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CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

Attorneys for Plaintiff

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

ALIDA MAZARIEGOS, PAULA GONZALEZ,
JAIME AMAYA, ADRIANA TELLO, and RYNE
BASS

Plaintiffs, on behalf of themselves and all
others similarly situated,

v.

VANGUARD CLEANING SYSTEMS, INC.; RR
FRANCHISING, INC., D/B/A VANGUARD
CLEANING SYSTEMS OF SOUTHERN
CALIFORNIA AND D/B/A VANGUARD
CLEANING SYSTEMS OF NORTHERN
CALIFORNIA; BUDDHA CAPITAL
CORPORATION, D/B/A VANGUARD
CLEANING SYSTEMS OF SACRAMENTO,
D/B/A VANGUARD CLEANING SYSTEMS OF
THE CENTRAL VALLEY, AND D/B/A
VANGUARD CLEANING SYSTEMS OF THE
CENTRAL COAST; AND WINE COUNTRY
VENTURES, INC. D/B/A VANGUARD
CLEANING SYSTEMS OF THE NORTH BAY,
AND DOES 1 THROUGH 10, INCLUSIVE,

Defendants.

Case No. 20-CIV-04267

COMPLEX ACTION

*ASSIGNED FOR ALL PURPOSES TO
HONORABLE NANCY L. FINEMAN,
DEPT. 4
NF*

**~~PROPOSED~~ ORDER GRANTING
IN PART AND DENYING IN PART
PLAINTIFFS' THIRD RENEWED
MOTION FOR CLASS
CERTIFICATION**

Complaint Filed: October 1, 2020

Trial Date: None Set

CASE NO. 20-CIV-04267

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23 RR Franchising, Inc., Buddha Capital Corporation and Wine Country Ventures, Inc.

(b) performed cleaning services in California during the “Class Period” (the period beginning April 6, 2016 through the date of trial) for “Vanguard” cleaning accounts serviced by the Franchise established by the Franchise Agreement signed by the same person;

(c) BUT EXCLUDING:

- i. Individuals who signed any Franchise Agreement with a Defendant that included an arbitration agreement; and
- ii. Individuals who signed a Dispute Resolution Agreement entered into with Vanguard Cleaning Systems, Inc.;

Additionally, class certification will be granted for the following two subclasses:

(a) The “**RRF Subclass**” includes all class members who signed a Franchise Agreement with RRF establishing a Franchise; and

(b) The “**Buddha Subclass**” includes all class members who signed a Franchise Agreement with Buddha establishing a Franchise.

Class certification is not granted as to individuals who signed a Franchise Agreement with WCV or any other Regional Franchisor besides the Defendants because the court concludes that there is not an adequate class representative. Plaintiffs’ Counsel reported that they made efforts to identify a suitable replacement class representative, but were unable to do so.

As explained more below, the court finds that certification is proper based on alleged violations of Wage Order No. 5 or the Labor Code that are governed by the ABC test established in *Dynamex Operations W. v. Superior Court* (2018) 4 Cal.5th 903, 916 (*Dynamex*) and codified in Labor Code section 2775 et al. . (Chin, *Cal. Prac. Guide: Empl. Lit.* (Rutter, April 2025 Update) §19:795.2a. (citing authorities).)

Class certification is a procedural device for managing the claims of numerous allegedly injured persons. A motion for class certification does not concern the merits. (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 437-444 (*Linder*).)

Class actions are creatures of equity. (*Estrada v. Royalty Carpet Mills, Inc.* (2024) 15 Cal.5th 582, 611; *Fireside Bank v. Superior Court* (2007) 40 Cal.4th 1069, 1084.) ““The class suit was an invention of equity to enable it to proceed to a decree in suits where the number of those interested in

1 the subject of litigation is so great that their joinder as parties in conformity to the usual rules of
2 procedure is impracticable.” (*Daar v. Yellow Cab Co.* (1967) 67 Cal.2d 695, fn 14 (*Daar*) [quoting
3 *Hansberry v. Lee* (1940) 311 U.S. 32, 41-42].)

