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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

FRANCISCO CALDERON, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

SMILEDIRECTCLUB, LLC, a Tennessee
limited liability company; JEFFREY
SULITZER, D.M.D., PROFESSIONAL
CORPORATION, a California corporation;
and DOES 1 through 100, inclusive,
Defendants.

Case No.: 20STCV03799

*[Assigned for All Purposes to the Hon. Yvette
M. Palazuelos, Dept. SSC-9]*

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT, CLASS
REPRESENTATIVE'S SERVICE AWARD,
AND ATTORNEYS' FEES AND COSTS**

Date: May 17, 2021
Time: 10:00 a.m.
Dept.: SSC-9

Complaint Filed: January 30, 2020
Trial Date: None Set

1 The Motion of Plaintiff Francisco Calderon (“Plaintiff”) for Preliminary Approval of Class
2 Action Settlement (“Motion”) came on regularly for hearing before this Court on May 17, 2021
3 at 10:00 a.m. in Department SSC-9. The Court, having considered the proposed Stipulation of
4 Settlement (the “Settlement”), attached as Exhibit 1 to the Declaration of Elizabeth Nguyen filed
5 concurrently with the Motion; having considered Plaintiff’s Motion, Memorandum of Points and
6 Authorities in support thereof, and supporting declarations filed therewith; and good cause
7 appearing, HEREBY ORDERS THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set
9 forth in the Settlement and finds it terms to be within the range of reasonableness of a settlement
10 that ultimately could be granted approval by the Court at a Final Fairness Hearing. For purposes
11 of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that
12 there is a sufficiently well-defined community of interest among the members of the Settlement
13 Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants
14 conditional certification of the following Settlement Class:

15 All current and former non-exempt, hourly, employees of Defendants
16 SmileDirectClub, LLC, and Jeffrey Sulitzer, D.M.D., Professional
17 Corporation who worked in California at any time from November 8, 2017
through the date of preliminary approval.

18 2. For purposes of the Settlement, the Court designates named Plaintiff Francisco
19 Calderon as Class Representative, and Scott M. Lidman, Elizabeth Nguyen, Milan Moore, and
20 Romina Tamiry of Lidman Law, APC and Paul K. Haines of Haines Law Group, APC as Class
21 Counsel.

22 3. The Court designates Phoenix Settlement Administrators (“Phoenix”) as the third-
23 party Settlement Administrator for mailing notices.

24 4. The Court approves, as to form and content, the Notice of Pendency of Class
25 Action and Proposed Settlement and Notice of Individual Settlement Award attached to the
26 Settlement as **Exhibit B**.

1 5. The Court finds that the form of notice to the Settlement Class regarding the
2 pendency of the action and of the Settlement, and the methods of giving notice to Settlement Class
3 members, constitutes the best notice practicable under the circumstances, and constitute valid,
4 due, and sufficient notice to all members of the Settlement Class. The form and method of giving
5 notice complies fully with the requirements of California Code of Civil Procedure section 382,
6 California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California and
7 United States Constitutions, and other applicable law.

8 6. The Court further approves the procedures for Settlement Class members to opt
9 out of or object to the Settlement, as set forth in the Notice of Pendency of Class Action and
10 Proposed Settlement.

11 7. The procedures and requirements for filing objections in connection with the Final
12 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
13 presentation of any Settlement Class member's objection to the Settlement, in accordance with
14 the due process rights of all Settlement Class members.

15 8. The Court directs the Settlement Administrator to mail the Notice of Pendency of
16 Class Action and Proposed Settlement and Notice of Individual Settlement Award to all of the
17 Class members in accordance with the terms of the Settlement.

18 9. The Class Notice shall provide at least 60 calendar days' notice for Settlement
19 Class members to opt out of, or object to, the Settlement.

20 10. The Final Fairness Hearing on the question of whether the Settlement should be
21 finally approved as fair, reasonable, and adequate is scheduled in Department SSC-9 of this Court,
22 located at 312 N. Spring Street, Los Angeles, California 90012 on _____, 2021 at
23 _____ a.m./ p.m.

24 11. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement
25 should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether
26 a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's
27 application for reasonable attorneys' fees, reimbursement of litigation expenses, service award to
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Plaintiff, and payment to the Labor and Workforce Development Agency (“LWDA”) for penalties under the Labor Code Private Attorneys General Act (“PAGA”) should be granted.

12. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of the Settlement, attorneys’ fees, litigation expenses, Plaintiff’s service award, settlement administration costs, and payment to the LWDA for PAGA penalties prior to the Final Fairness Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

13. Plaintiff is granted leave to file the Second Amended Complaint Class and Representative Action Complaint, which is attached as **Exhibit A** to the Settlement.

14. An implementation schedule is below:

Event	Date	Actual Date ¹
Defendants to provide Class Data to Settlement Administrator	20 calendar days after the Court enters an order granting preliminary approval.	June 7, 2021 ²
Settlement Administrator to mail Notice Packets to Class Members	10 business days after receiving Class Data from Defendants	June 21, 2021
Deadline for Class Members to request exclusion from, submit disputes, or object to, the Settlement	60 calendar days after mailing of the Notice by the Settlement Administrator	August 20, 2021
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement (and to respond to any objections):	16 Court days before the Final Fairness Hearing	
Final Fairness Hearing:	_____, 2021	

15. Pending the Final Fairness Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

¹ These dates are based on the Court granting preliminary approval at the hearing, currently noticed for May 17, 2021.

² Plaintiff recognizes that 20 calendar days would be Sunday, June 6, 2021. Therefore, Plaintiff calendared this deadline for the next business day, Monday, June 7, 2021.

1 16. Counsel for the parties are hereby authorized to utilize all reasonable procedures
2 in connection with the administration of the Settlement which are not materially inconsistent with
3 either this Order or the terms of the Settlement.

4 **IT IS SO ORDERED.**

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6 Dated: _____, 2021

7 Honorable Yvette M. Palazuelos
8 Judge of the Superior Court
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