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 11 LEON TURO, LEILANI HAMMOCK  
 AND THE PUTATIVE CLASS

12 Attorneys for Defendant  
 13 ORACLE CORPORATION  
 listed on page 2 of caption

14  
 15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA

17 LEON TURO AND LEILANI  
 HAMMOCK, on behalf of themselves  
 18 and all others similarly situated,

19 Plaintiffs,

20 vs.

21 ORACLE CORPORATION,

22 Defendant.

CASE NO. C-06-2846 SBA

**CLASS ACTION**

**AMENDED PROVISIONAL ORDER:  
 CERTIFYING SETTLEMENT CLASS,  
 APPROVING COLLECTIVE ACTION,  
 AND APPROVING SETTLEMENT AND  
 NOTICES TO SETTLEMENT  
 MEMBERS**

The Hon. Judge Sandra Brown Armstrong

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1           The parties in this action for alleged violations of California and federal overtime  
2 and other wage-hour laws have submitted a joint motion seeking provisional approval of  
3 their Revised Joint Stipulation of Class and Collective Action Settlement Between  
4 Plaintiffs and Defendant; Settlement Agreement and Release (“Settlement Agreement”),  
5 provisional certification of the settlement classes, and provisional approval of a collective  
6 action, as well as approval of the proposed notices to those eligible to share in the  
7 settlement. The Court has reviewed the motion, the proposed notices to those eligible for  
8 Settlement Awards, all other settlement documents, and the pleadings in the case as a  
9 whole, and has made the following FINDINGS:

10  
11           1.       Plaintiffs filed this action April 26, 2006, against Oracle Corporation,  
12 seeking to represent current and former contracts administration and license migrations  
13 employees of Oracle in the United States. Plaintiffs’ Complaint alleges that Oracle  
14 misclassified certain of its contracts administration and license migrations employees as  
15 exempt from the overtime requirements of California and federal law, and thus failed to  
16 pay them overtime compensation for their overtime hours worked. Plaintiffs also alleged  
17 that Oracle failed to ensure that its contracts administration and license migrations  
18 employees in California took their lawfully mandated meal and rest breaks. Plaintiffs  
19 asserted causes of action, on behalf of themselves and the class, for violations of the Fair  
20 Labor Standards Act (“FLSA”); the California Labor Code; and California’s Unfair  
21 Business Practices Act, California Business and Professions Code §§17200, *et seq.*  
22 (“UCL”). Plaintiffs sought payment of unpaid wages, civil penalties, liquidated  
23 damages, and attorneys’ fees and costs.

24           2.       Oracle maintains that its contracts administration and license migrations  
25 employees were properly considered exempt from the overtime laws, and, as a result,  
26 Plaintiffs cannot state a claim for unpaid overtime. Oracle further maintains that some of  
27 its contracts administration and license migrations employees worked no overtime. In  
28 addition, Oracle maintains that its contracts administration and license migrations

1 employees in California (and throughout the United States) were provided with meal and  
2 rest periods, were timely paid all wages and other payments due and/or were and are not  
3 eligible for any penalties. At this time all current United States employees of Oracle  
4 Corporation or Oracle USA, Inc. who are eligible for Settlement Awards are classified  
5 and paid as non-exempt employees.

6 3. The parties' settlement was reached after formal discovery and arms'-length  
7 negotiations. The parties and counsel believe that this Settlement Agreement provides a  
8 fair and reasonable settlement for the Settlement Members, with respect to their claims  
9 for allegedly unpaid overtime wages, liquidated damages, interest, and other penalties  
10 due to Oracle's classification policy and wage-hour practices.

11 4. In discovery, Plaintiffs reviewed hundreds of pages worth of relevant  
12 documents provided by Oracle, and complete pay and time records (to the extent time  
13 records were actually kept) for the class of employees whom Plaintiffs represent with  
14 respect to this Settlement Agreement. Plaintiffs took the deposition of Oracle's corporate  
15 designee regarding the allegations in the Complaint, and Oracle deposed both of the  
16 named Plaintiffs. The terms of the Settlement Agreement are based on a thorough  
17 evaluation of this evidence and the underlying case law.

