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10 Attorneys for Plaintiff CHET YATES,
on behalf of himself and others similarly situated

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF KERN**

14 CHET YATES, an individual, on behalf of
himself and others similarly situated,

15 Plaintiff,

16 vs.

17 APPLUS RTD USA, INC., a Delaware
18 company; APPLUS RTD USA SERVICES,
INC., a Delaware company; and DOES 1
19 through 50, inclusive,

20 Defendants.

Case No.: BCV-18-100258

Class Action - Assigned for All Purposes To:
Hon. Thomas S. Clark
Dept.: Bakersfield Dept. 17

**NOTICE OF RULINGS AND OF ORDER
GRANTING PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION AND FLSA COLLECTIVE
SETTLEMENT AGREEMENT AND
RELEASE**

Following continued hearing date:
Date: October 19, 2022
Time: 8:30 a.m.
Department 17

Complaint Filed: February 5, 2018
First Amended Complaint: April 11, 2018
Second Amended Complaint: October 12, 2022
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 On October 19, 2022 at 2:30 p.m., counsel for the parties, Plaintiff Chet Yates
3 (“Plaintiff”), on behalf of himself and others similarly situated employed by Defendants APPLUS
4 RTD USA SERVICES, INC. and APPLUS RTD USA, INC. (“Defendants”) and Defendants,
5 appeared before the Court for the hearing on Plaintiff’s motion for preliminary approval of the
6 parties’ Class and PAGA Action and FLSA Collective Settlement Agreement and Release.

7 Following review of the prior motion documents and the supplemental and amended
8 documents filed recently by the parties, and conferring with the parties’ counsel at the hearing, the
9 Court took the motion under consideration. On October 25, 2022, the Court entered a Minute
10 Order, which is attached hereto as Exhibit A, and ruled as follows:

11 1. The Court granted the Motion preliminarily approving the Settlement Agreement
12 and authorized mailing of the Class and PAGA and Collective Notice according to the terms of the
13 Settlement Agreement;

14 2. The Motion was only granted on the condition that the parties amend their
15 Settlement Agreement to include necessary references to the \$50,000 allocated to the FLSA claim
16 settlement and to be paid to the FLSA Collective Members (the parties will do so);

17 3. The Court set the hearing on Plaintiff’s Motion for Final Approval of the
18 Settlement Agreement for February 24, 2023 at 8:30 a.m. in Dept. 17;

19 4. The Court instructed Counsel for Plaintiff to draft a formal Order consistent with its
20 ruling and Minute Order, pursuant to C.R.C Rule 3.1312, and to provide Notice of Entry of the
21 Order when it is entered; and

22 5. The effective date of the Court’s Ruling was as of October 24, 2022.

23 Plaintiff’s understand counsel in concurrently submitting a [Proposed] Order for the Court.
24

25 DATED: October 28, 2022

DAVID YEREMIAN & ASSOCIATES, INC.

26 By 
27

David Yeremian
Alvin B. Lindsay
Attorneys for Plaintiff Chet Yates
and the Settlement Class
28

EXHIBIT A



Superior Court of California
County of Kern
Bakersfield Department 17

Date: 10/25/2022

Time: 8:00 AM - 5:00 PM

BCV-18-100258

YATES VS APPLUS RTD USA, INC. ET AL

Courtroom Staff

Honorable: Thomas S. Clark

Clerk: Linda K. Hall

NATURE OF PROCEEDINGS: RULING

The Court reaches the following decision:

Plaintiff's unopposed Motion for Preliminary Approval came on for hearing October 19, 2022 at 8:30 a.m. in Dept. 17. Alvin Lindsay appeared remotely for Plaintiffs. Joshua Henderson and Philip DiTullio appeared remotely for Defendants. Daniel Klingenberg appeared in the courtroom for Defendants. The hearing was reported by Certified Court Reporter, Cynthia Pola.

Supplemental documents filed by Plaintiff on October 17, had not yet been processed. The Court took the matter under submission, pending its review of the supplemental documents.

The Court has had an opportunity to review the supplemental documents

The Court notes that the proposed notice states that the FLSA allocation will be \$50,000 of the settlement. The proposed settlement references an FLSA allocation generally and defines the term, but the Court could not find any reference in the proposed settlement agreement itself to the \$50,000 FLSA allocation amount. Since the notice states that if there is any conflict between the notice and the settlement agreement, the settlement agreement prevails, it is important that the \$50,000 amount of the FLSA allocation be specifically addressed in the settlement agreement.

Since the settlement agreement has not yet been signed, it should pose no hardship to add language to the settlement agreement specifically addressing the amount of the \$50,000 allocation.

Based on the Court's review of the supplemental documents as well as the other moving papers, the Court **GRANTS** the motion, **provided that** the settlement agreement is amended to include the \$50,000 allocation.

Hearing date for Final Approval Motion is set for February 24, 2023 at 8:30 a.m. in Dept. 17.

Counsel for Plaintiff is directed to draft a formal Order consistent with this ruling, pursuant to C.R.C Rule 3.1312 and to provide Notice of Entry. In the meantime, these minutes will memorialize the ruling of the Court effective

RULING
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YATES VS APPLUS RTD USA, INC. ET AL

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as of October 24, 2022.

Copy of ruling emailed to all counsel as stated on the attached declaration.

Minute order notice.

FUTURE HEARINGS:

February 24, 2023 8:30 AM Final Approval Hearing on Class Action Settlement

Clark, Thomas S.

Bakersfield Department 17 located at 1415 Truxtun Avenue

Sheriff, Deputy

None, .

CERTIFICATE OF MAILING AND/OR EMAIL*****

The undersigned, of said Kern County, certify: That I am a Deputy Clerk of the Superior Court of the State of California, in and for the County of Kern, that I am a citizen of the United States, over 18 years of age, I reside in or am employed in the County of Kern, and not a party to the within action, that I served the ***Ruling dated October 25, 2022*** attached hereto on all interested parties and any respective counsel of record in the within action by depositing true copies thereof, enclosed in a sealed envelope(s) with postage fully prepaid and placed for collection and mailing on this date, following standard Court practices, in the United States mail at Bakersfield California addressed as indicated on the attached mailing list.


Date of Mailing: October 25, 2022

Place of Mailing: Bakersfield, CA

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Tamarah Harber-Pickens
CLERK OF THE SUPERIOR COURT

Date: October 25, 2022

By: Linda Hall 
Linda Hall, Deputy Clerk

Signed: 10/25/2022 11:35 AM

MAILING LIST

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