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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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LIONEL HARPER, DANIEL SINCLAIR,
HASSAN TURNER, LUIS VAZQUEZ, and
PEDRO ABASCAL, individually and
on behalf of all others
similarly situated and all
aggrieved employees,

 Plaintiffs,

 v.

CHARTER COMMUNICATIONS, LLC,

 Defendant.

No. 2:19-cv-00902 WBS DMC

ORDER RE: MOTION FOR
RECONSIDERATION

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On February 7, 2024, plaintiffs moved for partial summary judgment on various California Labor Code violations relating to plaintiffs' claim for unlawful calculation, deduction, and payment of commission wages (Claim 5); and claim for failure to provide timely and complete copies of employment records (Claim 8). (Docket No. 360.) On March 20, 2024, the court denied the motion. (Docket No. 385.) Plaintiffs now

1 request the court to reconsider its decision regarding their Cal.
2 Lab. Code § 1198.5 claim. (Docket No. 386.)

3 The court declines to do so. Plaintiffs have
4 identified no new evidence or intervening change in controlling
5 law since the court's order issued. Neither do plaintiffs
6 demonstrate any clear error by the court or manifest injustice as
7 a result of the court's ruling. See Carroll v. Nakatani, 342
8 F.3d 934, 945 (9th Cir. 2003); Fed. R. Civ. P. 59(e). First,
9 plaintiffs' argument concerning injunctive relief and the
10 applicability of Cal. Lab. Code § 1198.5(1) is misleading.
11 Plaintiffs neither ask for injunctive relief anywhere on the face
12 of their operative complaint¹, nor have they obtained any
13 injunctive relief from this court.


14 Second, plaintiffs cite Chen v. Allstate Ins. Co., 819
15 F.3d 1136 (9th Cir. 2016) for the proposition that the \$750
16 checks that defendant mailed plaintiffs to satisfy Section
17 1198.5(k)'s statutory penalty did not constitute full
18 satisfaction. This, too, is inapposite, chiefly in that it
19 elides mailing checks (here) and holding funds in escrow (the
20 facts in Chen). Unlike in Chen, where the release of escrow
21 funds was conditioned on a district court dismissing a suit in
22 full, plaintiffs' ability to draw on defendant's checks here was
23 conditional on nothing whatsoever. Plaintiffs' unilateral
24 refusal to cash the checks that they received is not a judicial

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26 ¹ The operative complaint is the Second Amended
27 Complaint. (Docket No. 147.) While the previous complaints did
28 request injunctive relief as to Section 1198.5, plaintiffs
dropped their injunctive relief demand after defendant produced
the requested documents in discovery.

1 concern.

2 IT IS THEREFORE ORDERED that plaintiffs' motion for
3 reconsideration (Docket No. 386) be, and the same hereby is,
4 DENIED.²

5 Dated: May 8, 2024


6 **WILLIAM B. SHUBB**
7 **UNITED STATES DISTRICT JUDGE**

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² The hearing on this motion, currently scheduled on
May 28, 2024, is hereby VACATED.