18 5. On March 1, 2007, the parties conducted a mediation of Plaintiffs' class  
19 action claims with Lynn Matityahu Frank, a respected and experienced mediator. As a  
20 result of the parties' work during and following this mediation, the parties have entered  
21 into a class-wide settlement. The parties have since spent considerable time drafting a  
22 class-action settlement agreement that ensures that Settlement Members are (1) provided  
23 with notice of the Settlement Agreement and its terms; (2) will not lose their right to sue  
24 if they do not have actual notice of this Settlement Agreement; and (3) will not lose their  
25 right to sue under the FLSA even after receiving notice, unless they affirmatively opt in  
26 to this settlement. The agreement provides, among other things:

27 (1) only those Settlement Members who affirmatively opt in to the  
28 Settlement Agreement will be subject to the release of FLSA claims;

1 (2) California state law claims of employees who are working for an  
2 Oracle entity at the time notice is given and who work or worked for Oracle (or an Oracle  
3 entity) in California will be released only if they receive workplace notice of the  
4 settlement and do not opt out;

5 (3) California state law claims of those who are former employees of  
6 Oracle (or an Oracle entity) and who worked in California will be released if they do not  
7 opt out, unless the Postal Service returns the final class action notice sent as  
8 undeliverable;

9 (4) if the Claims Administrator does not agree with a Settlement  
10 Member's assertion regarding the weeks worked in each settlement subclass, the Claims  
11 Administrator will notify the Settlement Member, who then shall have twenty-one (21)  
12 calendar days from the date of the postmark on that letter from the Claims Administrator  
13 to opt out of the settlement;

14 (5) several mechanisms ensure that Settlement Members receive notice  
15 of this Settlement, including workplace notice by mail and email, pre-mailing database  
16 searches, internet notice, and telephone calls to Settlement Members; and

17 (6) the time to file objections and/or to opt out of the settlement is 65  
18 days after the mailing of the Notice and Claim Form.

19 6. Under the terms of the settlement, Oracle will deposit \$1,187,500 into a  
20 qualified settlement fund. The fund will be administered by an independent and highly  
21 experienced third-party Claims Administrator on a claims-made basis with unclaimed  
22 monies reverting to Oracle. This amount is designed to cover an anticipated payment to  
23 Class Counsel of up to twenty-five percent (25%) of the total value of the claims made  
24 under the settlement, plus \$20,000 for costs. It also includes an estimated amount of  
25 \$27,000 or less to the third-party Settlement Administrator for the costs of administering  
26 the notice and claims proceedings.

27 7. The Settlement Agreement splits the class into two classes under Federal  
28 Rule of Civil Procedure ("FRCP") 23 and a collective under 28 U.S.C. §216(b):

- 1 (a) California Overtime Class: All individuals who were employed in one  
2 of the job codes and job titles below at Defendant or Oracle USA, Inc.  
3 in the State of California between April 26, 2002 and the date(s) that  
4 Defendant or Oracle USA, Inc. made those individuals (or the  
5 individuals in their job code(s)) eligible for overtime compensation,  
6 for the purposes of Plaintiffs' claims for alleged unpaid overtime and  
7 waiting time penalties under the California Labor Code, and interest  
8 on those amounts alleged in the Complaint;
- 9 (b) California Penalties Class: All individuals who are currently  
10 employed, or formerly have been employed, in one of the job codes  
11 and job titles below at Defendant or Oracle USA, Inc. in the State of  
12 California between April 26, 2002 and the date of entry of  
13 preliminary approval, for the purposes of Plaintiffs' claims for alleged  
14 denied meal and rest periods, record-keeping and other wage-hour  
15 penalties and interest on those amounts alleged in the Complaint; and
- 16 (c) FLSA Collective: All individuals who were employed in any of the  
17 job codes and job titles below at Defendant or Oracle USA, Inc. in the  
18 United States between April 26, 2003 and the date(s) that Defendant  
19 or Oracle USA, Inc. made those individuals (or the individuals in their  
20 job code(s)) eligible for overtime compensation, for the purposes of  
21 Plaintiffs' claims for alleged unpaid overtime, liquidated damages,  
22 and interest alleged in the Complaint under the Fair Labor Standards  
23 Act.

24 8. Under the terms of the Settlement, the California Overtime Class and the  
25 FLSA Collective will receive similar settlement shares per week worked. The California  
26 Overtime Class will receive slightly more than the FLSA Collective to account for the  
27 fact that California law requires the payment of overtime compensation for work in  
28 excess of eight hours in a day and affords waiting time penalties for unpaid wages, while

1 the FLSA does not. The California Penalties Class will receive a much smaller share per  
2 week worked, to reflect the relative likelihood of recovery on those claims and the lower  
3 amounts made available by statute for them. Within the Classes and Collective, each  
4 Settlement Member's settlement amount will vary proportionately based on the number  
5 of weeks he or she worked within the relevant time period. If a Settlement Member is a  
6 member of more than one Class or a Class and a Collective, he or she will get his or her  
7 proportionate share for the amount of time he or she spent in each group. The average  
8 payout per Settlement Member will be approximately \$2,902 for the members of the  
9 California Overtime Class, approximately \$2,186 for the FLSA Collective, and  
10 approximately \$472 for the California Penalties Class, with some Settlement Members in  
11 more than one group.

