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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] FINAL JUDGMENT

Date: January 11, 2022
Time: 10:00 a.m.
Dept.: SSC-9

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

1 This matter came on regularly for hearing before this Court on January 11, 2022, pursuant
2 to California Rule of Court 3.769 and this Court's August 2, 2021 Order Granting Preliminary
3 Approval of Class Action Settlement ("Preliminary Approval Order"). Having considered the
4 parties' Amended Stipulation of Settlement, ("Settlement")¹ and the documents and evidence
5 presented in support thereof, and the submissions of counsel, the Court hereby ORDERS and
6 enters JUDGMENT as follows:

7 1. Final judgment ("Judgment") in this matter is hereby entered in conformity with
8 the Settlement, the Preliminary Approval Order, and this Court's Order Granting Final Approval
9 of Class Action Settlement. The Settlement Class is defined as:

10 All current and former non-exempt, hourly, employees of Defendants
11 SmileDirectClub, LLC, and Jeffrey Sulitzer, D.M.D., Professional
12 Corporation who worked in California at any time from November 8, 2017
13 through August 2, 2021.

14 2. Plaintiff Francisco Calderon is hereby confirmed as Class Representative, and
15 Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and Paul K. Haines
16 of Haines Law Group, APC are hereby confirmed as Class Counsel.

17 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
18 form and manner of notice were approved by the Court on August 2, 2021, and the notice process
19 has been completed in conformity with the Court's Order. The Court finds that said notice was
20 the best notice practicable under the circumstances. The Class Notice provided due and adequate
21 notice of the proceedings and matters set forth therein, informed Settlement Class members of
22 their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
23 California Rule of Court 3.769, and due process.

24 4. The Court finds that no Settlement Class member objected to the Settlement, no
25 class member has opted out of the Settlement, and that the 100% participation rate in the
26 Settlement supports final approval.

27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

1 5. The Court hereby approves the settlement as set forth in the Settlement
2 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
3 Agreement according to its terms.

4 6. For purposes of settlement only, the Court finds that (a) the members of the
5 Settlement Class are ascertainable and so numerous that joinder of all members individually is
6 impracticable; (b) there are questions of law or fact common to the Settlement Class, and there
7 is a well-defined community of interest among members of the Settlement Class with respect to
8 the subject matter of the litigation; (c) the claims of the Class Representative are typical of the
9 claims of the members of the Settlement Class; (d) the Class Representative has fairly and
10 adequately protected the interests of the Settlement Class members; (e) a class action is superior
11 to other available methods for an efficient adjudication of this controversy; and (f) Class Counsel
12 are qualified to serve as counsel for the Class Representative and the Settlement Class.

13 7. The Court orders that Defendants deposit the Gross Settlement Amount of Six
14 Hundred Fifty Thousand Dollars and Zero Cents (\$650,000.00) with Phoenix Settlement
15 Administrators (“Phoenix”), the Settlement Administrator, as provided for in the Settlement.

16 8. The Court finds that the settlement payments, as provided for in the Settlement,
17 are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the
18 individual payments in conformity with the terms of the Settlement.

19 9. The Court finds that a service award in the amount of \$5,000.00 for Plaintiff
20 Francisco Calderon is appropriate for his risks undertaken and service to the Settlement Class.
21 The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
22 Administrator make this payment in conformity with the terms of the Settlement.

23 10. The Court finds that attorneys’ fees in the amount of \$216,666.66 and litigation
24 costs of \$23,296.16 for Class Counsel, are fair, reasonable, and adequate, and orders that the
25 Settlement Administrator distribute these payments to Class Counsel in conformity with the
26 terms of the Settlement.

1 11. The Court orders that the Settlement Administrator shall be paid \$7,250.00 from
2 the Gross Settlement Amount for all of its work done and to be done until the completion of this
3 matter, and finds that sum appropriate.

4 12. The Court finds that the payment to the California Labor & Workforce
5 Development Agency (“LWDA”) in the amount of \$22,500.00 for its share of the settlement of
6 Plaintiff’s representative action under the California Labor Code Private Attorneys General Act
7 (“PAGA”) is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
8 this payment to the LWDA in conformity with the terms of the Settlement.

9 13. Pursuant to the terms of the Settlement, the employer’s share of payroll taxes for
10 the portion of the Net Settlement Amount allocated to wages shall be paid by Defendant.
11 separately from, and in addition to, the Gross Settlement Amount.

12 14. The Court finds and determines that upon satisfaction of all obligations under the
13 Settlement and this Order, all Settlement Class Members will be bound by the Settlement, will
14 have released the Released Claims as set forth in the Settlement, and will be permanently barred
15 from prosecuting against Defendants any of the Released Claims pursuant to the Settlement.

