

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GUIFU LI, MENG WANG, FANG DAI, LIN)
CUI, and ZHONG YU, on behalf of themselves)
and all others similarly situated,)
)
Plaintiffs,)
)
v.)
)
A PERFECT FRANCHISE, INC, a California)
Corporation, et al.,)
)
Defendants.)

Case No.: 5:10-CV-01189-LHK

ORDER AMENDING THE CLASS
CERTIFICATION/COLLECTIVE
ACTION ORDER AND DIRECTING
NOTICE TO CLASS MEMBERS

Pursuant to Federal Rule of Civil Procedure 23(c)(1)(B), and for the reasons set forth in the October 5, 2011 Order, the Court adopts Plaintiffs’ class definition and defines the California state law class action and the Fair Labor Standards Act (“FLSA”) Collective Action as follows:

“All persons who have worked as massage therapists for A Perfect Day Inc. and/or A Perfect Day Franchise Inc. d.b.a. A Perfect Day Spa at any time from March 22, 2006 through the date of final judgment.”

The Court further certifies that the following California state law claims: the overtime, minimum wage, wage statement, conversion of gratuities, and waiting time/UCL claims, are suitable for class-wide treatment. The Court also certifies the issue of whether the class members were properly classified as independent contractors. The Court facilitates a collective action for Plaintiffs’ FLSA overtime claim.

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The named Plaintiffs Guifu Li, Meng Wang, Fang Dai, Lin Cui, and Zhong Yu, will serve as the class representatives. The Court has considered the factors for appointing lead counsel pursuant to Federal Rule of Civil Procedure 23(g) and believes that the Sturdevant Law Firm and the law firm of Duckworth, Peters, Lebowitz Olivier can litigate this case competently. The Court, therefore APPOINTS the Sturdevant Law Firm and the law firm of Duckworth, Peters, Lebowitz Olivier, and Monique Olivier and James Sturdevant as lead counsel.

The Court also adopts the parties' revised class notice, filed at ECF No. 304. Plaintiffs shall send out the class notices by first class mail by January 4, 2012. All California opt-out responses and FLSA consent forms must be post-marked no later than March 7, 2012. Plaintiffs shall file the consent forms and opt-out responses received by March 12, 2012.

IT IS SO ORDERED.

Dated: December 22, 2011



LUCY H. KOH
United States District Judge