12 9. Using computerized address searches based on employment records, calls to  
13 the telephone numbers of Settlement Members, and workplace and internet notice, the  
14 Claims Administrator, Class Counsel and Oracle will make all reasonable efforts, as  
15 specified in the Settlement Agreement, to best ensure that each Settlement Member  
16 receives full and adequate notice of the settlement, including: the gross and net settlement  
17 amount, the requirement that the Settlement Member timely submit a claim form in order  
18 to participate in the settlement, an opportunity to submit objections to the settlement and  
19 appear at the final fairness hearing, and an opportunity to opt out of the settlement  
20 altogether. Upon final approval, the Claims Administrator will ensure distribution of the  
21 settlement funds to the class.

22 10. Defendant will pay to the California Labor and Workforce Development  
23 Agency the sum of Twenty-five Thousand Dollars (\$25,000) under the Private Attorneys  
24 General Act of 2004, California Labor Code Sections 2698-2699 ("PAGA"). This  
25 payment will not change the release in any way, nor will it result in any increased  
26 payments to the Representative Plaintiffs. Defendant will make this payment within 20  
27 days after the Effective Date of the settlement, as defined in Paragraph 2.k. of the  
28

1 Settlement Agreement, but the funds for it will not be paid from the Funds Available for  
2 Settlement.

3 11. Under the Settlement Agreement, FLSA claims are released only for those  
4 who opt in. *See* Settlement Agreement at ¶¶2.s and t. The California workers' California-  
5 law claims are released on an opt-out basis, but only if the individual is a current  
6 employee who received workplace notice or a former employee whose last mailed notice  
7 was not returned as undeliverable by the Postal Service. *See* Settlement Agreement at  
8 ¶¶2.s. and t and 13.

9 12. The Settlement Agreement does not purport to release any claims of  
10 Settlement Members other than those pled in the operative Complaint. In addition, any  
11 issues of personal jurisdiction over non-California employees is addressed by the fact that  
12 there is no release of FLSA claims except by those who opt in by filing a valid Claim  
13 Form, and thus accede to this Court's jurisdiction, in order to release their claims. *See*  
14 Settlement Agreement at ¶¶2.s. and t and 13. In addition, the Settlement Agreement  
15 provides that even after all of the procedures are undertaken to ensure that the Notice is  
16 sent to an updated address, Settlement Members who are not employed by an Oracle  
17 entity at the time notice is given and whose Notices are returned as undeliverable will not  
18 release their claims against Defendant. *See* Settlement Agreement at ¶19.h.

19 13. The Settlement Agreement provides that if a Settlement Member challenges  
20 his number of weeks worked and is not satisfied with the result of the review by the  
21 Claims Administrator, he or she may choose to opt out of the settlement. *See* Settlement  
22 Agreement at ¶30.f.

23 14. The Settlement Agreement proposes an award of Class Counsel fees in the  
24 amount of 25% of the total value of the claims actually made under the settlement. *See*  
25 Settlement Agreement at ¶29.b. This ties Class Counsel's fee to the actual participation  
26 in the settlement, but also reflects the Ninth Circuit's 25% "benchmark" for fee awards in  
27 common-fund cases. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1047 (9th Cir.  
28 2002); *Six Mexican Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir.



1 1990); *Paul, Johnson, Alston & Hunt v. Grawly*, 886 F.2d 268, 272 (9th Cir. 1989); *In re*  
2 *Pacific Enterprises Security Litigation*, 47 F.3d 373, 379 (9th Cir. 1995); *In re Activision*  
3 *Securities Litigation*, 723 F. Supp. 1373, 1375 (N.D. Cal. 1989). Under this fee structure,  
4 each Settlement Member who receives an award effectively pays 25% of his or her award  
5 to Class Counsel as compensation for the work Class Counsel put into this case, as well  
6 as for the fact that without Class Counsel’s efforts, the Settlement Members would not  
7 receive any award at all. This also represents a considerable discount from the standard  
8 one-third fee commonly taken in contingency-fee cases. *See Vizcaino*, 290 F.3d at 1051.

