

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ROSE SMITH, Individually and on behalf
of all other current and former all
similarly-situated and aggrieved
employees of Defendants in the State of
California,

Plaintiffs,

v.

TRADITION ONE and DOES 1 through
50, inclusive,

Defendants.

Case No.: 37-2020-00024461-CU-OE-CTL

Unlimited Civil - Amount Demanded
Exceeds \$25,000.00

CLASS ACTION [CCP § 382]

IMAGED FILE

**[PROPOSED] ORDER RE PLAINTIFF
ROSE SMITH'S *UNOPPOSED* MOTION
FOR AN ORDER 1) PROVISIONALLY
CERTIFYING SETTLEMENT CLASS; 2)
PRELIMINARILY APPROVING CLASS
SETTLEMENT; 3) DIRECTING
DISTRIBUTION OF NOTICE OF
SETTLEMENT TO THE CLASS; 4)
APPOINTING CLASS COUNSEL AND
CLASS REPRESENTATIVE; AND 5)
SETTING A HEARING FOR FINAL
APPROVAL OF CLASS SETTLEMENT**

Date: February 10, 2022

Time: 9 a.m.

Judge: Hon. James A. Mangione

Dept.: C-75

Date Complaint Filed: July 15, 2020

1 Plaintiff Rose Smith unopposed Motion for an Order preliminarily approving the class action
2 settlement; provisionally certifying a class for settlement purposes only; directing distribution to the class
3 of the notice to the class, appointing class counsel, appointing the claims administrator, and scheduling a
4 final approval hearing was considered on February 10, 2022 at 9:00 a.m. at Dept.: C-75. The Court has
5 considered the Stipulated Settlement Agreement and Release of Claims (“Agreement”), the submissions
6 of counsel, and all other papers filed in this action. The matter having been submitted and good cause
7 appearing therefore, the Court orders as follows:

8 1. The Court preliminarily approves of the settlement set forth in the Agreement as falling
9 within the range of possible approval and meriting submission to potential Class Members for
10 consideration, subject only to the consideration of objections of Class Members and the final review by
11 the Court.

12 2. For purposes of, and solely in connection with, the settlement, the Court finds that each of
13 the requirements for certification of the class set forth in Plaintiff’s unopposed Motion for Preliminary
14 Approval of Class Action Settlement are met and hereby certifies the following Settlement Class:

15 *“All current and former non-exempt employees who worked for Defendant within*
16 *the State of California at any time between July 15, 2016 through November 9,*
17 *2021.”*

18
19 3. The Court approves, as to form and content, for dissemination and distribution to the Class
20 Members, the proposed Notice of Proposed Class Action Settlement (“Notice”) attached as Exhibit 2 to
21 the Declaration of Brian R. Short in support of Plaintiff’s Motion for Preliminary Approval.

22 4. The Court hereby appoints Brian R. Short and Dorota A. James of ShortLegal, APC as
23 counsel for the Final Settlement Class.

24 5. The following dates shall govern for purposes of this settlement:

25 ///

26 ///

27 ///

Deadline	Activity
February 20, 2022 (or 10 business days after Prelim. Order)	Defendant shall provide the Claims Administrator with the requisite Class Member database.
March 12, 2022 (or 20 calendar days after Defendant provides class database to Claims Administrator)	Notices shall be mailed to Class Members.
45 days after initial mailing of Notice	All Requests for Exclusion must be postmarked no later than this date.
45 days after initial mailing of Notice	All objections to the settlement must be filed and served no later than this date.
_____, 2022 (or 16 court days prior to final approval hearing)	Plaintiff's Counsel shall file their Motion for Final Approval of Class Action Settlement.
_____, 2022 (or 16 court days prior to final approval hearing)	Plaintiff's Counsel shall file their Motion for Attorney's Fees and Costs.
_____, 2022 (or 10 calendar days prior to Final Approval Hearing)	Plaintiff's Counsel shall provide to the Court a declaration by the Claims Administrator of due diligence and proof of mailing of the Notice.
_____, 2022	Hearing on Plaintiff's Motion for Final Approval of Class Action Settlement and Plaintiff's Motion for Attorney's Fees and Costs.

6. The Court hereby appoints Phoenix Class Administration Solutions as the Claims Administrator of the settlement.

7. The Claims Administrator shall send the Notice by first class United States mail to the Settlement Class on or before March 12, 2022 (or 30 calendar days after Preliminary Approval). Each Class Member shall have until 45 days after initial mailing of Notice within which to postmark his or her request for exclusion and return it to the Claims Administrator.

8. The Court finds that the mailing of the Notice as set forth in the Agreement constitutes the best notice practicable under the circumstances to the Settlement Class, satisfies the requirements of California Code of Civil Procedure and due process, and shall constitute due and sufficient notice to all persons entitled thereto.

1 9. Any Class Member may request to be excluded from the Settlement Class by submitting a
2 Request for Exclusion from the settlement within 45 days after initial mailing of Notice by following the
3 procedure as set forth in the Notice titled “What Are Your Options?” Any Request for Exclusion must
4 include the name, address, telephone number, last four digits of their social security number and signature,
5 and the dates of employment of the Class Member requesting exclusion. Any Class Member who timely
6 requests exclusion in compliance with these requirements (i) shall not have any rights under this
7 settlement; (ii) shall not be entitled to receive any Settlement Payments under this settlement; and (iii)
8 shall not be bound by this settlement or the Court’s Order and Final Judgment.

9 10. Any Class Member may object to the settlement. To object, the Class Member may file a
10 written objection and a notice of intention to appear at the Final Approval Hearing and must send copies
11 to Class Counsel and Defendant’s Counsel as set forth in the Notice. Class Members may file and serve
12 their objections within 45 days after initial mailing of Notice. Class Members who fail to file and serve
13 timely, written objections in the manner specified in the Notice shall be deemed to have waived any
14 objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the
15 settlement, unless otherwise ordered by the Court. Counsel for the parties may, at least 10 days before
16 the Final Approval Hearing, file responses to any written objections submitted to the Court.

17 11. Class Counsel shall provide to the Court, at least 10 calendar days prior to the Final
18 Approval Hearing, a declaration by the Claims Administrator of due diligence and proof of mailing with
19 regard to the mailing of the Notice.

20 12. Neither this Order nor the Agreement nor any of its terms or provisions, nor any of the
21 negotiations or proceedings connected with it, shall be construed as an admission or concession by
22 Defendant of the truth of any of the allegations in the complaint or of any liability, fault or wrongdoing of
23 any kind.

24 13. Upon final approval by the Court of the Agreement, and except as to such rights or claims
25 as may be created by the settlement, the Class Representative, the Settlement Class and each Class
26 Member who has not submitted a valid and timely Request for Exclusion, each fully release and will be
27 deemed to have forever released and discharged the Released Claims. In the event that the settlement
28 does not become final for any other reason, the settlement will be null and void.

IT IS SO ORDERED.

Dated: _____

HON. JAMES A. MANGIONE
JUDGE OF THE SUPERIOR COURT