

ELECTRONICALLY FILED BY  
Superior Court of California,  
County of Monterey  
On 07/31/2024  
By Deputy: DeMers, Kristen

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8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF MONTEREY**

11 FRANCISCA PEREZ LOPEZ, individually,  
and on behalf of all others similarly situated,

12 *Plaintiff,*

13 vs.

14 HARBINGER GROUP, LLC, a limited  
15 liability company dba MISIONERO; and  
DOES 1 through 10, inclusive,

16 *Defendants.*

Case No.: 22CV002800

[Honorable Carrie M. Panetta, Department 14]

**~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF FRANCISCA PEREZ LOPEZ'S  
MOTION FOR PRELIMINARY APPROVAL  
OF CLASS AND REPRESENTATIVE  
ACTION SETTLEMENT AGREEMENT**

[Filed with Plaintiff Francisca Perez Lopez's  
Notice of Motion and Motion for Preliminary  
Approval, Declaration of Kane Moon, and  
Declaration of Plaintiff Francisca Perez Lopez]

**PRELIMINARY APPROVAL HEARING**

Date: July 19, 2024

Time: 8:30 a.m.

Dept: 14

Complaint Filed: September 20, 2022

Trial Date: Not Set

1 The Court has before it the unopposed Motion for Preliminary Approval of Class and  
2 Representative Action Settlement Agreement (“Motion”) of Plaintiff Francisca Perez Lopez  
3 (“Plaintiff”). Having reviewed the Notice of Motion, Motion, Declaration of Kane Moon, Declaration  
4 of Plaintiff, and Joint Stipulation of Class and Representative Action Settlement Agreement  
5 (“Settlement”) between Plaintiff and Defendant Harbinger Group, LLC (“Defendant”) (Plaintiff with  
6 Defendant, the “Parties”), and good cause appearing, **THE COURT HEREBY ORDERS AS  
7 FOLLOWS:**

8 1. The Settlement, which is attached to the Declaration of Kane Moon in Support of  
9 Plaintiff’s Motion as **Exhibit 2**, appears to meet the requirements for preliminary approval under  
10 California Code of Civil Procedure section 382 because it appears to be fair, adequate, and reasonable.  
11 The Settlement appears to be fair, adequate, and reasonable because it is the result of good faith, non-  
12 collusive negotiations between the Parties, as well as significant discovery and analysis, which enabled  
13 the Parties to intelligently evaluate, litigate, and mediate the allegations. The Settlement also appears to  
14 be fair, adequate, and reasonable because it obviates the need for further litigation, including litigation  
15 related to class certification, liability, and damages issues; and the substantial costs, delay, and risks  
16 associated with such litigation.

17 2. The Settlement states that Defendant will pay a Gross Settlement Amount of  
18 \$975,000.00 and that the Gross Settlement Amount will be used to pay all payments contemplated by  
19 the Settlement without exception, including, the Individual Class Payments to Participating Class  
20 Members; PAGA Penalties in the amount of \$60,000.00, with seventy-five percent (75%), or  
21 \$45,000.00 allocated to the LWDA (the “LWDA PAGA Payment”), and twenty-five percent (25%), or  
22 \$15,000.00 allocated to the Aggrieved Employees (“Individual PAGA Payments”); the Class Counsel  
23 Expenses Payment in an amount not to exceed \$30,000.00; the Class Counsel Fees Payment in an  
24 amount not to exceed one third of the Gross Settlement Amount, or \$325,000.00; the Class  
25 Representative Service Payment in an amount not to exceed \$10,000.00; and the Administration  
26 Expenses Payment in an amount not to exceed \$23,000.00. *Settlement*, ¶¶ 3.2, *et seq.* These terms  
27 appear to fall within the range of reasonableness of a settlement which could ultimately be granted  
28 final approval by this Court.