9 15. Service or incentive payments to named plaintiffs are frequently awarded to  
10 recognize their time and efforts, and the risks they undertake on behalf of the Settlement  
11 Members. Courts routinely award service payments, which are intended to advance  
12 public policy by encouraging individuals to come forward and perform their civic duty in  
13 protecting the rights of the class, as well as to compensate class representatives for their  
14 time, effort and inconvenience. “Courts routinely approve incentive awards to  
15 compensate named plaintiffs for the services they provided and the risks they incurred  
16 during the course of the class action litigation.” *Ingram v. The Coca-Cola Co.*, 200  
17 F.R.D. 685, 694 (N.D. Ga. 2001), *quoting In Re Southern Ohio Correctional Facility*,  
18 175 F.R.D. 270, 272 (S.D. Ohio 1997); *see also Van Vranken v. Atlantic Richfield Co.*,  
19 901 F. Supp. 294, 300 (N.D. Cal. 1995) (approving \$50,000 participation award for  
20 representative Plaintiff). In this action, the Representative Plaintiffs took steps to  
21 advance the interests of the class in this litigation. Both searched their files and produced  
22 all of the documents they had relating to their employment at Oracle. Both traveled from  
23 their homes to sit for day-long depositions by Oracle’s attorneys. As a result of their  
24 efforts, the Settlement Members will benefit from substantial financial recoveries. In  
25 addition, the service payments to the Representative Plaintiffs not only reward them for  
26 their service and efforts on behalf of the Class, but also because they are giving a general  
27 release of claims that is far broader than the release given by the other Settlement  
28 Members. The time and effort payment of \$7,500 to each is reasonable in light of the

1 efforts they made and risks they took in bringing and prosecuting this action to obtain the  
2 Funds Available for Settlement totaling \$1,187,500.

3 16. The Settlement Agreement provides notice to Settlement Members who are  
4 currently employed by Oracle at their workplace, by emailing the Notice to their work  
5 email addresses and mailing the Notice to Settlement Members at their work addresses.  
6 Settlement Agreement at ¶19. In addition, the Notice will be posted on Class Counsel’s  
7 website until the Claims Administrator provides the parties and the Court with a final  
8 accounting of the mailing and payment of Settlement Awards. *Id.* The Settlement  
9 Agreement also provides for extensive methods of ensuring that the Notice is mailed to  
10 the correct address of Settlement Members who are no longer employed by Oracle. The  
11 Settlement Agreement provides that the Claims Administrator will do all of the following  
12 *before* mailing the Notice and Claim Form: (1) receive the last-known addresses,  
13 telephone numbers, and social security numbers of the Settlement Members; (2) run this  
14 class list through the United States Postal Service’s National Change of Address database  
15 (“NCOA”). The NCOA database documents change of address requests filed with the  
16 post office and can cover up to a four-year period; (3) perform address searches using  
17 public and proprietary electronic resources which collect their data from various sources  
18 such as utility records, property tax records, motor vehicle registration records (where  
19 allowed) and credit bureaus; and (4) call last-known telephone numbers (and telephone  
20 numbers updated through public and proprietary databases) to contact Settlement  
21 Members to obtain their current addresses. *Id.* These processes will be repeated for  
22 those Settlement Members for whom the Notice is returned as undelivered. *Id.*

23 17. The proposed Notice provides information on the meaning and nature of the  
24 proposed Settlement Agreement, the terms and provisions of the Settlement Agreement,  
25 the monetary and other relief that the Settlement Agreement will provide Settlement  
26 Members (including a clear explanation of the method of allocating and paying  
27 settlement awards to claiming Settlement Members in the Classes and Collective, and of  
28 the claims process), the procedures and deadlines for making a claim to a settlement

1 award, opting out of the settlement or submitting objections, the consequences of taking  
2 or foregoing the various options available to Settlement Members, and the date, time and  
3 place of the final settlement approval hearing. Pursuant to Federal Rule of Civil  
4 Procedure 23(h), the proposed Notice sets forth the amount of attorneys' fees and costs  
5 sought by Plaintiffs, as well as an explanation of the procedure by which Plaintiffs'  
6 counsel will apply for them. In addition, the notice explains that Settlement Members  
7 have the opportunity to object to, and request a copy from Plaintiffs' counsel of, the  
8 Motion for Attorneys Fees and Costs. The Notice also fulfills the requirement of  
9 neutrality in class notices. (*See* 4 NEWBERG § 8.39.) It summarizes the proceedings  
10 necessary to provide context for the Settlement Agreement and summarizes the terms and  
11 conditions of the settlement, including an explanation of how the settlement amount will  
12 be allocated between the named Plaintiffs, Class Counsel, the Claims Administrator, and  
13 the Settlement Members, in an informative, coherent and easy-to-understand manner, all  
14 in compliance with the Manual for Complex Litigation's observation that "the notice  
15 contain a clear, accurate description of the terms of the settlement." (MANUAL FOR  
16 COMPLEX LITIGATION (THIRD) ("MANUAL") at § 21.312.) The Notice clearly states that  
17 the settlement does not constitute an admission of liability by Oracle. It makes clear that  
18 the final settlement approval decision has yet to be made. Accordingly, the Notice  
19 complies with the standards of fairness, completeness, and neutrality required of a  
20 settlement class notice disseminated under authority of the Court. (4 NEWBERG, §§ 8.21  
21 and 8.39; MANUAL, § 21.311 and 21.312.)

