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SACRAMENTO COUNTY
DEPT. 700

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11 **SUPERIOR COURT OF CALIFORNIA**

12 **FOR THE COUNTY OF SACRAMENTO**

13 CHAZ PEREZ, individually and on behalf of
14 all other similarly situated employees,

15 Plaintiff,

16 vs.

17 TOO INFINITY MANAGEMENT, LLC, a
18 California Limited Liability Company;
19 HUMBLE ROOT INTERNATIONAL, INC.,
20 a California Corporation; JAVIER
21 HERNANDEZ, an individual; CHRIS THAO,
22 an individual; JUSTIN JACINTO, an
23 individual and DOES 1 to 100, inclusive,

24 Defendants.

Case No. 34-2020-00285276

CLASS ACTION

CEP
**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO APPROVE
PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AND DISMISS CLASS
CLAIMS WITHOUT PREJUDICE**

Reservation Number: 2587212

Date: October 6, 2021

Time: 9:00 a.m.

Dept.: 54

Judge: Hon. Christopher E. Krueger

Filed: September 15, 2020

FAC Filed: May 18, 2021

Trial Date: None Set



1
2 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

3 The Motion to Approve Private Attorneys General Act Settlement and Dismiss Class Claims
4 Without Prejudice ("Motion") in the above referenced case came before this Court, on October 6, 2021
5 at 9:00 a.m., in Department 54 before Christopher E. Krueger, presiding. Plaintiff Chaz Perez
6 ("Plaintiff") filed this Private Attorneys General Act ("PAGA") action on September 15, 2020. The
7 operative Complaint alleges that Humble Root International, Inc., Javier Hernandez, Chris Thao, and
8 Justin Jacinto ("Defendants") violated Labor Code §§ 510, 1194, IWC Wage Order 7, § 3 (failure to pay
9 overtime wages); Labor Code §§ 1194, 1197.1; IWC Wage Order 7, § 4 (failure to pay minimum
10 wages); Labor Code §§ 226.7, 512 and Wage Order No. 7, §§ 11(A) and 11(B) (failure to provide meal
11 periods or pay premiums in lieu thereof); Labor Code § 226.7 and Wage Order No. 7, § 12(A) (failure
12 to provide rest periods or pay premiums in lieu thereof); Labor Code §§ 226, 226.3 (failure to provide
13 accurate wage statements); Labor Code §§ 201-203, 256 (failure to pay final wages); Labor Code § 2802
14 (failure to pay reimbursements for expenses); Labor Code §§ 558, 558.1 (provisions regulating hours
15 and days of work in any Industrial Welfare Commission Order); Labor Code §§ 226.3, 1174 (failure to
16 maintain accurate records); and Labor Code §§ 246, 246.5, 248.5 (failure to provide paid sick leave).
17 Although the operative Complaint includes class allegations, Plaintiff's Motion seeks to dismiss those
18 class claims and allegations without prejudice as part of the settlement approval. The Complaint alleges
19 that Defendants are liable for civil penalties under the PAGA as a result of the alleged violations.
20 Defendants have denied all of Plaintiff's allegations. Plaintiff sought attorneys' fees and costs as part of
21 this Action.

22 The parties have agreed to a settlement of the PAGA claims. Defendants will provide monetary
23 consideration in exchange for a release of claims and dismissal consistent with the terms of the Private
24 Attorneys General Act Settlement ("Agreement"). Any capitalized terms herein shall have the same
25 meaning as set forth in the Agreement. The Court, having received and considered Plaintiff's Motion,
26 the declarations in support, the Agreement, the Notice of Settlement, and other evidence, HEREBY
27 ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:

28 //

1 **1. SCOPE OF INDIVIDUALS WITHIN THE PAGA SETTLEMENT – AGGRIEVED**
2 **EMPLOYEES**

3 The Court finds that Plaintiff has exhausted all administrative remedies required to bring the
4 PAGA claims asserted in this litigation and is authorized to act as a private attorney general with respect
5 to the PAGA claims being released under the proposed Agreement. The Court finds the scope of
6 individuals within the scope of the Agreement, its releases, and all rights and obligations thereunder
7 include the following:

8 All of Defendants' hourly non-exempt employees who have or continue to
9 work for Defendants in California from July 2, 2019, to the date a signed
 order approving the Agreement has been filed with the court.

