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9 and on behalf of all others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF RIVERSIDE**

12 **RICHARD CALDERA JR., individually, and on**
13 **behalf of all others similarly situated,**

14 **Plaintiff,**

15 **v.**

16 **PERFORMANCE ONLINE, INC., a California**
17 **corporation; WESTERN COMPONENTS**
18 **GROUP, INC. DBA WESTERN CHASSIS, a**
19 **California corporation; and DOES 1 through 10,**
20 **inclusive,**

21 **Defendants.**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 12 2024

E. Escobedo

Case No. CVRI2306013

*Assigned for all purposes to:
Hon. Harold W. Hopp, Dept. 1*

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

PRELIMINARY APPROVAL HEARING

Date: September 12, 2024
Time: 8:30 AM
Dept. 1

Reservation ID: Hearing Date Set by Court.
See 8/29/2024 Minute Order

22 **~~PROPOSED~~ ORDER GRANTING PLAINTIFF'S MOTION**
23 **FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**
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SEP 13 2024

1 **[PROPOSED] ORDER**

2 Having reviewed Plaintiff Richard Caldera, Jr.'s Motion for Preliminary Approval of
3 Class Action Settlement ("Motion"), the Declaration of John G. Yslas, Plaintiff's declaration,
4 and the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement
5 Agreement"), and good cause appearing, the Court finds and orders as follows:

6 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
7 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
8 The Court grants preliminary approval of the Settlement and the Settlement Class based on the
9 terms set forth in the Settlement Agreement between Plaintiff and Defendant Performance
10 Online, Inc. and Western Components Group, Inc. dba Western Chassis ("Defendants"),
11 attached to the Supplemental Declaration of John G. Yslas in Support of Plaintiffs' Motion for
12 Preliminary Approval of Class Action Settlement filed on September 5, 2024, as **Exhibit 2**.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$100,000.00 (the Gross Settlement Amount) to cover (a) settlement payments to Class Members
18 who do not validly opt out; (b) a \$5,000.00 allocation toward civil penalties under the Private
19 Attorneys General Act, 75% of which (\$3,750.00) will be paid to the State of California, Labor
20 & Workforce Development Agency and 25% of which (\$1,250.00) will be paid to eligible
21 Aggrieved Employees; (c) Class Representative service payment of up to \$7,500.00 to Plaintiff;
22 (d) Class Counsel's attorneys' fees, not to exceed 33 1/3% of the Gross Settlement Amount (i.e.,
23 \$33,333.00), and up to \$16,109.90 in costs for actual litigation expenses incurred by Class
24 Counsel; and (e) Settlement Administration Costs of up to \$5,750.00.

25 3. The Court preliminarily finds that the terms of the Settlement appear to be within
26 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
27 applicable law. The Court finds on a preliminary basis that: (1) the Settlement amount is fair
28 and reasonable to the Class Members when balanced against the probable outcome of further

1 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
2 significant informal discovery, investigation, research, and litigation have been conducted such
3 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
4 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
5 by the further prosecution of the litigation; and (4) the proposed Settlement has been reached as
6 the result of intensive, serious, and non-collusive negotiations between the Parties with the
7 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
8 that the Settlement Agreement was entered into in good faith.

9 4. A final fairness hearing on the question of whether the proposed Settlement,
10 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
11 Workforce Development Agency for its share of the settlement of claims for penalties under the
12 Private Attorneys General Act, and the class representatives' enhancement awards should be
13 finally approved as fair, reasonable and adequate as to the members of the Class is hereby set
14 in accordance with the Implementation Schedule set forth below.

15 5. The Court provisionally certifies for settlement purposes only the following class
16 (the "Class"): "all persons who worked for any Defendant in California as an hourly-paid or
17 non-exempt employee at any time during the Class Period."

18 6. "Class Period" means the period from April 5, 2018 to June 30, 2024.

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

27 8. The Court appoints as Class Representatives, for settlement purposes only,
28 Plaintiff. The Court further preliminarily approves Plaintiffs' ability to request an incentive

award up to \$7,500.00.

9. The Court appoints, for settlement purposes only, John G. Yslas, Jeffrey C. Bils, Aram Boyadjian and Andrew Sandoval of Wilshire Law Firm, PLC, as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total Settlement Amount (i.e., \$33,333.33), and costs not to exceed \$16,109.90.

10. The Court appoints ILYM Group, Inc. as the Settlement Administrator with reasonable administration costs estimated not to exceed \$5,750.00

11. The Court approves, as to form and content the Class Notice, attached to the Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the Notice to Settlement Class Members satisfies due process, provides the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

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

13. Any Class Member who does not timely and validly request exclusion from the Settlement may object to the Settlement Agreement.

14. The Court orders the following Implementation Schedule:

EVENT:	DEADLINE:
Defendant to provide Class List to the Settlement Administrator	September 27, 2024
Settlement Administrator to mail the Notice Packets	October 2, 2024
Response Deadline	December 2, 2024
Deadline to Object	December 2, 2024
Deadline for Administrator to Submit Report	<u> </u> (14 days before the Deadline to File Motion for Final Approval,

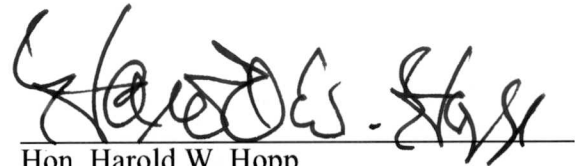
EVENT:	DEADLINE:
	Request for Attorney's Fees and Costs, and Service Award to Plaintiff)
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	<u> </u> (16 court days before the calendared Final Approval Hearing)
Final Approval Hearing	January 22, 2025

15. The Court ORDERS the Settlement Administrator to provide notice to any objecting party if the motion for final approval is continued.

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

IT IS SO ORDERED.

DATE: Sept. 12, 2024


Hon. Harold W. Hopp
Riverside County Superior Court