22 18. It is well-settled that class certification should be granted if the requirements  
23 of FRCP 23(a) are satisfied and at least one of the requirements of Rule 23(b) is satisfied.  
24 Rule 23(a) provides that class certification is appropriate if (1) the class is so numerous  
25 that joinder of all members is impracticable, (2) there are questions of either law or fact  
26 common to the class, (3) the claims or defenses of the representative parties are typical of  
27 the claims or defenses of the class, and (4) the representative parties will fairly and  
28 adequately protect the interests of the class. *See, e.g., Valentino v. Carter-Wallace, Inc.,*

1 97 F.3d 1227, 1234 (9<sup>th</sup> Cir. 1996). All of the requirements of Rule 23(a) are met in this  
2 case for purposes of settlement. *See Amchem Products, Inc. v. Windsor*, 521 U.S. 591,  
3 620 (1997).

4 19. Satisfaction of the FRCP 23 factors for class actions *per se* shows that the  
5 requirements for a showing of the right to proceed as a FLSA collective action. *See*  
6 *Grayson v. K Mart Corp.*, 79 F.3d 1086, 1096 (11th Cir. 1996); *Flavel v. Svedala Indus.*  
7 *Inc.*, 875 F.Supp. 550, 553 (E.D.Wis.1994) (“The ‘similarly situated’ requirement, in  
8 turn, ‘is considerably less stringent than the requirement of [Rule 23(b)(3)] that common  
9 questions ‘predominate,’ or presumably, the Rule 20(a) requirement that claims ‘arise out  
10 of the same action or occurrence.’”)

11 20. All of the Settlement Members have worked for Oracle and may be readily  
12 identified through payroll records and other documents in the possession of Oracle. The  
13 proposed Classes and Collective consist, according to Oracle’s records, of approximately  
14 345 persons, making the proposed Classes and Collective sufficiently numerous.

15 21. Common questions of law and fact predominate. The common issues,  
16 which predominate in this action, include: (1) whether contracts administration and  
17 license migrations employees in the Covered Job Codes are properly qualified for any  
18 one of the various exemptions from the overtime laws; (2) whether contracts  
19 administration and license migrations employees in the Covered Job Codes are entitled to  
20 overtime compensation for their overtime hours worked; and (2) whether Oracle was  
21 willful in its failure to pay overtime compensation to its contracts administration and  
22 license migrations employees in the Covered Job Codes.

23 22. To satisfy the requirement of typicality, “a class representative must be part  
24 of the class and possess the same interest and suffer the same injury as the class  
25 members.” *General Tel. Co. of S.W. v. Falcon*, 457 U.S. 147, 156 (1982). “Under the  
26 rule’s permissive standards, representative claims are ‘typical’ if they are reasonably  
27 coextensive with those of absent class members; they need not be substantially identical.”  
28 *Hanlon, et al. v. Chrysler Corporation*, 150 F. 3d 1011, 1020 (9th Cir. 1998). Plaintiffs’

1 claims are sufficiently typical of the common claims presented. Plaintiffs were contracts  
2 administration and license migrations employees of Oracle in the Covered Job Codes  
3 who worked overtime but were not paid overtime compensation, and who claim that they  
4 were denied meal and rest periods from time to time during their employment.

5 23. Representation is adequate if (a) the named representative appears able to  
6 prosecute the action vigorously through qualified counsel; and (b) the class representative  
7 is not disqualified by interests antagonistic to the remainder of the class. *Lerwill v.*  
8 *Inflight Motion Pictures, Inc.*, 582 F.2d 507, 512 (9<sup>th</sup> Cir. 1978). There is no conflict  
9 between Plaintiffs and the Settlement Members in this case; Plaintiffs' claims are in line  
10 with the claims of the class. Plaintiffs have and will continue to aggressively and  
11 competently assert the interests of the Classes and Collective, and Plaintiffs' counsel is  
12 skilled and experienced in wage and hour class action litigation. Plaintiffs submit that  
13 class- and collective-action treatment of these claims is appropriate where, as here, the  
14 legality of a policy or program as a whole is at issue.