4 The class mechanism should be used when “substantial benefits accrue both to the litigants
5 and the courts.” (*Linder, supra*, 23 Cal.4th at p. 435.) A class action is a procedural mechanism for the
6 resolution of numerous claims in a single lawsuit with all the attendant savings of time and energy for
7 the parties and the court. “[T]he class suit both eliminates the possibility of repetitious litigation and
8 provides small claimants with a method of obtaining redress.” (*Id.* at pp. 435-436.) “If a class suit is
9 not permitted ..., a multiplicity of legal actions dealing with identical basic issues will be required in
10 order to permit recovery by each [plaintiff]. The result would be multiple burdens upon the plaintiffs,
11 the defendant and the court.” (*Daar, supra*, 67 Cal.2d at pp. 714-715.)

12 A class action must be “superior to alternate means for a fair and efficient adjudication of the
13 litigation.” (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 332 (*Sav-On*)). In
14 determining whether a class is appropriate, “[t]he relevant comparison lies between the costs and
15 benefits of adjudicating plaintiffs’ claims in a class action and the costs and benefits of proceeding by
16 numerous separate actions—nor between the complexity of a class suit that must accommodate some
17 individualized inquiries and the absence of any remedial proceeding whatsoever.” (*Id.* at 339 fn 10.)
18 California Code of Civil Procedure section 382 permits the court to certify a class action when the
19 moving party shows the superiority of pursuing the representative action on behalf of a sufficiently
20 numerous and ascertainable class with a well-defined community of interest. (See, e.g., *Brinker Rest.*
21 *Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021 (*Brinker*)). The community of interest
22 requirement entails showing that: (1) predominant common questions of law or fact exist; (2) the class
23 representatives have claims or defenses typical of absent class members; and (3) the class
24 representatives and their counsel can adequately represent the interests of the class. (*Id.*) The burden
25 is on the party seeking class certification to establish each of the class prerequisites through substantial
26 evidence. (*Sav-On, supra*, 34 Cal.4th at p. 327.) When determining certification, the court examines
27 all presented evidence “under the prism of [the] plaintiff’s theory of recovery.” (*Dep’t of Fish & Game*
28 *v. Superior Court* (2011) 197 Cal.App.4th 1323, 1349.)

1 When weighing the evidence, the court does not evaluate the merits of the asserted claims.
2 (*Linder, supra*, 23 Cal.4th at pp. 439-40.) Rather, the primary question on certification is “whether the
3 theory of recovery advanced by the proponents of certification is, as an analytical matter, likely to
4 prove amenable to class treatment.” (*Sav-On, supra*, 34 Cal.4th at p. 327.) Nevertheless, “when the
5 merits of the claim are enmeshed with class action requirements, the trial court must consider evidence
6 bearing on the factual elements necessary to determine whether to certify the class.” (*Bartold v.*
7 *Glendale Federal Bank* (2000) 81 Cal.App.4th 816, 829, overturned on other grounds due to
8 legislative action; see *Brinker, supra*, 53 Cal.4th at pp. 1023-24 [“In many instances, whether class
9 certification is appropriate or inappropriate may be determined irrespective of which party is correct.
10 In such circumstances, it is not an abuse of discretion to postpone resolution of the disputed issue.”].)

11 **1. Ascertainability and Numerosity.**

12 Although among the simplest of the requirements, a proposed class must nevertheless be
13 sufficiently ascertainable and numerous to be certified. (Civ. Proc. Code, § 382; *Daar*, 67 Cal.2d at p.
14 704.) First, “[a]scertainability is required in order to give notice to putative class members as to whom
15 the judgment in the action will be res judicata.” (*Hicks v. Kaufman & Broad Home Corp.* (2001) 89
16 Cal.App.4th 908, 914.) Ascertainability serves this “limited but important function . . . ,” so long as the
17 class “is defined ‘in terms of objective characteristics and common transactional facts’ that make ‘the
18 ultimate identification of class members possible when that identification becomes necessary.’” (*Noel*
19 *v. Thrifty Payless* (2019) 7 Cal.5th 955, 980 (2019) [quoting *Hicks, supra*, 89 Cal.App.4th at p. 915].)
20 “A class is ascertainable if it identifies a group of unnamed plaintiffs by describing a set of common
21 characteristics sufficient to allow a member of that group to identify himself or herself as having a
22 right to recover based on the description.” (4 Witkin, *Cal. Proc.* (6th ed., 2025 Update) Plead § 281
23 (cleaned up).)