1           3.       The Settlement also states that, as of the date of the Settlement, there are an estimated  
2 2,228 Class Members and 79,742 total Workweeks from September 20, 2018, to February 14, 2024. If  
3 the actual number of total Workweeks from September 20, 2018, through June 22, 2024 exceeds  
4 79,742 by more than ten percent (10%), i.e., exceeds 87,717, Defendant, at its sole discretion, may  
5 either: (1) pay the pro rata percentage increase in excess of ten percent (10%) of the Gross Settlement  
6 Amount to include the additional workweeks, e.g., an eleven percent (11%) increase in total  
7 Workweeks would result in a one percent (1%) increase in the Gross Settlement Amount; or (2) reduce  
8 the Class Period to the date that 87,717 Workweeks are met, but not exceeded. *Settlement*, ¶ 7.

9           4.       The Class includes all current and former non-exempt employees who worked for  
10 Defendant in California from September 20, 2018, through June 22, 2024. *Settlement*, ¶ 1.5. The Class  
11 is provisionally certified for settlement purposes only because it appears to meet the requirements for  
12 certification under California Code of Civil Procedure section 382. In particular, (1) the Class is  
13 ascertainable and so numerous that joinder is impractical; (2) the Class shares common questions of  
14 law and fact, which predominate over individual issues; (3) Plaintiff’s claims are typical of the claims  
15 of the Class; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests of the  
16 Class; and (5) a class action is superior to other available methods for the fair and efficient  
17 adjudication of the controversy. The Court notes that Class Members who do not request exclusion  
18 from the Settlement may object thereto and raise their objections at the Final Fairness Hearing on the  
19 Settlement.

20           5.       Aggrieved Employees include all current and former non-exempt employees who  
21 worked for Defendant in California from September 17, 2021, through June 22, 2024. *Settlement*, ¶  
22 1.4. The Aggrieved Employees are provisionally approved for settlement purposes only.

23           6.       Effective on the date the Court issues its Final Approval Order, but subject to the  
24 Court’s continuing jurisdiction to monitor compliance with the execution of settlement terms, Plaintiff,  
25 the Participating Class Members, the State of California, and the Aggrieved Employees will release  
26 claims against all Released Parties as follows:

- 27                   **a)       Released Parties** means Defendant, any potential joint employer of  
28                   Defendant, and any and all of Defendant’s affiliated companies and respective

1 parent companies, subsidiaries, affiliates, shareholders, members, agents  
2 (including, without limitation, any investment bankers, accountants, insurers,  
3 reinsurers, attorneys and any past, present or future officers, directors,  
4 employees, or other persons acting on Defendant’s behalf), predecessors,  
5 successors, and assigns. *Settlement*, ¶ 1.40.

6 **b) Plaintiff’s Release.** Plaintiff fully and finally releases the Released Parties  
7 from any and all claims, known and unknown, under federal, state and/or local  
8 law, statute, ordinance, regulation, common law, or other source of law,  
9 including, but not limited to, all claims arising from or related to her  
10 employment with Defendant and her compensation while an employee of  
11 Defendant (“Plaintiff’s Released Claims”). Plaintiff’s Released Claims include  
12 all claims for lost wages and benefits, emotional distress, retaliation, punitive  
13 damages, and attorneys’ fees and costs arising under federal, state, or local  
14 laws for discrimination, harassment, retaliation, and wrongful termination,  
15 such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title  
16 VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, Age  
17 Discrimination in Employment Act; California Fair Employment and Housing  
18 Act; and the law of contract and tort. Plaintiff’s Released Claims also include  
19 any and all claims, known or unknown. Even if Plaintiff discovers facts in  
20 addition to or different from those that she now knows or believes to be true  
21 with respect to the subject matter of Plaintiff’s Released Claims, those claims  
22 will remain released and forever barred. Thus, Plaintiff expressly waives and  
23 relinquishes the provisions, rights and benefits of section 1542 of the  
24 California Civil Code, which reads: “A general release does not extend to  
25 claims that the creditor or releasing party does not know or suspect to exist in  
26 his or her favor at the time of executing the release, and that if known by him  
27 or her would have materially affected his or her settlement with the debtor or  
28 Released Party.” Plaintiff’s Released Claims excludes claims which cannot be

1 waived under law. *Settlement*, ¶ 5.1.

