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

SANTOS ORELLANA, as an individual and on  
behalf of all others similarly situated,

Plaintiff,

vs.

SMARTE CARTE, INC., a Minnesota  
corporation; and DOES 1 through 100,

Defendants.

Case No. 20STCV08890

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

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: September 14, 2021  
Time: 10:00 a.m.  
Dept.: SSC-9

Action Filed: March 5, 2020  
Trial Date: None Set

1 **[PROPOSED] ORDER**

2 The Motion of Plaintiff Santos Orellana (“Plaintiff”) for Preliminary Approval of Class  
3 Action Settlement came regularly for hearing before this court on September 14, 2021, at 10:00  
4 a.m. The Court, having considered the proposed Joint Stipulation of Class Action and PAGA  
5 Settlement and Release (“Settlement Agreement” or “Settlement”), attached as Exhibit 1 to the  
6 Declaration of Fletcher W. Schmidt filed concurrently with the Motion; having considered  
7 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, the memorandum of  
8 points and authorities in support thereof, and supporting declarations filed therewith; and good  
9 cause appearing, HEREBY ORDERS THE FOLLOWING:

10 1. The Court GRANTS preliminary approval of the class action settlement as set  
11 forth in the Settlement Agreement, and finds its terms to be within the range of reasonableness of  
12 a settlement that ultimately could be granted approval by the Court at a Final Fairness hearing.

13 2. The Court preliminarily approves the terms of the Settlement Agreement and finds  
14 that they fall within the range of approval as fair, adequate and reasonable. Based on a review of  
15 the papers submitted by Plaintiff, the Court finds that the Settlement is the result of arms’-length  
16 negotiations conducted after Plaintiff and/or Plaintiff’s counsel adequately investigated the claims  
17 and became familiar with the strengths and weaknesses of the claims. The assistance of an  
18 experienced mediator in the settlement process supports the Court’s conclusion that the Settlement  
19 is non-collusive and reasonable. The Settlement is presumptively valid, subject only to any  
20 objections that may be raised pursuant to the terms of the Settlement Agreement.

21 3. For purposes of the Settlement, the Court finds that the proposed Settlement Class  
22 is ascertainable and that there is a sufficiently well-defined community of interest among the  
23 members of the Settlement Class in questions of law and fact. Therefore, for settlement purposes  
24 only, the Court grants conditional certification of the following Settlement Class:

25 All current and former non-exempt employees who worked for Defendant Smarte  
26 Carte, Inc. in California at any time during the period from March 5, 2016 to the  
27 date of the order granting Preliminary Approval of the Settlement or July 16, 2021,  
28 whichever is first (the “Class Period”).

1           4.     For purposes of the Settlement, the Court designates named Plaintiff Santos  
2 Orellana as the Class Representative, and designates Paul K. Haines, Fletcher W. Schmidt, and  
3 Matthew K. Moen of Haines Law Group, APC as Class Counsel.

4           5.     The Court designates Phoenix Settlement Administrators as the third-party  
5 Settlement Administrator for mailing notices.

6           6.     The Court approves, as to form and content, the Notice of Class Action Settlement  
7 (“Settlement Notice”) attached as Exhibit A to the parties’ Settlement Agreement.

8           7.     The Court finds that the form of notice to the Settlement Class regarding the  
9 pendency of the action and of the Settlement, and the methods of giving notice to Settlement Class  
10 Members, constitute the best notice practicable under the circumstances, and constitute valid, due,  
11 and sufficient notice to all Settlement Class Members. The form and method of giving notice  
12 complies fully with the requirements of California Code of Civil Procedure section 382, California  
13 Rules of Court 3.766 and 3.769, the California and United States Constitutions, and other  
14 applicable law.

15          8.     The Court further approves the procedures for Settlement Class Members to opt-  
16 out of or object to the Settlement, as set forth in the Settlement Notice and the Settlement  
17 Agreement.

18          9.     The procedures and requirements for submitting objections in connection with the  
19 Final Approval Hearing are intended to ensure the efficient administration of justice and the  
20 orderly presentation of any Settlement Class Member’s objection to the Settlement, in accordance  
21 with the due process rights of all Settlement Class Members.

22          10.    The Court directs the Settlement Administrator to mail the Settlement Notice to  
23 the Settlement Class Members in English, Spanish, Mandarin and Vietnamese, in accordance with  
24 the terms of the Settlement.

25          11.    Pursuant to the Settlement Agreement, the Settlement Notice shall provide 60  
26 calendar days’ notice for Settlement Class Members to submit disputes, opt-out of, or object to  
27 the Settlement.

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12. The Final Approval Hearing on the question of whether the Settlement Agreement should be finally approved as fair, reasonable and adequate is scheduled on \_\_\_\_\_, 2022 at \_\_\_\_\_ a.m. / p.m. in Department 9 of this Court, located at 312 N. Spring Street, Los Angeles, California 90012. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to the Settlement Class Members. The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement Agreement.

13. At the Final Approval Hearing, the Court will consider: (a) whether the Settlement Agreement should be approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's application for a service award, settlement administration costs, payment to the California Labor and Workforce Development Agency ("LWDA") for its 75% share of civil penalties paid in settlement of Plaintiff's claims under the Private Attorneys General Act ("PAGA"), Labor Code section 2698 *et seq.*, and Class Counsel's attorneys' fees and costs should be granted.

14. Plaintiff's Counsel shall file memoranda, declarations, or other statements and materials in support of the request for final approval of the Settlement and Plaintiff's application for a service award, settlement administration costs, payment to the LWDA for its share of PAGA penalties, and Class Counsel's attorneys' fees and costs prior to the Final Approval Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

15. An implementation schedule is provided below (assuming the Court grants preliminary approval of the Settlement on September 14, 2021):

| Event                                                                                                 | Date              |
|-------------------------------------------------------------------------------------------------------|-------------------|
| Defendant to provide class contact information to Settlement Administrator no later than:             | October 5, 2021   |
| Settlement Administrator to mail the Settlement Notice to the Settlement Class Members no later than: | October 19, 2021  |
| Deadline for Class Members to submit disputes, request exclusion from, or object to the Settlement:   | December 18, 2021 |

|                                                                                      |                                                                                                     |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement: | At least 16 court days prior to Final Approval Hearing                                              |
| Final Approval Hearing                                                               | <input type="checkbox"/> January 21, 2022 at ____ a.m./p.m.<br><input type="checkbox"/> _____, 2021 |

16. Pending the Final Approval 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.

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

18. In the event the Settlement is not finally approved, or otherwise does not become effective in accordance with the terms of the Settlement, this Order shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of before entering into the Settlement.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2021

\_\_\_\_\_  
Honorable Yvette M. Palazuelos  
Judge of the Superior Court