24 Second, this ascertained class must be so numerous as to make joinder of all parties impractical.
25 (*Hendershot v. Ready to Roll Transp., Inc.* (2014) 228 Cal App.4th 1213, 1222.) “No set number is
26 required as a matter of law for the maintenance of a class action,” (*Rose v. City of Hayward* (1981)
27 126 Cal.App.3d 926, 934, disapproved of on other grounds by *Noel v. Thrifty Payless, Inc.* (2019) 7
28 Cal.5th 955 and classes with as few as ten members have been certified. (See *Collins v. Rocha* (1972)

1 7 Cal. 3d 232 [class of 9 named plaintiffs on behalf of 35 others]; *Bowles v. Superior Court* (1955) 44
2 Cal.2d 574 (1955) [class of 10 trust beneficiaries]; Weil & Brown, *Cal. Prac. Guide: Civ. Proc. Before*
3 *Trial* (Rutter, Jun. 2024 Update) ¶ 14:21.1.)

4 At least one defendant contests both ascertainability and numerosity, but the court finds both
5 have been satisfied. Since plaintiffs only seek to certify a class for claims for which the ABC and not
6 the *Borello* (*S. G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341)
7 test applies. (*Parada v. East Coast Transport, Inc.* (2021) 62 Cal.App.5th 692, 698, 699 n.2.) The
8 class can be ascertained by defendants' records. Plaintiffs show that, based on defendants' records,
9 there are 291 unit franchise cleaners who contracted with RR during the class period, 58 with WVC,
10 and 111 with Buddha. (Opening at p. 19.) While Regional Franchisors argue that "At most, only 16
11 franchise agreement signatories may be included in the WCV subclass" (Regional Franchisors' Opp.
12 at p. 36), under California law there is no minimum number requirement as there appears to be in
13 federal court and sixteen class members is sufficient for numerosity. Defendant VCS argues that
14 Plaintiffs did not submit evidence that unit franchisee cleaners performed cleaning services and are
15 not subject to arbitration agreements.

16 **2. Community of Interest:**

17 The community of interest requirement entails showing that: (1) predominant common
18 questions of law or fact exist; (2) the class representatives have claims or defenses typical of absent
19 class members; and (3) the class representatives and counsel can adequately represent the interests of
20 the class. (*Brinker, supra*, 53 Cal.4th at p. 1021.)

21 **a. Predominance of Common Questions of Law or Fact.**

22 "As part of the community of interest requirement, the party seeking certification must show that
23 issues of law or fact common to the class predominate." (*Duran v. U.S. Bank Nat'l Ass'n* (2014) 59
24 Cal.4th 1, 28 (*Duran*) [citing *Richmond v. Dart Indus., Inc.* (1981) 29 Cal.3d 462, 470 (*Richmond*).])
25 The "ultimate question" in predominance analysis is whether "the issues which may be jointly tried,
26 when compared with those requiring separate adjudication, are so numerous or substantial that the
27 maintenance of a class action would be advantageous to the judicial process and to the litigants."
28 (*Collins v. Rocha* (1972) 7 Cal.3d 232, 238.) That answer hinges on "whether the theory of recovery

1 advanced by the proponents of certification is, as an analytical matter, likely to prove amenable to
2 class treatment.” (*Sav-On, supra*, 34 Cal.4th at p. 327.)

3 Thus, “a court ‘must examine the issues framed by the pleadings and the law applicable to the
4 causes of action alleged.’” (*Brinker, supra*, 53 Cal.4th at p. 1024 [quoting *Hicks v. Kaufman & Broad*
5 *Home Corp.* (2001) 89 Cal.App.4th at 916.) In doing so, “[i]t must determine whether the elements
6 necessary to establish liability are susceptible of common proof or, if not, whether there are ways to
7 manage effectively proof of any elements that may require individualized evidence.” (*Ibid.* [citing
8 *Sav-On, supra*, 34 Cal.4th at p. 334]; see *Erica P. John Fund, Inc. v. Halliburton Co.* (2011) 563 U.S.
9 804, 809 (2011) [“Considering whether ‘questions of law or fact common to class members
10 predominate’ begins, of course, with the elements of the underlying cause of action.”]; accord *Duran*,
11 *supra*, 59 Cal.4th at p. 28 [holding that wholly individualized damages inquiries will generally not
12 preclude certification so long as the defendant's liability can be proven on a class wide basis].).
13 “[W]hether an element may be established collectively or only individually, plaintiff by plaintiff, can
14 turn on the precise nature of the element and require resolution of disputed legal or factual issues
15 affecting the merits.” (*Ibid.*)

16 Nevertheless, class certification is inappropriate “if every member of the alleged class would
17 be required to litigate numerous and substantial questions determining his individual right to recover
18 following the ‘class judgment’” on common issues. (*City of San Jose v. Superior Court* (1974) 12
19 Cal.3d 447, 459; see *Arenas v. El Torito Rest., Inc.* (2010) 183 Cal.App.4th 723, 732 [“If the class
20 action ‘will splinter into individual trials, common questions do not predominate and litigation of the
21 action in the class format is inappropriate.’”].)

