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behalf of all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

ERIC GARCIA, individually and on behalf
of all others similarly situated and aggrieved,

Plaintiff,

v.

LIGHTNING SOURCE LLC; INGRAM
DISTRIBUTION MANAGEMENT INC;
INGRAM CONTENT GROUP LLC; and
Does 1
through 25,

Defendants.

Case No. 20CECG01641

ASSIGNED FOR ALL PURPOSES TO:
The Honorable Kimberly Gaab

[PROPOSED]

**ORDER GRANTING PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CLASS CERTIFICATION,
APPROVAL OF CLASS NOTICE, AND
SETTING FINAL APPROVAL HEARING**

Date: May 3, 2022

Time: 3:30 p.m.

Dept: 503

Judge: Hon. Kimberly Gaab

Filed: March 16, 2015

Trial: None set

1 This matter came for hearing on May 3, 2022 at 3:30 p.m. in Department 503 of the above-
2 captioned Court on Plaintiff's Motion for Order Granting Preliminary Approval of Class Action
3 Settlement ("Motion").

4 The Court, having fully reviewed the Motion, the supporting memorandum of points and
5 authorities, Declarations of Class Counsel Diana M. Khoury, and Jonathan M. Lebe, Declaration of
6 Plaintiff Eric Garcia, Declaration of Eric Springer, on behalf of Simpluris, the Stipulation of Class
7 Action Settlement and Release of Claims, ("Settlement Agreement"), and the Notice of Class Action
8 Settlement, ("Notice") and having carefully analyzed the Settlement Agreement and the proposed
9 Notice and in recognition of the Court's duty to make a preliminary determination as to the
10 reasonableness of a proposed class action settlement, and if preliminarily determined to be
11 reasonable, to ensure proper notice is provided to all Class Members in accordance with due process,
12 and to set a Final Approval Hearing to consider the good faith, fairness, adequacy and reasonableness
13 of the proposed settlement, THE COURT MAKES THE FOLLOWING DETERMINATIONS AND
14 ORDERS:

15 1. The Court conditionally finds that, for the purposes of approving this settlement
16 only, the proposed Class meets the requirements for certification under section 382 of the California
17 Code of Civil Procedure: (a) the proposed Class is ascertainable and so numerous that joinder of all
18 members of the class is impracticable; (b) there are questions of law or fact common to the proposed
19 Class, and there is a well-defined community of interest among members of the proposed Class with
20 respect to the subject matter of the class action; (c) the claims of the Class Representative are typical
21 of the claims of the members of the proposed Class; (d) the Class Representative has and will fairly
22 and adequately protect the interests of the Members of the Class; (e) a class action is superior to
23 other available methods for an efficient adjudication of this controversy in the context of settlement;
24 and (f) Counsel of record for the Class Representative are qualified to serve as counsel for him as
25 well as his representative capacity and for the Class.

26 2. The Court finds on a preliminary basis that the Settlement Agreement, attached to
27 the Declaration of Diana M. Khoury as Exhibit "A," incorporated herein by this reference in full,
28 and made a part of this Order of preliminary approval, appears to be within the range of

1 reasonableness of a settlement which could ultimately be given final approval by this Court.

2 3. Further, it appears to the Court on a preliminary basis that: (a) the settlement amount
3 is fair and reasonable to the Class Members when balanced against the probable outcome of further
4 litigation relating to class certification, liability and damages issues and potential appeals; (b)
5 significant investigation, research, and discovery have been conducted such that counsel for the
6 Parties at this time are able to reasonably evaluate their respective positions; (c) settlement at this
7 time will avoid substantial costs, delay and risks that would be presented by the further prosecution
8 of the litigation; and (d) the proposed Settlement has been reached as the result of intensive, serious
9 and non-collusive negotiations facilitated by an experienced mediator at mediation and between the
10 Parties.

11 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
12 Approval of Class Action Settlement is hereby GRANTED, and as a part of said preliminary
13 approval, the Court accepts and incorporates the Settlement Agreement and orders that the Class be
14 conditionally certified for settlement purposes only pursuant to the terms and conditions contained
15 in the Settlement Agreement.

16 5. For purposes of the settlement of the Action, the Class is defined as: “all current and
17 former non-exempt persons employed by Lightning Source LLC, Ingram Distribution Management
18 LLC (erroneously sued as “Ingram Distribution Management Inc.”), and Ingram Content Group LLC
19 in California at any time from April 6, 2016 through June 28, 2021.”

20 6. The Court further finds that the proposed Notice of Class Action Settlement (“Class
21 Notice”) fairly and adequately advises Class Members of a) the pendency of the Class Action; b) the
22 conditional certification of the Class for settlement purposes only; c) preliminary Court approval of
23 the proposed Settlement; d) the date of the Final Approval Hearing; e) the terms of the proposed
24 Settlement and the benefits available to Class Members, if they do not request exclusion; f) their
25 right to receive their proportionate share of the Settlement proceeds without the need to return a
26 claim form; g) their right to request exclusion from the Settlement and the procedures and deadline
27 for doing so; h) their right to object to the Settlement, and the procedure for doing so; and i) their
28 right to file documentation in support of or in opposition to, and to appear in connection with the

1 Final Approval Hearing. The Court further finds that the Class Notice clearly comports with all
2 constitutional requirements, including those of due process. Accordingly, good cause appearing, the
3 Court hereby APPROVES the Class Notice.

4 7. The Court further finds that the mailing of the Notice, Change of Address Form, and
5 pre-printed return envelope, (collectively, the “Notice Packet”), to the last known address of Class
6 Members as specifically described within the Settlement Agreement, with measures taken for
7 verification of an address and skip tracing set forth therein constitutes an effective method of
8 notifying Class Members of their rights with respect to the class action and Settlement. Accordingly,
9 it is hereby ORDERED, that:

10 8. Simpluris, Inc., be appointed the Administrator to administer the settlement of this
11 matter as more specifically set forth in the Settlement Agreement.

12 A. The law firms Cohelan Khoury & Singer and Lebe Law APLC be appointed
13 Class Counsel.

14 B. Plaintiff Eric Garcia be appointed the Class Representative.

15 C. Within fourteen (14) calendar days of the Preliminary Approval Order,
16 Defendants shall transmit to the Administrator in a readable, ready to use electronic excel format
17 spreadsheet, with a list containing, for each Class Member, (1) the name; (2) most current mailing
18 address; (3) telephone number(s) and email address as indicated in Defendants’ records; (4) social
19 security number; (5) dates of employment; (6) their number of Workweeks; and (7) their number of
20 Pay Periods (“Class List and Data”).

21 D. Within ten (10) business days after receipt of the Class List and Data, the
22 Administrator shall mail the Notice Packet to each Class Member. The Notice Packet shall be mailed
23 by first class, regular U.S. mail, using the most current mailing address information available, with
24 measures taken for updating an address as provided by the terms of the Settlement Agreement.

25 E. Within 60 calendar days from the initial date the Administrator first mails
26 the Notice Packet to Class Members (the “Response Deadline”), Class Members who wish to
27 exclude themselves from the Class must submit a written request for exclusion in the manner set
28 forth in the Class Notice and such request must be postmarked by the Response Deadline. Class

Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) calendar days from the original Response Deadline, to submit a Request for Exclusion.

F. On or before the Response Deadline, Class Members who dispute the number of Work Weeks or Pay Periods must postmark and submit a written explanation to the Settlement Administrator describing why the Workweeks or Pay Periods are incorrect, with any supporting information or documents, as set forth in the Class Notice. Class Members who receive a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) calendar days from the original Response Deadline, to postmark a dispute.

G. Class Members who wish to object to the Settlement, should submit to the Administrator, their written objection which must include, (i) the objector's full name, address, and last four digits of social security number; and (ii) state the basis for objection. Class Members may also appear at the time of the Final Approval Hearing to comment upon the Settlement.

9. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before the undersigned at ____ p.m. on _____, 2022, in Department 503 of the Superior Court for the State of California, County of Fresno, located at the B. F. Sisk Courthouse, 1130 O Street, Fresno, California 93721, to consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to consider the application for a service payment award to the named Plaintiff/Class Representative, for Administration expenses and for Class Counsel's attorneys' fees and litigation expenses incurred. All briefs and materials in support of an Order Granting Final Approval, the service payment, Settlement Administration expenses, and Class Counsel's attorneys' fees and litigation costs shall be filed with this Court on or before _____, 2022.

10. IT IS FURTHER ORDERED that if for any reason the Court does not sign and file an Order Granting Final Approval, the Settlement Agreement shall be treated as if it had not been entered, and the Parties shall be restored without prejudice to their status quo ante rights, as specifically set forth in the Settlement Agreement.

11. All proceedings in this matter, except those contemplated by the Settlement Agreement or this Order, are stayed.

12. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing from time to time without further notice to Class Members, except that Class Counsel will notify all Class Members who returned written objections.

IT IS SO ORDERED.

Date: _____

The Honorable Kimberly Gaab
Judge of the Superior Court