10 The Court recognizes that the foregoing definition is for Aggrieved Employee identification
11 purposes only and is not intended to capture the claims at issue or limit or alter the released claims under
12 the Agreement.

13 **2. APPROVING THE AGREEMENT**

14 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
15 A. The Court finds that the Agreement is fair, reasonable, and adequate and approved as required under
16 California Labor Code section 2698, *et seq.* Based on the amount of penalties at issue, the risk of loss
17 on the merits, the risk of being able to prove violations in each pay period as to each individual as
18 required by statute for damages purposes, and the Court's statutorily authorized power to reduce
19 penalties, the Agreement represents a substantial recovery for Aggrieved Employees and the Labor and
20 Workforce Development Agency ("LWDA") to further its purpose in enforcing the Labor Code. The
21 Court also finds that the Agreement provides a recovery that creates an effective, substantial deterrent to
22 any potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

23 The Court approves of the PAGA penalty allocations set forth in the Agreement, wherein 75% of
24 the Net Settlement Amount will be paid to the LWDA and 25% of the Net Settlement Amount will be
25 paid to Aggrieved Employees as civil penalties pursuant to Labor Code section 2699(i).

26 Additionally, because the Court finds the Parties' settlement to have been agreed upon only after
27 extensive and costly investigation, arms-length negotiations, and in an attempt to avoid further delays
28

1 and costs, the Court approves the Agreement and terms stated therein, which is incorporated by
2 reference in its entirety, as if stated here in full, including the \$90,000 Gross Settlement Amount.

3 The Court finds that an award of fees under the common fund doctrine is appropriate in this case
4 because there is a sufficiently identifiable class of beneficiaries (*i.e.* Aggrieved Employees and the
5 LWDA), the benefits can be accurately traced as set forth in the Agreement, Plaintiff and Plaintiff's
6 counsel were able to negotiate on behalf of Aggrieved Employees and the LWDA, and the fee can be
7 shifted with exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the
8 Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir.
9 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th
10 480, 506 (2016). The Court finds the attorneys' fees request of thirty-five percent (35%) of the Gross
11 Settlement Amount, *i.e.* \$31,500, to be appropriate compensation for Plaintiff's counsel. The attorneys'
12 fees request is within the range that has been approved by other Courts in similar cases and is reasonable
13 in light of the circumstances of this case, the substantial and beneficial results obtained on behalf of
14 Aggrieved Employees and the LWDA, and the contingent nature of the recovery over the course of this
15 case, which included potential loss at summary judgment and/or trial proceedings. Additionally, the
16 Court orders that Plaintiff shall be awarded reasonable costs in the amount of \$6,301.15. Any
17 difference between the actual costs and the approved allocation for costs will be added to the Net
18 Settlement Amount for distribution between the LWDA and Aggrieved Employees.

19 The Court orders that Plaintiff Chaz Perez will receive \$10,000 as a PAGA Representative
20 Enhancement Payment in addition to any amount Plaintiff may be entitled to under the Agreement's pro
21 rata distribution formula for Plaintiff's time and effort on behalf of Aggrieved Employees and the
22 LWDA.

23 The Court orders and approves Simpluris, Inc. to act as the Claims Administrator in this case.
24 The Claims Administrator will take its fees out of the Gross Settlement Amount, which are not to exceed
25 \$3,500. Any difference between the actual cost of the Claims Administrator and the approved payment
26 will be added to the Net Settlement Amount for distribution between the LWDA and Aggrieved
27 Employees.
28

1 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
2 Aggrieved Employees that are not cashed by the deadline to do so shall be paid out to the Center for
3 Workers Rights.