22 Plaintiffs seek certification of a class and subclasses related to their claims based upon whether
23 they are employees rather than independent contractors, Wage Order No. 5, unreimbursed expenses,
24 and unfair and unlawful business practices. The court discusses these claims.

25 **Employee v. Independent Contractor:** As stated, Plaintiffs limit the claims they seek to
26 certify to those claims based on alleged employment status under California’s ABC test and not the
27 *Borello* standard. While defendants argue that there are many issues regarding control, which is a key
28

1 element embodied in the A prong of the ABC test,¹ an employment relationship will be found if the
2 evidence fails to prove that “the person providing labor or services for remuneration” is “free from the
3 control and direction of the hiring entity in connection with the performance of the work, both under
4 the contract for the performance of the work and in fact.” (Lab. Code. sec. 2775(b)(1)(A). Emphasis
5 added.) Thus, a defendant’s failure to satisfy prong A can be established by a finding that the hiring
6 entity had the contractual right to control and direct the class members’ performance of the work OR
7 by a finding that the hiring entity in fact exercised such control and direction. Here, Plaintiffs contend
8 that class certification is appropriate because, with respect to prong A, common evidence can be used
9 to establish that each defendant had the contractual right to control and direct the class members’
10 performance of services. The common evidence being – according to Plaintiffs – the master franchise
11 agreements, the manuals and the cleaning account contracts, which Plaintiffs contend were all drafted
12 by VCS and used and distributed by the Regional Franchisors. While defendants point to other indicia
13 of control “in fact” (or lack thereof) at a micro level unique to individual class members, thereby
14 requiring the presentation and consideration of evidence specific to individual class members, this
15 poses no bar to certification here because “[i]t is plaintiffs’ theory of recovery that determines whether
16 class certification is appropriate.” *Wilson v. The La Jolla Group*, 61 Cal. App. 5th 897, 910 (2021)).
17 And here, Plaintiffs move for class certification based on their theory of recovery that the class
18 members qualify as employees under the ABC test because the contracts governing their performance
19 of the work, i.e., the common evidence on which Plaintiffs intend to rely, gave defendants the
20 contractual right to control and direct the class members’ performance of their work. In other words,
21 while the evidence defendants offer in opposition could, in another case involving a different theory
22 of recovery, demonstrate that individual issues predominate, it is of no import here because it is
23 irrelevant to the theory of recovery Plaintiffs assert in this case. The macro level documents are
24 sufficient for the purpose of the A prong and, thus, certification is appropriate.

25
26
27 ¹ The other prongs are: “(B) that the worker performs work that is outside the usual course of the hiring entity’s business;
28 *and* (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the
same nature as the work performed.” *Dynamex*, (2018) 4 Cal.5th at 957.

1 Defendants argue that Labor Code § 2776's "business-to-business" exception applies and
2 requires individualized analysis; Plaintiffs disagree. Plaintiffs argue that common evidence will show
3 that the first, second, seventh, and tenth B2B factors are not met for any class member. Like the ABC
4 test, Section 2776's business-to-business exception is a disjunctive standard, meaning all twelve
5 criteria must be satisfied for the exception to apply. The business-to-business defense can therefore be
6 refuted by proving that just one of the exception's criteria is not satisfied. The Court therefore
7 concludes that the "business-to-business" exception does not bar class treatment because, at minimum,
8 it finds Plaintiffs have made a sufficient showing that satisfaction of the A prong of the ABC test can
9 be determined based on common evidence, and because the language of the A prong mirrors that of
10 the first element of the "business-to-business" exception (Labor Code § 2776(a)(1) ("element 1")), the
11 Court also concludes that element 1 can likewise be determined based on common evidence.