2 **c) Release by Participating Class Members:** All Participating Class Members  
3 fully and finally release and discharge the Released Parties from any and all  
4 claims alleged in Plaintiff’s pleadings or that could have been alleged based  
5 on the factual allegations in Plaintiff’s pleadings, including, but not limited to,  
6 California Labor Code sections 200, 201, 202, 203, 204, 208, 210, 218.5,  
7 218.6, 221, 222, 223, 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558,  
8 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, any  
9 California Industrial Commission Wage Order, Business and Professions  
10 Code sections 17200, *et seq.*, California Code of Civil Procedure section  
11 1021.5, and including all claims for or related to alleged unpaid wages,  
12 minimum wages, hours worked, overtime or double time wages, regular rate  
13 of pay, bonus and incentive pay, sick pay, timely payment of wages during  
14 employment or at separation, wage statements, meal periods and meal period  
15 premiums, rest breaks and rest break premiums, reimbursements, unfair  
16 competition, unfair business practices, unlawful business practices, and claims  
17 for statutory penalties based on the facts or claims alleged or that could have  
18 been alleged based on the factual allegations in Plaintiff’s pleadings arising at  
19 any time during the Class Period (collectively, “Released Class Claims”).  
20 *Settlement*, ¶ 5.2.

21 **d) Release by the State of California and Aggrieved Employees:** The State of  
22 California and all Aggrieved Employees fully and finally release and  
23 discharge the Released Parties from any and all claims for PAGA civil  
24 penalties that Plaintiff alleged against the Released Parties or that could have  
25 been alleged against the Released Parties based on the facts stated in  
26 Plaintiff’s pleadings or PAGA Notice, including, but not limited to, (i) all  
27 PAGA claims seeking civil penalties premised upon California Labor Code  
28 sections 200, 201, 202, 203, 204, 208, 210, 218.5, 218.6, 221, 222, 223, 226,

1 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1174, 1174.5, 1182.12,  
2 1194, 1194.2, 1197, 1197.1, 1198, 1199, *et seq.*, and 2802, California  
3 Industrial Commission Wage Orders, and (ii) all other claims for civil  
4 penalties recoverable under the PAGA based on the facts or claims alleged in  
5 Plaintiff’s pleadings or PAGA Notice arising at any time during the PAGA  
6 Period (collectively, “Released PAGA Claims”). The Released PAGA Claims  
7 do not release any Aggrieved Employees’ claims for wages or statutory  
8 penalties, and the Aggrieved Employees may not opt out of the Released  
9 PAGA Claims. *Settlement*, ¶ 5.3.

10 7. For settlement purposes only, the Class Notice to be sent to Class Members, as to form  
11 and content, is adequate. Further, on a preliminary basis, the plan for distribution of the Class Notice to  
12 Class Members satisfies Due Process, provides the best notice practicable under the circumstances, and  
13 shall constitute due and sufficient notice to all persons entitled thereto. The Class Notice is attached to  
14 the Settlement as **Exhibit A**.

15 8. The Class Representative appointed for this matter is Plaintiff Francisca Perez Lopez.  
16 *Settlement*, ¶ 1.14. The Class Representative Service Payment, which is not to exceed \$10,000.00, is  
17 preliminarily approved. *Settlement*, ¶¶ 1.15, 3.2.1.

18 9. Class Counsel appointed for this matter is Moon Law Group, P.C. *Settlement*, ¶ 1.6.  
19 The Class Counsel Fees Payment, which is not to exceed one third of the Gross Settlement Amount, or  
20 \$325,000.00, and Class Counsel Expenses Payment, which is not to exceed \$30,000.00, are  
21 preliminarily approved. *Settlement*, ¶¶ 1.7, 1.8, 3.2.2.