16 15. Upon satisfaction of all obligations under the Settlement and the Final Approval
17 Order, by virtue of this Judgment, Plaintiff and each Settlement Class member, fully and forever
18 completely release and forever discharge Defendants and all of their past and present officers,
19 directors, shareholders, managers, employees, agents, principals, heirs, representatives,
20 accountants, auditors, consultants, attorneys, and its and their respective successors and
21 predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released
22 Parties”), from all claims, demands, rights, liabilities and causes of action that were pled in, or
23 arising out of facts asserted in the operative Second Amended Complaint that arose during the
24 Class Period with respect to the following claims: (a) failure to pay all overtime wages owed;
25 (b) failure to pay minimum wages owed; (c) failure to provide meal periods, or premium pay for
26 non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for
27 non-compliant rest periods; (e) failure to issue accurate, itemized wage statements; (f) failure to
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1 pay all wages due upon separation of employment; and (g) all claims for unfair business practices
2 that could have been premised on the facts, claims, causes of action or legal theories described
3 above (collectively, “Released Claims”). Except as provided for under the Settlement
4 Agreement, Class Members will not be eligible to receive or receive any additional wages or
5 penalty payments based on the Released Claims from Defendants.

6 16. Upon satisfaction of all obligations under the Settlement and the Final Approval
7 Order, by virtue of this Judgment, all current and former non-exempt, hourly, employees of
8 Defendants SmileDirectClub, LLC, and Jeffrey Sulitzer, D.M.D., Professional Corporation who
9 worked in California at any time from January 30, 2019 through August 2, 2021, including
10 Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of
11 action under the California Labor Code Private Attorneys General Act of 2004 against the
12 Released Parties based on (as alleged in the letters to the Labor & Workforce Development
13 Agency (“LWDA”) January 30, 2020 and December 9, 2020): the (a) failure to pay all overtime
14 wages owed; (b) failure to pay minimum wages owed; (c) failure to provide meal periods, or
15 premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or
16 premium pay for non-compliant rest periods; (e) failure to issue accurate, itemized wage
17 statements; and (f) failure to pay all wages due upon separation of employment that occurred
18 during the PAGA Period (collectively, “PAGA Released Claim”). The PAGA Period and the
19 time period of the PAGA Released Claims is defined as the time period January 30, 2019 through
20 August 2, 2021 (“PAGA Period”).

21 17. Pursuant to the Settlement, and in consideration for his service award, Plaintiff
22 and Settlement Class member, Francisco Calderon, in addition to the Released Claims described
23 above, releases all claims, whether known or unknown, under federal, state or local law against
24 the Released Parties through date Plaintiff signs the Stipulation of Settlement. The Parties
25 understand and agree that Plaintiff Francisco Calderon is not, by way of this release, releasing
26 any workers’ compensation claims nor any other claims which cannot be released as a matter of
27 law. Notwithstanding the foregoing, Plaintiff Francisco Calderon understands that this release
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1 includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by
2 Section 1542 of the California Civil Code, which provides:

3 **A general release does not extend to claims which the creditor or**
4 **releasing party does not know or suspect to exist in his or her favor at**
5 **the time of executing the release and that, if known by him or her,**
6 **would have materially affected his or her settlement with the debtor or**
7 **released party.**

8 Plaintiff agrees never to sue, join, or otherwise make a claim against any of the Released Parties
9 as to any claim released by Plaintiff.

10 18. The period of the Release shall extend to the limits of the Class Period.

11 19. The releases identified herein shall become effective on the date on which
12 Defendants fully fund the Settlement (“Effective Date of the Release”). Upon the Effective Date
13 of the Release, all Class Members shall be deemed to have, and by operation of Judgment shall
14 have, expressly released, waived and relinquished the Released Claims.

15 20. This document shall constitute a final judgment pursuant to California Rule of
16 Court 3.769(h), which provides, “If the court approves the settlement agreement after the final
17 approval hearing, the court must make and enter judgment. The judgment must include a
18 provision for the retention of the court’s jurisdiction over the parties to enforce the terms of the
19 judgment. The court may not enter an order dismissing the action at the same time as, or after,
20 entry of judgment.” The Settlement Administrator shall mail the Notice of the Final Judgment
21 to PAGA Employees and Settlement Class Members with the Settlement Award, if any.

22 21. The Court will retain jurisdiction to enforce the Settlement, the Final Approval
23 Order, and this Judgment.

24 **JUDGMENT IS SO ENTERED.**

25 Dated: _____, 2022

Honorable Yvette M. Palazuelos
Judge of the Superior Court