4 The releases and waivers for Aggrieved Employees are also approved by the Court as set forth in
5 the Agreement.

6 **3. APPROVAL OF THE NOTICE OF SETTLEMENT**

7 The Court finds that the Notice of Settlement, which was submitted with Plaintiff's Motion as
8 Exhibit E, fairly and adequately advised Aggrieved Employees about the Agreement and its effect. The
9 Court further finds that the Notice of Settlement and distribution of such notice by first class mail to
10 each identified Aggrieved Employees at his or her most recent address based on a National Change of
11 Address database search from the Aggrieved Employees' last known address and a skip trace on any
12 Aggrieved Employees who have their notice returned as "undeliverable" or "not at this address"
13 comported with all constitutional requirements, including those of due process. Because the notice also
14 specifically states that there is no waiver of class claims under the Agreement, no separate notice
15 regarding the dismissal of class claims under California Rules of Court, Rule 3.770.

16 The Court also finds that because there is a strong interest in providing Aggrieved Employees the
17 opportunity to recover under the Agreement, along with the parties' efforts to minimize any intrusion to
18 privacy rights, the sharing of employment information, including social security numbers, is not a
19 serious intrusion on their privacy rights. Hence, the Court orders Defendants to provide first and last
20 name, last known mailing address, social security number, hire and termination dates for pay period
21 calculations to the Claims Administrator only, and not to Plaintiff or Plaintiff's Counsel, in order to
22 process this settlement as contemplated within the Agreement and approved by this Order. The Claims
23 Administrator shall only use this information for settlement purposes identified herein, and this
24 information shall be kept confidential, not be shared with any third-party, and used only to administer
25 the settlement.

26 **4. IMPLEMENTATION SCHEDULE**

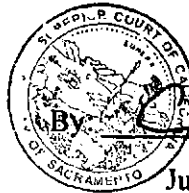
27 Accordingly, with good cause shown, the Court hereby approves and orders that the following
28 implementation schedule be adhered to:

1	Last day for Defendants to provide Claims Administrator with Aggrieved Employee information	Within 21 calendar days after Final Approval Date
2		
3		
4	Last day for Defendants to fund Gross Settlement Amount	Within 10 days after a signed order has been filed approving the Settlement Agreement or September 1, 2021, whichever is later
5		
6		
7		
8	Last day for Claims Administrator to calculate and report to Parties the amounts owed to fund settlement, Net Settlement Amount, and Claim Amounts for Aggrieved Employees	Within 14 calendar days of receiving Aggrieved Employee information
9		
10		
11	Last day for Claims Administrator to complete NCOA search, update Aggrieved Employee mailing information, and complete mailing	On the Effective Date
12		
13		
14	Last day for Claims Administrator to deliver payment of Plaintiff's Counsel's attorney's fees and costs, PAGA Payment, Plaintiff's Enhancement Payment, Claims Administrator Costs, and payment to Aggrieved Employees	On the Effective Date
15		
16		
17	Last day for Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Aggrieved Employees
18		
19	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiary	Within 14 days after settlement check cashing deadline
20		
21		
22	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline
23		

1 IT IS FURTHER ORDERED that the class claims and allegations be dismissed without
2 prejudice. The remaining claims, including the PAGA claims, and the action as a whole, shall be
3 dismissed with prejudice with each party to bear its own fees and costs outside of what has been ordered
4 herein. This matter is subject to the Court's continuing jurisdiction to monitor and enforce the terms of
5 this order and the approved Agreement pursuant to California Civil Procedure Code section 664.6. The
6 prevailing party in any action to enforce the terms of the Agreement shall be entitled to reasonable
7 attorneys' fees and costs. The Parties agree to meet and confer in good faith to resolve any issue before
8 any such motion for attorney's fees and costs is filed.

9 IT IS SO ORDERED.

10
11 Date: 10-6-2001



Judge of the Superior Court

CHRISTOPHER E. KRUEGER