12
13 **Expense Reimbursement (Claim One):** Plaintiffs assert their First Cause of Action ("Failure
14 to Provide Reimbursement For Business Expenses") on behalf of themselves and the class members
15 based on Labor Code section 2802 and IWC Wage Order No. 5, sections 8-9 (TAC, pg. 15, lines 1-2),
16 but clarify in their Motion that they do not seek class certification "as to any portions of the claims
17 that would be controlled by the common law *Borello* test..." (Motion pg. 21, line 14, fn. 22.) Under
18 Labor Code section 2802, employers are required to indemnify employees for all necessary
19 expenditures or losses "incurred by the employee in direct consequence of the discharge of his or her
20 duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the
21 employee, at the time of obeying the directions, believed them to be unlawful." (Lab. Code, § 2802,
22 subd. (a).) "This right to reimbursement cannot be waived. [Citation]. However, an employer can
23 discharge its reimbursement obligation in a number of different ways, including through
24 reimbursement for actual expenses or mileage, or through lump sum payments." (*ABM Industries*
25 *Overtime Cases* (2017) 19 Cal.App.5th 277, 286 (2017). Under IWC Wage Order No. 5, sec. 9(B),
26 when "tools or equipment are required by the employer or are necessary to the performance of a job,
27 such tools and equipment shall be provided by the employer, except that an employee whose wages
28

1 are at least two (2) times the minimum wage ... may be required to provide and maintain hand tools
2 and equipment customarily required by the trade or craft.”

3 The legal standard embodied in Labor Code section 2802 and the requirements it imposes on
4 an employer differ from the standard found in section 9 of Wage Order 5 and its requirements. The
5 extent to which Wage Order 5 requires an employer to “reimburse” employees for the cost of tools or
6 equipment versus merely requiring the employer to provide the tools and equipment is a merits
7 question that need not be addressed at this time. Regardless, under any interpretation, it is clear that
8 the Wage Order’s provisions “are not equivalent or overlapping with section 2802”, and that “many
9 expenses ... including insurance, cell phone charges ... and mileage/fuel, are covered *only* by section
10 2802” and “not by [the] Wage Order[‘s] ‘tools and equipment provision.” (*Bowerman v. Field Asset*
11 *Services, Inc.*, 60 F.4th 459, 472 (9th Cir. 2023).) This is relevant here because of the fact that Labor
12 Code section 2802 did not become governed by the ABC test until January 1, 2020, when the Supreme
13 Court’s adoption of the ABC test in *Dynamex* was codified and made applicable to the Labor Code,
14 whereas the Supreme Court’s holding in *Dynamex* made the ABC test retroactively applicable to the
15 Wage Orders, as clarified in its subsequent decision in *Vazquez v. Jan-Pro Franchising International,*
16 *Inc.*, 10 Cal.5th 944, 273 Cal.Rptr.3d 741, 478 P.3d 1207 (Cal. 2021). Because Plaintiffs only seek
17 class certification of the expense reimbursement claim to the extent it is controlled by the ABC test,
18 and Labor Code section 2802 did not become governed by the ABC test until January 1, 2020, to the
19 extent Plaintiffs seek to recover reimbursement of expenses covered only by section 2802 – i.e.,
20 expenses for which reimbursement is not mandated by the Wage Order – class certification of the
21 claim is limited to the period beginning January 1, 2020 and later, and only to the extent the subclass
22 is represented by a class representative with standing to assert a claim for violation of section 2802
23 during the period beginning January 1, 2020. Class certification is granted for the reimbursement
24 claim for the entire class period to the extent it asserts a claim based solely on violation of the Wage
25 Order.

26 **Unlawful Deductions (Claim Two):** IWC Wage Order No. 5, §§ 8,9 list the circumstances
27 where an employer can make deductions from wages. Here, Plaintiffs present evidence indicating that
28 they are charged certain expenses (Opening at p. 26), which deductions would be improper if they are

employees. (See *Estrada v. FedEx Ground Package System, Inc.* (2007) 154 Cal.App.4th 1, 15.) Thus, certification of this claim is appropriate.

Wage Statements (Claim Six): Under Labor Code section 226 subdivision (a), employers are required “semimonthly or at the time of each payment of wages, [to] furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing [certain enumerated information].” An employee is “deemed to suffer injury” under Labor Code section 226 if (1) “the employer fails to provide a wage statement...” (Lab. Code, § 226, subd. (e)(2)(A).) There is no dispute that plaintiffs and the class do not receive wage statements. Thus, certification is appropriate.

