declaration from the
21 Settlement Administrator regarding compliance, shall be filed with the Court no later than
22 5 days before, 2023.

23 15. The Court approves and orders payment in the amount of **\$56,250** to the Labor and
24 Workforce Development Agency in compromise of claims under the Labor Code Private Attorneys
25 General Act of 2004 (Labor Code § 2698 *et seq.*).

26 16. Once Defendant fully funds the Settlement by paying all amounts due under the
27 Settlement, Plaintiffs and the Settlement Class Members, shall have, by operation of this Final
28 Approval Order and the separate Judgment, fully, finally and forever released, relinquished, and

1 discharged Defendant from the Released Claims, described in the Settlement and as follows:

2 Upon the final approval by the Court of this Settlement and Defendant's payment of all
3 sums due pursuant to this Settlement, and except as to such rights or claims as may be
4 created by this Settlement, the Class Representatives, the Class and each Class Member
who has not submitted a valid and timely request for exclusion as to claims other than
the PAGA claim, will release claims as follows:

5 (a) Identity of Released Parties. The released parties are Defendant, and each of
6 its/their former and present direct and/or indirect owners, dba's, affiliates, parents,
7 subsidiaries, brother and sister corporations, divisions, related companies, successors
and predecessors, and current and former employees, attorneys, officers, directors,
8 shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees,
executors, partners, privies, agents, servants, insurers, representatives, administrators,
employee benefit plans, and assigns of said entities (collectively "Releasees").

9 (b) Date Release Becomes Effective. The Released Claims will be released upon
10 the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's
11 obligation to provide to the Settlement Administrator a sum in the amount required to
12 satisfy all required payments and distributions pursuant to this Settlement and the Order
and Judgment of final approval. Class Members will not release the Released Claims
until both the Effective Date of the Settlement has occurred, and Defendant has paid all
amounts owing under the Settlement.

13 (c) Claims Released by Settlement Class Members. Each and every Class Member,
14 on behalf of himself or herself and his or her heirs and assigns, unless he or she has
15 submitted a timely and valid Requests for Exclusion (which will not effectuate an opt-
out from the release of Released PAGA Claim), hereby releases Releasees from the
following claims for the entire Class Period:

16 1) any and all claims stated in the Action, or that could have been stated based on
17 the facts alleged in the Action, implicitly or explicitly, including but not limited to state
18 wage and hour claims (including all claims under the California Labor Code) including
19 the following claims: (i) failure to pay all regular wages, minimum wages and overtime
20 wages due, including at the correct rate of pay; (ii) failure to provide meal periods or
21 compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu
22 thereof; (iv) failure to reimburse business expenses; (v) failure to provide complete and
23 accurate wage statements; (vi) failure to pay wages timely at time of termination or
24 resignation; (vii) failure to provide timely pay wages during employment (including a
25 claim under the federal Fair Labor Standards Act, the Industrial Welfare Commission
26 Wage Orders, and common law including conversion); (viii) failure to provide one
day's rest in seven, (ix) unfair or unlawful business practices that could have been
premised on the claims, causes of action or legal theories of relief described above or
any of the claims, causes of action or legal theories of relief pleaded in the operative
complaint; and (x) all claims under the California Labor Code Private Attorneys
General Act of 2004 or for civil penalties that could have been premised on the claims,
causes of action or legal theories described above or any of the claims, causes of action
or legal theories of relief pleaded in the operative complaint including but not limited to
Labor Code sections 210, 226.3, 227.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 2802
and 2699 (the "Released Claims").

27 2) as to any Class Member who cashes their Settlement Payment check, the
28 signing and negotiation of that check shall serve as the Class Member's consent to join
the action for purposes of releasing claims arising under the Fair Labor Standards Act
that are related to the claims stated in the Action, implicitly or explicitly; and,

1 3) in addition, as to all PAGA Employees, whether requesting exclusion from the
2 Settlement or not, will release the Released PAGA Claims ("Released PAGA Claims"
3 means claims arising under PAGA, to the extent relating to, arising from, alleged or
4 reasonably could have been asserted either in (a) Plaintiff Castillo's and Herrera's
administrative exhaustion letters submitted to the LWDA; or (b) the SECOND
AMENDED CONSOLIDATED CLASS ACTION AND REPRESENTATIVE
ACTION COMPLAINT in this Action).

5 17. In accordance with California Rule of Court 3.771(b), the Parties are ordered to give notice
6 of this final Order and Judgment to all Settlement Class Members by posting the Order and Judgment for
7 90 days on the Settlement Administrator's website and to the LWDA, pursuant to Labor Code §
8 2699(1)(3).

9 18. The Court retains jurisdiction to consider all further applications arising out of or in
10 connection with the settlement.

11
12 **IT IS SO ORDERED.**

13
14 Dated: 6/16/21



Hon. David Cohn
SAN BERNARDINO COUNTY SUPERIOR COURT
JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT** on the interested parties in this action by sending [] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the attached service list:

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[✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service CASEANYWHERE. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this **May 4, 2022** at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature