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10 on behalf of himself and others similarly situated

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**

13 HAROUTYOUN KIOUDJIAN, an
individual, on behalf of himself and others
14 similarly situated,

15 Plaintiffs,

16 vs.

17 BODY VISION JEWELRY, INC., a
California corporation; and DOES 1 through
18 50, inclusive,

19 Defendants.

Case No.: 20STCV13964

CLASS ACTION

Assigned for All Purposes To:

Hon. Ann I. Jones
Department 11, Spring Street Courthouse

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

*[Filed concurrently with Notice of Motion and
Motion, Memorandum of Points and Authorities;
and Declarations of David Yeremian and Alvin
B. Lindsay]*

Date: TBD
Time: TBD
Department 11

Complaint Filed: April 9, 2020
First Amended Complaint: August 4, 2020
Trial Date: None Set

ORDER

Plaintiff HAROUTYOUN KIOUDJIAN (“Plaintiff”), on behalf of himself and all other similarly situated employees of Defendants BODY VISION JEWELRY, INC. (“BVLA”) and DOE 1, which will be identified as BV & CO for settlement purposes (collectively “Defendants”) (with Plaintiff, “the parties”), filed an unopposed Motion for Preliminary Approval of the parties’ Class and PAGA Action Settlement Agreement and Release (“Settlement Agreement”). The Motion was set for hearing on _____, 2021 at _____ in Dept. 11, and Defendants do not oppose it. The Court, having considered the Settlement Agreement, and the proposed Class Notice at Exhibit 1 to the Settlement Agreement, the submissions of counsel, and all other papers filed in this litigation, and Defendants’ non-opposition to the Motion, hereby ORDERS as follows:

1. Plaintiff’s Motion for Preliminary Approval of the parties’ Settlement Agreement, which is attached at Exhibit A to the Declaration of Class Counsel, David Yermian, Esq., is GRANTED;

2. This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning as in this Order;

3. The Court conditionally certifies a Class consisting of “all individuals employed by Defendants at any time during the period of four years prior to the filing of this lawsuit and ending on the date of preliminary approval (“the Class Period”) and who have been employed as non-exempt, hourly employees at Defendants’ facilities within the State of California,” and the “Class Period” is April 9, 2016 through the date that the court grants preliminary approval of the Settlement. (Yermian Decl., Exhibit A, Settlement, ¶¶ 2, 7). The “Settlement Class” or “Settlement Class Members” are all Class Members who have not opted out of the Class by submitting a timely Request for Exclusion. (*Id.* at ¶¶ 32, 47(d)).

4. Should the Settlement not be finally approved, this Order will be rendered null and void and shall be vacated, and the fact that the parties were willing to stipulate to class certification as part of the settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a class should be certified in a non-settlement context. Should the

1 settlement not become final, the parties shall revert to their respective positions prior to notifying
2 the Court of the settlement of the action.

3 5. The class action settlement contemplated by the Settlement Agreement is
4 preliminarily approved based upon the terms set forth in the Settlement Agreement. The
5 Settlement appears to be fair, adequate, and reasonable for the Class, and falls within the range of
6 reasonableness that could ultimately be granted final approval by the Court. The preliminary
7 approval of the class action settlement includes the approval for purposes of the settlement of
8 David Yeremian and Alvin B. Lindsay of David Yeremian & Associates, Inc. and Walter Haines
9 of United Employees Law Group, PC as Class Counsel, Plaintiff Haroutyoun Kioudjian as Class
10 Representative, and ILYM Group, Inc. ("ILYM") as the Settlement Administrator. Class Counsel
11 is authorized to act on behalf of the Class members with respect to all acts or consents required by
12 or which may be given pursuant to the Settlement Agreement and the class action settlement
13 contemplated by the Settlement Agreement, and such other acts reasonably necessary to
14 consummate the settlement. The Settlement Administrator is authorized to perform such acts as
15 set forth in this Order and the Settlement Agreement.

16 6. The Court approves the parties' allocation of \$10,000.00 to settle claims under the
17 Labor Code Private Attorneys General Act of 2004 ("PAGA"). Pursuant to Labor Code § 2699(i),
18 75% of this amount, or \$7,500.00, will be paid to the California Labor & Workforce
19 Development agency and the remaining 25%, or \$2,500.00, will remain in the Net Fund Value
20 and will be paid to Class Members in the manner set forth in the Settlement Agreement.

21 7. The Class Notice (or the "Notice"), attached at Exhibit 1 to the Settlement
22 Agreement at Exhibit A to Class Counsel's Declaration, advises the Class of the material terms
23 and provisions of this Settlement, the procedure for approval thereof, and their rights with respect
24 thereto, and is approved as to form and content. The Court approves the procedures set forth in
25 the Settlement Agreement for Class Members to participate in, opt out of, and object to the
26 Settlement as set forth in the Notice.

27 8. The Notice shall be sent by first class mail to the Class in accordance with the
28 schedule set forth in the Settlement Agreement. The dates selected for the mailing and

1 distribution of the Class Notice, and the other dates as set forth below, meet the requirements of
2 due process and provide the best notice practicable under the circumstances, and shall constitute
3 due and sufficient notice to all persons entitled thereto:

4 a. Deadline for Defendants to provide to Settlement Administrator the class
5 information list and related information in electronic form: 14 calendar days after entry of the
6 Court's Order granting preliminary approval to the Settlement.

7 b. Deadline for Settlement Administrator to mail the Class Notice by first-class
8 regular U.S. mail: 21 calendar days after entry of the Order granting preliminary approval.

9 c. Deadline for class members to mail objections or requests for exclusion to the
10 Settlement Administrator: 45 calendar days after the mailing of the Class Notice.

11 d. Deadline for Class Counsel to file a Motion for Final Approval of the Settlement
12 Agreement: 16 Court days before hearing on Plaintiff's Motion for Final Approval and Motion
13 for Attorneys' Fees and Costs and Representative Enhancement.

14 e. Deadline for Class Counsel to file Motion for Attorneys' Fees and Costs and
15 Representative Enhancement: 16 Court days before Final Settlement Fairness Hearing and
16 hearing on Plaintiff's Motion for Final Approval and Motion for Attorneys' Fees and Costs and
17 Representative Enhancement.

18 9. A Final Approval and Settlement Fairness Hearing on the question of whether the
19 proposed Settlement, attorneys' fees and costs to Class Counsel, and the class representative
20 enhancement should be approved as fair, reasonable, and adequate as to the Settlement Class and
21 whether the Settlement should be given final approval is scheduled on: _____, 2021
22 at _____ in Department 11. At the final approval hearing, Settlement Class Members may be
23 heard orally in support of the Settlement, or in opposition to the Settlement in the event there are
24 objectors.

25 10. The Court reserves the right to adjourn or continue the date of the Settlement
26 Fairness Hearing and all dates provided for in the Settlement Agreement without further notice to
27 the Class, and retains jurisdiction to consider all further applications arising out of or connected
28 with the Settlement Agreement.

1 11. The Settlement Agreement shall not be construed as an admission or evidence of
2 either liability or the appropriateness of class certification in the non-settlement context, as more
3 specifically set forth in the Settlement Agreement. Entry of this Order is without prejudice to the
4 rights of Defendants to oppose certification of a class in this action should the proposed
5 Settlement not be granted final approval.

6 12. In the event the Effective Date occurs, and in accordance with the Settlement
7 Agreement, all Class Members who do not timely submit a Request for Exclusion from the
8 Settlement will be deemed to have forever released and discharged the Settlement Class
9 Members' Released Claims as set forth in the Settlement Agreement. In the event the Effective
10 Date does not occur for any reason, the Settlement Agreement shall be deemed null and void and
11 shall have no effect whatsoever.

12 13. All further proceedings in this action are stayed except such proceedings necessary
13 to review, approve, and implement this Settlement.

14 14. Class counsel has reported that all required notifications and submissions to the
15 California Labor and Workforce Development Agency (LWDA) about the Settlement Agreement
16 and Motion have been made by Plaintiff in the time and manner specified under the PAGA.

17 **IT IS SO ORDERED.**

18
19 Dated: _____, 2021

Hon. Ann I. Jones
Judge of the Superior Court