Business and Professions Code section 17200 (UCL) (Claim Eight): The UCL broadly prohibits “any unlawful, unfair or fraudulent business act or practice” (*Bus. & Prof. Code*, § 17200.) “Because the statute is framed in the disjunctive, a business practice need only meet one of the three criteria to be considered unfair competition.” (*McKell v. Washington Mutual, Inc.* (2006) 142 Cal.App.4th 1457, 1471.) First, unlawful practices include “any practices forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court-made.” (*Saunders v. Superior Court* (1994) 27 Cal.App.4th 832, 838-39.) “It is not necessary that the predicate law provide for private civil enforcement.” (*Id.* at p. 839.) Second, unfair practices are those “whose harm to the victim outweighs its benefits.” (*Ibid.*) Third, fraudulent practices extend beyond those covered by the common law tort and include any practices that are likely to deceive members of the public. (*Buller v. Sutter Health* (2008) 160 Cal.App.4th 981, 986.) The UCL may only be privately enforced “by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.” (*Bus. & Prof. Code* § 17204.) Because this claim is derivative of the Wage Order violations, it is appropriate for certification.

b. Typicality.

The typicality requirement exists to ensure that the interests of the named representatives align with the interests of the class. (*Johnson v. GlaxoSmithKline, Inc.* (2008) 166 Cal.App.4th 1497, 1509.) “Typicality refers to the nature of the claim or defense of the class representative, and not to the

1 specific facts from which it arose or the relief sought.” (*Ibid.* (internal quotation marks and citations
2 omitted).) Thus, the crux of the typicality inquiry relies on “whether other members have the same or
3 similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and
4 whether other class members have been injured by the same course of conduct.” (*Ibid.*)

5 “[A] defendant's raising of unique defenses against a proposed class representative does not
6 automatically render the proposed representative atypical.” (*Fireside Bank v. Superior Court* (2007)
7 40 Cal.4th 1069, 1091.) Thus, whether “a representative is subject to unique defenses is one factor to
8 be considered in deciding the propriety of certification.” (*Id.* at p. 1090.) “The specific danger a unique
9 defense presents is that the class ‘representative might devote time and effort to the defense at the
10 expense of issues that are common and controlling for the class.’” (*Ibid.* [quoting *Beck v. Maximus,*
11 *Inc.* (3rd Cir. 2006) 457 F.3d 291, 297.)

12 Here, each of the named plaintiffs are asserting the same claims. The court discusses the
13 adequacy of representation below, but the claims are typical.

14 **c. Adequacy of Representation.**

15 Adequacy of representation must be shown as to both the class representatives and the putative
16 class’s counsel. (*Richmond, supra*, 29 Cal.3d at p. 462.) Adequacy ordinarily turns on whether there
17 is a conflict as to the litigation itself. (See *Capitol People First v. State Dep’t of Developmental Servs.*
18 (2007) 155 Cal.App.4th 676, 696-97.) When resolving adequacy questions, the court evaluates “the
19 seriousness and extent of conflicts involved compared to the importance of issues uniting the class;
20 the alternatives to class representation available; the procedures available to limit and prevent
21 unfairness; and any other facts bearing on the fairness with which the absent class member is
22 represented.” (*Id.* at p. 697 (internal quotation marks omitted).) Serious “[c]redibility problems can
23 [also] be an appropriate ground to reject the adequacy of a class representative.” (*Payton v. CSI Elec.*
24 *Contractors, Inc.* (2018) 27 Cal.App.5th 832, 843.)

25 Defendants do not challenge the adequacy of class counsel and their submission demonstrate
26 that they have and will adequately represent the class, including sufficient experience in wage and
27 hour class actions. Therefore, the Court appoints Rukin Hyland & Riggin LLP and Nichols Kaster
28 LLP as class counsel.

1 The court appoints plaintiffs Gonzales, and Amaya as representatives of the class and of the
2 RRF and Buddha Subclasses, respectively. Defendants do not object on the procedural basis that the
3 notice of motion does not request appointment of Plaintiffs as subclass representatives (see Weil &
4 Brown, *Cal. Prac. Guide: Civ. Proc. Before Trial* (Rutter, Jun. 2024 Update) ¶ 9:38.) Thus any
5 objection is waived. Plaintiffs discuss the adequacy/typicality of these plaintiffs as class
6 representatives, thus providing notice to defendants and the court overlooks the omission in the notice,
7 finding no prejudice.