15 24. Under Rule 23(b)(3), class certification is appropriate if “the court finds that  
16 the questions of law or fact common to the members of the class predominate over any  
17 questions affecting only individual members, and that a class action is superior to other  
18 available methods for the fair and efficient adjudication of the controversy.” For the  
19 reasons discussed above, the Classes and Collective defined above satisfies the  
20 predominance requirement. Moreover, allowing the Settlement Members the opportunity  
21 to participate in a settlement that yields an immediate and substantial benefit is highly  
22 superior to having a multiplicity of individual and duplicative proceedings in this Court  
23 and in arbitrations across the country. It also is superior to the alternative of leaving  
24 these important labor rights unredressed due to the difficulty of finding legal  
25 representation and filing claims on an individualized basis.

26 25. The decision to approve or reject a proposed settlement is committed to this  
27 Court's broad discretion; a court's decision to approve a class action settlement may be  
28 reversed only upon a strong showing of “clear abuse of discretion.” *Hanlon v. Chrysler*

1 Corp., 150 F.3d 1011, 1026 (9th Cir. 1998); *Class Plaintiffs v. City of Seattle*, 955 F.2d  
2 1268, 1276 (9th Cir. 1992).

3 26. This settlement is presumed by be fair because it was reached through  
4 arm's-length negotiations, and sufficient investigation and discovery has taken place to  
5 allow counsel and the Court to act intelligently, and counsel is experienced in similar  
6 types of litigation. *See, e.g., Neff v. Via Metropolitan Transit Authority*, 179 F.R.D. 185,  
7 208 (W.D. Tex. 1998); *In Re Chicken Antitrust Litigation*, 1001 (N.D. Ga. 1980), *aff'd*,  
8 669 F.2d 228 (5th Cir. 1982) ("The court encourages parties to resolve legal disputes  
9 among themselves without judicial intercession, and therefore, their agreement will not  
10 be disturbed unless after comparing the likely rewards of litigation with the relative  
11 disadvantages of settlement, the court is convinced that the terms of the settlement are so  
12 unfair, inadequate and unreasonable that approving it would be an abuse of discretion").

13 27. Preliminary approval of the Settlement Agreement is appropriate, because it  
14 within the range of possible final approval, also described as the range of reasonableness.  
15 *See, e.g., In re Traffic Exec. Ass'n*, 627 F.2d 631, 633-634 (2d Cir. 1980); *see also* 4  
16 ALBA CONTE & HERBERT B. NEWBERG, *Newberg on Class Actions* §11.25 (4th ed. 2002)  
17 ("Newberg").

18  
19 Based on the foregoing findings, the Court makes the following ORDERS:

20  
21 IT IS HEREBY ORDERED that the joint motion for provisional approval of  
22 the settlement, provisional certification of settlement classes and provisional approval of  
23 the collective action is GRANTED; and

24  
25 IT IS HEREBY FURTHER ORDERED that:

26  
27 1. Defendant shall deposit with the Claims Administrator the sum of  
28 One Million One Hundred Eighty-seven Thousand Five Hundred Dollars (\$1,187,500) as

1 the Funds Available for Settlement as defined in and pursuant to the terms of the  
2 Settlement Agreement in exchange for a release of claims pursuant to the terms of the  
3 Settlement Agreement (*see, e.g.*, Settlement Agreement at ¶¶ 13-14, 19.h.), which sum  
4 shall be used to pay Settlement Awards on a claims-made basis if the settlement is finally  
5 approved by the Court. Upon receipt of this sum, the Claims Administrator shall deposit  
6 the entirety into a qualified settlement fund to which the parties' counsel mutually agree;

7  
8 2. Two classes are provisionally certified and a collective action is  
9 provisionally approved, pending final approval at the Fairness Hearing:

10  
11 (a) **California Overtime Class**: All individuals who were  
12 employed in one of the job codes and job titles below at Defendant or Oracle USA, Inc.  
13 in the State of California between April 26, 2002 and the date(s) that Defendant or Oracle  
14 USA, Inc. made those individuals (or the individuals in their job code(s)) eligible for  
15 overtime compensation, for the purposes of Plaintiffs' claims for alleged unpaid overtime  
16 and waiting time penalties under the California Labor Code, and interest on those  
17 amounts alleged in the Complaint:

