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FILED
San Francisco County Superior Court

DEC 21 2020

CLERK OF THE COURT
BY: 
Deputy Clerk

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SAN FRANCISCO**

11 MATTHEW ROTHCHILD, individually, and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15
16 CALIFORNIA PARKING COMPANY, INC., a
17 California corporation dba FULPAR LTD dba
18 FULPAR COMPANY; and DOES 1 through 10,
19 inclusive,

20 Defendants

Case No.: CGC-19-580801

[Hon. Ethan P. Schulman, Dept. 302]

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Filed with the Declaration of Kane Moon;
Declaration of Plaintiff Matthew Rothchild;
and Notice and Motion for Preliminary
Approval]

PRELIMINARY APPROVAL HEARING

Date: December 21, 2020

Time: 9:30 a.m.

Dept: 302

1 The Court has before it Plaintiff Matthew Rothchild's ("Plaintiff") Motion for
2 Preliminary Approval of Class Action Settlement. Having reviewed the Motion for
3 Preliminary Approval of Class Action Settlement, the Declaration of Kane Moon, the
4 Declaration of Plaintiff Matthew Rothchild, the Joint Stipulation re: Class Action Settlement
5 (which is referred to here as the "Settlement Agreement"), and good cause appearing, the
6 Court hereby finds and orders as follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary
9 approval. The Court grants preliminary approval of the Settlement and the Settlement Class
10 based upon the terms set forth in the Settlement Agreement attached to the Declaration of
11 Kane Moon in Support of Plaintiff's Motion for Preliminary Approval of Class Action
12 Settlement ("Moon Declaration") as Exhibit 1. The Court preliminarily finds that the terms of
13 the Settlement appear to be within the range of possible approval, pursuant to California Code
14 of Civil Procedure § 382 and applicable law.

15 2. The Settlement falls within the range of reasonableness of a settlement which
16 could ultimately be given final approval by this Court, and appears to be presumptively valid,
17 subject only to any objections that may be raised at the Final Approval Hearing and final
18 approval by this Court. The Court notes that Defendant has agreed to create a common fund
19 of \$200,000.00 to cover (a) settlement payments to class members who do not validly opt out;
20 (b) Class Representative service payment of up to \$5,000.00 for Plaintiff; (d) Class Counsel's
21 attorneys' fees, not to exceed 33-1/3% of the Gross Settlement Amount (\$66,666.66), and up
22 to \$15,000.00 in costs for actual litigation expenses incurred by Class Counsel; (e) Settlement
23 Administration Costs of up to \$15,000.00; and (f) PAGA penalties paid to the Labor and
24 Workforce Development Agency ("LWDA") in the amount of \$15,000.00.

25 3. The Court finds on a preliminary basis that: (1) the settlement amount is fair
26 and reasonable to the class members when balanced against the probable outcome of further
27 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
28 significant informal discovery, investigation, research, and litigation have been conducted

1 such that counsel for the Parties at this time are able to reasonably evaluate their respective
2 positions; (3) settlement at this time will avoid substantial costs, delay, and risks that would
3 be presented by the further prosecution of the litigation; and (4) the proposed settlement has
4 been reached as the result of intensive, serious, and non-collusive negotiations between the
5 Parties. Accordingly, the Court preliminarily finds that the Settlement Agreement was entered
6 into in good faith.

7 4. A final fairness hearing on the question of whether the proposed settlement,
8 attorneys' fees and costs to Class Counsel, and the class representative service payment
9 should be finally approved as fair, reasonable, and adequate as to the members of the class is
10 hereby set in accordance with the Implementation Schedule set forth below.

11 5. The Court provisionally certifies for settlement purposes only the following
12 class (the "Class" or "Class Members"): "All current and former non-exempt, hourly
13 employees of Defendant employed in California at any time beginning November 14, 2015
14 through October 31, 2020. Excluded from the Class are all persons who properly and timely
15 elect to opt out.