8 Defendants object on substantive grounds to the appointment of Mazariegos and Gonzales.
9 Defendants argue that Gonzales did not perform cleaning services after January 1, 2020 and therefore
10 cannot represent a subclass (VCS Opp., p. 30:6-8 [“Gonzalez has not cleaned since 2019, so she does
11 not even fit into the proposed class definition (limited to those who ‘performed cleaning services’)
12 after that time and thus cannot recover wages and is not typical of other PCMs.”] But as the court in
13 *Conde* held, “[t]ypicality is generally a ‘permissive standard[],’ such that ‘representative claims are
14 “typical” if they are reasonably co-extensive with those of absent class members; they need not be
15 substantially identical.” (*Conde v. Open Door Marketing, LLC* (N.D. Cal. 2017) 223 F.Supp.3d 949,
16 958 [citing *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1020, overruled on other grounds
17 by *Wal-Mart Stores, Inc. v. Dukes* (2011) 564 U.S. 338]; *DZ Reserve v. Meta Platforms, Inc.* (9th Cir.
18 2024) 96 F.4th 1223, 1238, cert. denied (2025) 145 S.Ct. 1051.) The proposed class period runs from
19 “four years prior to April 6, 2020 through the date of trial.” (MPA, p. 3:10-11.) Therefore, Gonzales
20 has some overlap with the class. Additionally, Gonzales’ claims arise from the same set of events, and
21 rely on the same theory of liability as class claims. (See *Conde*, at p. 958; TAC generally.) The court
22 finds that any differences between Gonzales and the class will not distract from her being an adequate
23 class representative and the defenses specific to her are not likely to become a major focus of the
24 litigation. (*Fireside Bank v. Sup. Ct.* (2007) 40 Cal.4th 1069, 1091 [unique defenses against a class
25 representative does not automatically render proposed representative atypical; inquiry is whether the
26 defenses will distract the class representative and if proffered defenses are likely to be major focus of
27 litigation.].)

1 Mazariegos though is not an adequate class representative. Mazariegos does not dispute that
2 she entered into a voluntary settlement that Defendants contend released her claims against defendants.
3 A party who enters into a voluntary release of her claims is not an adequate class representative.
4 (*Watkins v. Wachovia Corp.* (2009) 172 Cal.App.4th 1576, 1592.) Plaintiffs do not discuss *Watkins*,
5 but instead only contend that Mazariegos is an adequate class representative to challenge defendants'
6 affirmative defense of release. The third amended complaint, however, does not challenge the validity
7 of any releases. The only reference to a release in this complaint is in paragraph 24, which alleges that
8 "Vanguard also requires, as a term of renewal, for Cleaners to sign a general release of any claims
9 against Vanguard." (TAC, ¶ 24.) Since the issue of the validity of the release is not an issue in the
10 complaint, Mazariegos is not an adequate class representative because she signed a release. The fact
11 that defendants have raised the defense to the complaint before a class has been certified does not
12 translate into making Mazariegos an adequate class representative when that issue is not one of the
13 subclasses certified. The court finds defendants' other arguments claiming that Mazariegos is not an
14 adequate class representative unpersuasive.

15 **3. Superiority.**

16 Courts are required to carefully weigh the respective benefits and burdens, and to allow
17 maintenance of the class action only where substantial benefits accrue, both to litigants and the courts.
18 (*Linder, supra*, 23 Cal.4th at p. 435.) Thus, superiority is generally determined according to four
19 factors: (1) each member's interest in controlling their own case; (2) the existence of manageability
20 issues; (3) the extent of overlapping, pending individual litigation; and (4) the desirability of
21 consolidating all claims for joint resolution before one court. (*Ali v. U.S.A. Cab Ltd.* (2009) 176
22 Cal.App.4th 1333, 1353; *Basurco v. 21st Century Insurance Co.* (2003) 108 Cal.App.4th 110, 121.)
23 Trial courts must pay careful attention to manageability concerns "when deciding whether to certify a
24 class action." (*Duran, supra*, 59 Cal.4th at p. 29.) Even if common issues are "sufficient to satisfy the
25 predominance prong for certification, the trial court also ha[s] to determine that these individual issues
26 c[an] be effectively managed in the ensuing litigation." (*Id.* at p. 32-33 [citing *Brinker, supra*, 53
27 Cal.4th at p. 1004 (Werdegar, J., concurring op.)].
28