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Covered Job Codes	Covered Job Titles	Eligibility Period
70510	Contract Administrator 1, sometimes referred to as Contract Specialist, Contract Analyst, Contractor, Senior Contract Specialist, VAD Contract Specialist and VAD Service Analyst (all level 1)	4/26/02 – 9/19/04
70520	Contract Administrator 2, sometimes referred to as License Migration Analyst, Contract Analyst, Contract Specialist, Contract Support, Contract Manager, Marketing Specialist, Senior Contract Analyst, Senior Contract Specialist, Senior Field	4/26/02 – 10/15/05

	Contract Specialist, Team Lead (all level 2)	
70530	Contract Administrator 3, sometimes referred to as Contract Specialist, Senior Contract Specialist, Contract Manager, Licensing Consultant, Senior Contract Administrator, Subcontract Manager and Team Lead Contract Administration (all level 3)	4/26/02 – 12/16/07

(b) **California Penalties Class:** All individuals who are currently employed, or formerly have been employed, in one of the job codes and job titles below at Defendant or Oracle USA, Inc. in the State of California between April 26, 2002 and the date of entry of preliminary approval, for the purposes of Plaintiffs' claims for alleged denied meal and rest periods, record-keeping and other wage-hour penalties and interest on those amounts alleged in the Complaint:

Covered Job Codes	Covered Job Titles	Eligibility Period
70510	Contract Administrator 1, sometimes referred to as Contract Specialist, Contract Analyst, Contractor, Senior Contract Specialist, VAD Contract Specialist and VAD Service Analyst (all level 1)	4/26/02 – Date of Entry of Preliminary Approval
70520	Contract Administrator 2, sometimes referred to as License Migration Analyst, Contract Analyst, Contract Specialist, Contract Support, Contract Manager, Marketing Specialist, Senior Contract Analyst, Senior Contract Specialist, Senior Field Contract Specialist, Team Lead (all level 2)	4/26/02 – Date of Entry of Preliminary Approval
70530	Contract Administrator 3, sometimes referred to as Contract Specialist, Senior Contract Specialist, Contract Manager,	4/26/02 – Date of Entry Preliminary Approval



	Licensing Consultant, Senior Contract Administrator, Subcontract Manager and Team Lead Contract Administration (all level 3)	
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(c) **FLSA Collective:** All individuals who were employed in any of the job codes and job titles below at Defendant or Oracle USA, Inc. in the United States between April 26, 2003 and the date(s) that Defendant or Oracle USA, Inc. made those individuals (or the individuals in their job code(s)) eligible for overtime compensation, for the purposes of Plaintiffs' claims for alleged unpaid overtime, liquidated damages, and interest alleged in the Complaint under the Fair Labor Standards Act:

<b>Covered Job Codes</b>	<b>Covered Job Titles</b>	<b>Eligibility Period</b>
70510	Contract Administrator 1, sometimes referred to as Contract Specialist, Contract Analyst, Contractor, Senior Contract Specialist, VAD Contract Specialist and VAD Service Analyst (all level 1)	4/26/03 – 9/19/04
70520	Contract Administrator 2, sometimes referred to as License Migration Analyst, Contract Analyst, Contract Specialist, Contract Support, Contract Manager, Marketing Specialist, Senior Contract Analyst, Senior Contract Specialist, Senior Field Contract Specialist, Team Lead (all level 2)	4/26/03 – 10/15/05
70530	Contract Administrator 3, sometimes referred to as Contract Specialist, Senior Contract Specialist, Contract Manager, Licensing Consultant, Senior Contract Administrator, Subcontract Manager and Team Lead Contract Administration (all	4/26/03 – 12/16/07

	level 3)	
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If this settlement is not finally approved by the Court, any Court order certifying the classes and provisionally approving the collective action shall be vacated without prejudice to the right of the parties to seek or oppose certification;

3. RG2 Claims Administration, LLC is appointed as Claims Administrator, and estimated costs of administration in an amount not to exceed Twenty Seven Thousand Dollars (\$27,000) may be paid from the Funds Available for Settlement as defined in the Settlement Agreement for services performed and costs incurred;

4. A time and effort payment of Seven Thousand Five Hundred Dollars (\$7,500) to each of the two Representative Plaintiffs from the total Funds Available for Settlement is preliminarily approved;

5. Class Counsel shall have fifteen (15) days from the date this Order is entered to file their motion for reasonable attorneys' fees in an amount not to exceed twenty-five percent (25%) of the total value of the claims made (and not to exceed Two Hundred Eighty-one Thousand Three Hundred Seventy-five Dollars (\$281,375)) and for costs of no more than Twenty Thousand Dollars (\$20,000) (including all expert and consultant fees and costs) incurred for work already performed in this case and all of the work remaining to be performed in this case;