22 10. The Administrator appointed for this matter is APEX Class Action Administration.  
23 *Settlement*, ¶ 1.2. The Administration Expenses Payment, which is not to exceed \$23,000.00, is  
24 preliminarily approved. *Settlement*, ¶¶ 1.3, 3.2.3.

25 11. A Final Fairness Hearing on the question of whether the Settlement should be finally  
26 approved as fair, adequate, and reasonable as to the Participating Class Members, is hereby set in  
27 accordance with the following Implementation Schedule:  
28

1	Defendant to provide Class Data to the Administrator	Within thirty (30) calendar days of Preliminary Approval ( <i>Settlement</i> , ¶ 6.4)
2	Administrator to mail the Class Notice by First Class Mail	Within fourteen (14) calendar days of receiving the Class Data ( <i>Settlement</i> , ¶ 6.4.2)
3		
4	Response Deadline	Sixty (60) calendar days after the date the Class Notice is mailed to Class Members via First-Class U.S. Mail ( <i>Settlement</i> , ¶ 6.4.4)
5		
6	Deadline to file Motion for Final Approval	No later than sixteen (16) court days prior to the Final Fairness Hearing
7	Final Fairness Hearing	<u>5/16/25</u> , <del>2024</del> at <u>8:30 a.m.</u> in Department 14 of the Monterey County Superior Court

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12. If any of the dates in the above schedule fall on a weekend, or bank or court holiday, the time to act shall be extended to the next business day.

13. To facilitate the administration of the Settlement pending Final Approval, the Court hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative proceedings, including filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations, regarding claims released by the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with the Administrator and the time for filing claims with the Administrator has lapsed.

14. Pending further order of this Court, all proceedings in this Action, except those contemplated herein and in the Settlement, are stayed.


15. Neither the Settlement 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 Settlement.

16. The Settlement is preliminarily approved but is not an admission by Defendant of the validity of any claims in this Action, or of any wrongdoing or violation of law by Defendant.

17. The obligations set forth in the Settlement are deemed part of this Order. The Parties are to carry out the Settlement in accordance with its terms. **\*Also, see the court's tentative ruling which is incorporated in this order.**

**IT IS SO ORDERED.**

DATE: 7/19/2024

  
\_\_\_\_\_  
Honorable Carrie M. Panetta  
Judge of the Monterey County Superior Court

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 ) ss  
4 COUNTY OF LOS ANGELES )

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18  
6 and not a party to the within action; my business address is 725 S. Figueroa St., 31<sup>st</sup> Floor, Los  
7 Angeles, California 90017. On **June 25, 2024**, I served the foregoing document described as:

8 **[PROPOSED] ORDER GRANTING PLAINTIFF FRANCISCA PEREZ LOPEZ’S MOTION  
9 FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION  
10 SETTLEMENT AGREEMENT**

11 X by placing \_\_\_ the original X a true copy thereof enclosed in sealed envelope(s) addressed  
12 as follows:

13 Vincent Fisher  
14 Joseph Lordan  
15 **O’HAGAN MEYER**  
16 221 Caledonia Street  
17 Sausalito, CA 94965  
18 Tel: 415-578-6900  
19 Fax: 415-578-6910  
20 vfisher@ohaganmeyer.com  
21 jlordan@ohaganmeyer.com

22 *Attorney for Defendant*

23 [] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The  
24 envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the  
25 firm’s practice of collection and processing correspondence for mailing. Under that practice  
26 it would be deposited with U.S. postal service on that same day with postage thereon fully  
27 prepaid at Los Angeles, California in the ordinary course of business. I am aware that on  
28 motion of the party served, service is presumed invalid if postal cancellation date or postage  
meter date is more than one day after date of deposit for mailing in affidavit.

29 X (State) I declare under penalty of perjury under the laws of the State of California  
30 that the above is true and correct.

31 Executed on **June 25, 2024**, at Los Angeles, California.

32 Jessica Partida */S/ Jessica Partida*  
33 \_\_\_\_\_  
34 Name Signature