

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 1/11/19

ROBERT BEHRENS, *on behalf of himself  
and others similarly situated,*

Plaintiff,

v.

MLB ADVANCED MEDIA, L.P.,

Defendant.

1:18-cv-03077-PAE

**ORDER GRANTING PLAINTIFF'S  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF THE  
CLASS ACTION SETTLEMENT AND  
OTHER RELATED RELIEF**

**AND NOW**, upon consideration of Plaintiff Robert Behrens' ("Plaintiff") "Unopposed Motion for Preliminary Approval of the Class Action Settlement and Other Related Relief" ("Motion") (Doc. 37), the accompanying "Class/Collective Action Settlement Agreement" ("Agreement") (Doc. 37-1), the accompanying Declaration of Peter Winebrake (Doc. 37-2), the accompanying Declaration of James E. Goodley (Doc. 37-4), the accompanying Memorandum of Law (Doc. 37-4), and all other papers and proceedings herein, it is hereby **ORDERED** that:

1. The Motion is **GRANTED**, and the parties' settlement of this class/collective action is **PRELIMINARILY APPROVED** because it appears that, at the final approval stage, the Court will "will likely be able to" approve the settlement under the criteria described in Federal Rule of Civil Procedure ("Civil Rule") 23(e)(2) and certify the settlement class under the criteria described in Civil Rules 23(a) and 23(b)(3). See Fed. R. Civ. P. 23(e)(1)(B)(i)-(ii) (as amended effective December 1, 2018).

2. The "Notice of Settlement" ("Notice") attached to the Agreement as Exhibit B and the notice and claim protocols described in paragraphs 6-7 of the Agreement are approved pursuant to Civil Rules 23(c)(2)(B) and 23(e)(1). The notice packages shall be sent to the 197

individuals listed in Exhibit A to the Agreement.<sup>1</sup>

3. Individuals who wish to object to the settlement must follow the procedures described in paragraph 7 of the Agreement and Section 7 of the Notice.

4. Winebrake & Santillo, LLC and Jennings Sigmond, P.C. are appointed interim class counsel pursuant to Civil Rule 23(g)(3) and shall ensure that the notice and claim process contemplated by the Agreement is followed. The Court will make its final decision regarding the appointment of class counsel after the final approval and pursuant to the criteria described in Civil Rule 23(g)(1).

5. Pursuant to Civil Rule 23(e)(2), a hearing addressing final approval of the settlement will be held at the Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, NY in Courtroom 1305 at 9:30 a.m. on Apr 19, 2019.<sup>2</sup> During this hearing, the Court will hear from any objectors or other class members who wish to address the Court and will hear argument from counsel regarding, *inter alia*, the following issues: whether the settlement warrants final approval under Civil Rule 23(e)(2) and 29 U.S.C. § 216(b); whether the settlement class should be certified under Civil Rules 23(a) and 23(b)(3); whether the individuals who participate in the settlement should be certified as a Fair Labor Standards Act collective under 29 U.S.C. § 216(b); whether the service award described in paragraph 10 of the Agreement is reasonable; and whether the attorney's fees and expenses sought by interim class should be approved under Civil Rule 23(h).

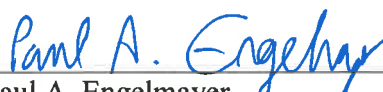
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<sup>1</sup> The parties have represented that these individuals fall within the putative settlement class, which has been defined to include: "Plaintiff Robert Behrens and all other individuals who, during any week between April 6, 2012 and December 19, 2016, were employed by Defendant and paid through a combination of hourly and piece-rate pay."

<sup>2</sup> **Note to the Court:** Because the Agreement requires individuals to submit claim forms and/or object to the settlement on or before a postmark deadline falling 70 calendar days after the entry of this Order, see Agreement at ¶ 1 ("Claim Deadline"), Plaintiff respectfully suggests that the final approval hearing be scheduled no earlier than 84 calendar days after the entry of this Order.

6. Seven calendar days prior to the final approval hearing, interim class counsel shall file all papers in support of the final approval of the settlement and the associated issues described in paragraph 5 above

SO ORDERED this 11<sup>th</sup> day of January, 2019.

  
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Hon. Paul A. Engelmayer  
United States District Court  
Southern District of New York