6. The forms of notice accompanying the Settlement Agreement are APPROVED as they are consistent with due process requirements and the best practicable form of notice;

1           7. Any Settlement Member (as defined in the Settlement Agreement),  
2 who wishes to file an objection to this Settlement, must postmark such an objection in  
3 writing, to the Claims Administrator no later than 65 days from the date of mailing of the  
4 Notice and Claim Form to the following address:

5                   Oracle Claims Administrator:

6                   RG2 Claims Administration LLC  
7                   P.O. Box 59479  
8                   Philadelphia, PA 19102-9479

8 Settlement Members may send courtesy copies of such objections to Plaintiffs' counsel  
9 and Oracle's counsel, at the following addresses:

10                   Plaintiffs' Counsel:

11                   Todd M. Schneider  
12                   Schneider Wallace Cottrell Brayton Konecky LLP  
13                   180 Montgomery Street, Suite 2000  
14                   San Francisco, CA 94104

15                   Christina Djernaes  
16                   1215 De La Vina Street  
17                   Suite K  
18                   Santa Barbara, CA 93101

19                   Oracle's Counsel:

20                   Nancy L. Abell  
21                   Paul, Hastings, Janofsky & Walker LLP  
22                   515 South Flower St., 25th Floor  
23                   Los Angeles, CA 90071

24           8. Any Settlement Member who wishes to opt out of this Settlement  
25 must postmark an opt-out notice no later than 65 days from the date of mailing of the  
26 Notice and Claim Form, to the Claims Administrator at the address set forth in  
27 paragraph 7 above; and to be valid and effective, an opt-out notice must (i) state the  
28 opting-out Settlement Member's name (and, where different, any other name(s) used  
during the Settlement Member's period of employment with Oracle), address, and  
employee number or social security number; (ii) be signed by the Settlement Member;  
(iii) be timely postmarked to the Claims Administrator; and (iv) contain a statement the  
same as or substantially similar to the following:

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I, [NAME], was or am employed by Oracle Corporation or Oracle USA, Inc. between [DATES of EMPLOYMENT] as a [COVERED JOB CODE and TITLE]. I hereby exercise my right to opt out of the Settlement, knowing that by doing so I waive any and all rights I may have to participate in that Settlement and to be paid any portion of the settlement proceeds that I would otherwise be eligible to receive under that Settlement.

9. No later than 20 days after the Effective Date as defined in Paragraph 2.k. of the Settlement Agreement, Defendant shall pay to the California Labor and Workforce Development Agency the sum of Twenty-five Thousand Dollars (\$25,000) in addition to the \$1,187,500 Funds Available for Settlement, which Defendant intends to be a full resolution of any monies allegedly owed under the California Labor Code Private Attorneys General Act of 2004, California Labor Code Sections 2698-2699. This sum shall not be paid from the Funds Available for Settlement, shall not change the class release in any way, and shall not result in any increased payment to the Representative Plaintiffs; and

10. The following schedule will govern the class claims in this action:

Settlement Member List to the Claims Administrator:	5 business days after entry of preliminary approval
Deposit of Settlement Funds with the Claims Administrator, who will deposit the funds into Qualified Settlement Fund to Which Parties' Counsel Mutually Agree:	5 business days after entry of preliminary approval
Attorneys' Fees Motion Filed:	15 days after entry of preliminary approval
Notice and Claim Form Mailed to Settlement	25 days after entry of preliminary

1	Members:	approval
2	Last Day to File Objections and Opt-Out Notices:	65 days after mailing of Notice and Claim Form
3		
4	Last Day to Submit Claim:	100 days after entry of preliminary approval
5	Last Day for the Parties to Reject Settlement:	105 days after entry of preliminary approval
6		
7	Last Day to File Motion for Final Approval of Settlement:	121 days after entry of preliminary approval
8	Last Day to File Response to Objections (if any):	121 days after entry of preliminary approval
9		
10	Fairness Hearing and Fee Approval Hearing:	136 days after entry of preliminary approval
11	List of All Qualifying Settlement Members ("List"):	10 days after Effective Date
12	Payment of Attorneys' Fees:	10 days after Effective Date
13	Counsel's Changes, if any, to List:	5 days after production of List
14	Deadline for Payments of Claims to Settlement Members and Named Plaintiffs:	25 business days after Effective Date
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16	Report on Settlement Administration:	120 days after Effective Date
17	Plaintiffs File A Satisfaction of Judgment and Other Pleadings Required to Conclude the Case:	125 days after Effective Date
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21 Dated: 10/16/08

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24 United States District Judge  
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