1 The court finds a class action is superior to individual lawsuits and the case is manageable.
2 While VCS claims that a class action is not superior because of internal conflicts, the difference in
3 situations between the class members does not mean that a class action is not superior. The case has
4 been pending since 2020 and while the Regional Franchisors point to the fact that few other putative
5 class members have come forward, that fact is not surprising because employees often do not want to
6 bring litigation. (See *Gentry v. Superior Court* (2007) 42 Cal.4th 443, 460 [“Indeed, federal courts
7 have widely recognized that fear of retaliation for individual suits against an employer is a justification
8 for class certification in the arena of employment litigation, even when it was otherwise questionable
9 that the numerosity requirements of [Federal Rule of Civil Procedure] rule 23.”]) The court is in no
10 means suggesting that there has been any retaliation here (all counsel have been professional
11 throughout this case) but only that the court cannot draw an inference that the lack of other cases
12 means that class members do not support the case. Putative class members will have the right to opt
13 out, but the fact that few have become involved in the case before notice is provided does not
14 necessarily mean that the class is not interested. The idea of a class action is that the few represent the
15 many so that others do not need to get involved. The court understands that there are individual issues,
16 but they can be managed or will become irrelevant when the overarching issues are litigated. As with
17 most wage class actions, the time and expense of individual actions and the risk of inconsistent rulings
18 make a class action a superior way to resolve these issues.

19 The court OVERRULES defendant VCS’s 74 evidentiary objections to Plaintiffs’ evidence.

20 The court GRANTS plaintiffs’ request for judicial notice for the result reached, “but cannot
21 take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings,
22 affidavits, testimony, or statements of fact. (Citation)” (*Williams v. Wraxall* (1995) 33 Cal.App.4th
23 120, 130.)

24 **CLASS NOTICE PROCESS**

25 The court orders notice to the certified class and sub-classes be sent, including an opportunity
26 to opt out. Class Counsel shall distribute the Court-approved notice to the Class by mail (in English
27 and Spanish), email (in English and Spanish), and by posting the notice on a website maintained by
28 Class Counsel; and a shorter reference to the notice shall be distributed by text message (in English).

1 Defendants will provide the class list, including all relevant contact information, to Class
2 Counsel on or by September 30, 2025.

3 Class Counsel will distribute notice within ten calendar days of the date on which counsel
4 receives the class list, after updating addresses using NCOA before mailing.

5 Class Members will have forty-five (45) days from the deadline for the distribution of the Class
6 Notice to request exclusion from the Class.

7 Class Counsel will forward any notices returned with a forwarding address, and will conduct
8 skip traces for any notices returned undeliverable and promptly re-mail or re-email as needed.

9 Along with the Class Notice, Class Counsel shall additionally distribute the Court-approved
10 Questionnaire to the Class (using the same manners of delivery as for the Class Notice).

11 Twenty-five (25) days after the deadline for distribution of the Class Notice (i.e., 35 days from
12 receipt of the class list), Class Counsel will send a reminder postcard to any Class Members who have
13 not responded to the Questionnaire or opted out in a manner prescribed by the Class Notice.

14 Class Members may return questionnaire responses by mail, email, or through a website. Class
15 Counsel will provide questionnaire responses (excluding contact information) to Defendants. Class
16 Members who do not return a questionnaire will not be dismissed automatically, although failure to
17 submit the questionnaire may potentially lead to their exclusion from the case via a future noticed
18 motion; Defendants may revisit their status in the future.

19 Class Counsel will create a website, and provide access to it to Defendants' Counsel for review
20 prior to distribution of the Class Notice. The website shall include the same content as the court-
21 approved Class Notice and Questionnaire.

22 Class Counsel shall not affirmatively reach out to potential class members during the notice
23 period, but may communicate with potential class members who initiate contact with Plaintiffs'
24 counsel to respond to questions about the lawsuit, the information contained in the class notice, and
25 the accompanying questionnaire.

26 The court-approved Class Notice and Questionnaire are attached hereto as **Exhibit A**. The
27 email and text message notices are attached hereto as **Exhibit B**. The text of the reminder postcard is
28

1 attached hereto as **Exhibit C**. Prior to distribution, Counsel will obtain a Spanish translation of the
2 written notice from a translator approved by the parties.

3
4 **IT SO ORDERED.**

Electronically

SIGNED

By /s/ Fineman, Nancy

09/22/2025

5 Dated: _____

6 THE HONORABLE NANCY L. FINEMAN
7 Judge of the Superior Court
8

9 4925-2140-3743, v. 1
10

11 The actual exhibits are not attached to this order, but provided separately. The notice of
12 entry of order shall include the exhibits.

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