16 6. The Released Claims are all claims, rights, demands, damages, liabilities and
17 causes of action, whether known or unknown, contingent or vested, in law or in equity, arising
18 at any time during the Settlement Period for unpaid wages, and/or related penalties, interest,
19 costs, attorneys' fees, and/or injunctive or other equitable remedies, allegedly owed or
20 available, against Defendant and its respective former, current and future parent companies,
21 subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any
22 investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future
23 officers, directors and employees) predecessors, successors, and assigns, allegedly owed or
24 available, arising out of allegations and operative facts asserted in the operative complaint, or
25 which could have been asserted in the Action based on the alleged facts in the operative
26 complaint, including: (1) failure to provide meal periods; (2) failure to authorize and permit
27 rest breaks; (3) failure to pay minimum and straight time wages; (4) failure to pay overtime
28 and off-the-clock compensation; (5) failure to timely pay final wages at termination; (6) all

1 related claims for Unfair Competition or Business Practices under California's Business and
2 Professions Code or similar laws related to the alleged claims; (7) failure to reimburse
3 necessary business expenses and (8) failure to provide accurate, itemized wage statements
4 under Labor Code section 226; The release shall include release of California Labor Code, §§
5 201-204, 210, 216, 218.6, 510, 512, 516, 558, 1174, 1194, 1198, 2699 et seq, 2802, and
6 derivative claims for unfair business practices under California Business & Professions Code
7 Sections 17200 et seq. and all claims under the relevant Wage Orders issued by the Industrial
8 Welfare Commission, any and all claims for attorneys' fees and costs, and/or California Code
9 of Civil Procedure section 1021.

10 7. The Court finds, for settlement purposes only, that the Class meets the
11 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
12 Class are so numerous that joinder is impractical; (2) there are questions of law and fact that
13 are common, or of general interest, to all individuals in the Class, which predominate over
14 individual issues; (3) Plaintiff's claims are typical of the claims of the Class; (4) Plaintiff and
15 Class Counsel will fairly and adequately protect the interests of the Class; and (5) a class
16 action is superior to other available methods for the fair and efficient adjudication of the
17 controversy.

18 8. The Court appoints, for settlement purposes only, Matthew Rothchild as Class
19 Representative.

20 9. The Court appoints, for settlement purposes only, Moon & Yang, APC, as Class
21 Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys'
22 fees of up to one-third of the Gross Settlement Amount (\$66,666.66), and costs not to exceed
23 \$15,000.00.

24 10. The Court appoints Phoenix Settlement Administrators as the Settlement
25 Administrator with reasonable administration costs estimated not to exceed \$15,000.00.

26 11. The Court approves, as to form and content the Notice Packet, attached as
27 Exhibit A and B to the Settlement Agreement. The Court finds on a preliminary basis that
28 plan for distribution of the Notice to Class Members satisfies due process, provides the best

1 notice practicable under the circumstances, and shall constitute due and sufficient notice to all
2 persons entitled thereto.

3 12. The Parties are ordered to carry out the Settlement according to the terms of the
4 Agreement.

5 13. Any class member who does not request exclusion from the settlement may
6 object to the Settlement Agreement.

7 14. The Court orders the following Implementation Schedule:

9 Defendant to provide Class List to the 10 Claims Administrator	Within 15 days after the Court grants preliminary approval
11 Claims Administrator to mail and email 12 where email addresses are available the 13 Notice Packets	Within 15 days of receipt of Class List
14 Response Deadline	60 days from mailing of Notice Packets
15 Deadline to file Motion for Final 16 Approval	April 8, 2021
17 Final Approval Hearing	April 30, 2021 at 9:30 a.m. in 18 Department 302.

19 15. The Court further ORDERS that, pending further order of this Court, all
20 proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

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16. The Agreement and the Settlement are preliminarily approved but are not an admission by Defendant of the validity of any claims in this class action, or of any wrongdoing by Defendant or of any violation of law. Neither the Agreement nor any related document shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding other than such proceedings as may be necessary to consummate or enforce the Agreement and Settlement. The obligations set forth in the Agreement are deemed part of this Order.

IT IS SO ORDERED.

DATE: *Dec. 21, 2020*



Ethan P. Schulman

Judge of the San Francisco County Superior Court