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FRANK SICA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FRANK SICA, on behalf of himself, and all
others similarly situated, and all aggrieved
employees,

Plaintiff,

v.

MADISON INDUSTRIAL SERVICES TEAM,
LIMITED PARTNERSHIP; and DOES 1
through 50, inclusive,

Defendant.

) Case No: 4:20-cv-08347-KAW
)
) CLASS ACTION
)
) **[PROPOSED] ORDER GRANTING FINAL**
) **APPROVAL AND JUDGMENT**
)
) Date: August 4, 2022
) Time: 1:30 p.m.
) Ctrm: TBD
) Judge: Kandis A. Westmore
)
) Complaint Filed: September 30, 2020
) FAC filed: November 19, 2020
) Removal Date: November 25, 2020

1 The Court, having granted preliminary approval of the parties’ class action settlement on
2 March 9, 2022, directed notice of the proposed settlement to all Settlement Class Members,
3 having read and considered Plaintiff’s Motion for Final Approval of Class Action and PAGA
4 Settlement and Plaintiff’s Motion for Award of Attorneys’ Fees and Costs, Class Representative
5 Incentive Award/General Release Payment and Settlement Administration Costs, and all
6 supporting papers, and upon consideration of argument presented on August 4, 2022, and with
7 GOOD CAUSE APPEARING, IT IS HERBY ORDERED, ADJUDGED, AND DECREED
8 THAT:

9 1. All capitalized terms used herein shall have the same meanings as given them in
10 the Joint Stipulation of Class Action and PAGA Settlement and Release of Claims (the
11 “Settlement Agreement”) entered into by Plaintiff Frank Sica (“Plaintiff” or “Class
12 Representative”) and Madison Industrial Services Team, Limited Partnership (“Defendant” or
13 “Madison”), which is attached as Exhibit A to the Declaration of Eric A. Grover filed in support
14 of Plaintiff’s fee motion (Dkt. 41-1), and incorporated herein by reference.

15 2. The Court has jurisdiction over the subject matter of this proceeding and all
16 Parties to this proceeding, including all Settlement Class Members, and venue is proper.

17 3. Plaintiff has provided the LWDA with the required notice as to the terms of the
18 settlement and the LWDA has not objected to the terms of the settlement.

19 4. Defendant has provided the required CAFA notices to the appropriate
20 governmental agencies.

21 5. The Court hereby unconditionally certifies, pursuant to Federal Rule of Civil
22 Procedure 23, the following class for settlement purposes only: “all current and former hourly
23 on-site employees who worked for Defendant in California during the Class Period. An
24 individual Class Member also may be an Aggrieved Employee if he or she falls within the
25 “Aggrieved Employee” definition.” The Class Period is defined as September 30, 2016
26 through September 30, 2021, inclusive.

27 6. The Court find that “Aggrieved Employees” are defined as “all current and
28 former hourly on-site employees who worked for Defendant in California at any time during the

1 PAGA Period. All individual Aggrieved Employee are also Class Members.” The PAGA
2 Period is defined as September 14, 2019 through September 30, 2021.

3 7. The Court finds that distribution of notice of the settlement directed to the Class
4 Members as set forth in the Settlement Agreement has been completed in conformity with the
5 Amended Order Granting Motion for Preliminary Approval of Class Action and PAGA
6 Settlement (“Preliminary Approval Order”). (Dkt. 39). The class notice program set forth in the
7 Settlement Agreement and completed in conformity with the Preliminary Approval Order
8 provided due and adequate notice of the nature of the case, the proposed settlement, and the
9 other matters set forth in the Preliminary Approval Order. The notice program provided the
10 best notice practicable under the circumstances and complied fully with Federal Rule of Civil
11 Procedure 23(c)(2)(B) and 23(e)(1), due process and all other applicable laws. As there were
12 no Class Members who requested exclusion from the settlement, all Settlement Class Members
13 and all Released Claims are covered by and included within the settlement and within this
14 Order Granting Final Approval and Judgment (the “Final Approval Order and Judgment”).

15 8. No Class Member has objected to the settlement or the proposed award of
16 attorneys’ fees, costs, or the Class Representative Incentive Award/General Release Payment.

17 9. Based on the record as a whole, the Court hereby affirms the findings in the
18 Preliminary Approval Order and finds that the settlement is, in all respects, fair, adequate, and
19 reasonable, and directs the Parties and the Settlement Administrator to effectuate the settlement
20 according to the terms set forth in the Settlement Agreement and this Final Approval Order and
21 Judgment. The Court finds that the settlement has been reached as a result of intensive, serious,
22 and non-collusive arm’s-length negotiations. In granting final approval of the Settlement
23 Agreement, the Court considered the nature of the claims, the amounts and kinds of benefits
24 paid in settlement, the allocation of settlement proceeds among the Settlement Class Members,
25 and the fact that a settlement represents a compromise of the Parties’ respective positions rather
26 than the result of a finding of liability at trial. Additionally, the Court finds that the terms of the
27 Settlement Agreement have no obvious deficiencies and do not improperly grant preferential
28 treatment to any individual Class Member.

1 10. The Court approves the settlement of the California Labor Code §§ 2698, *et seq.*
2 claims alleged in the Action. The Settlement provides that \$20,000 will be allocated to the
3 settlement of the PAGA claims. In accordance with California Labor Code section 2699(i),
4 75% of that amount, or \$15,000, shall be paid to the LWDA. The remaining 25%, or \$5,000,
5 shall be distributed to the Aggrieved Employees in accordance with the terms of the Settlement
6 Agreement.

7 11. As noted, the Court finds the terms of the settlement to be fair, reasonable, and
8 adequate. Within 14 calendar days of the Effective Date of the Settlement Agreement,
9 Defendant shall deposit into the Qualified Settlement Fund established by Simpluris, Inc.
10 ("Simpluris") the \$650,000 Maximum Settlement Amount, plus Defendant's share of the
11 payroll taxes. Simpluris shall disburse the settlement funds in accordance with this Final
12 Approval Order and Judgment and the terms of the Settlement Agreement.

13 12. The Court hereby confirms Keller Grover LLP and the Law Offices of Scot D.
14 Bernstein, A Professional Corporation, as Class Counsel.

15 13. Pursuant to the terms of the Settlement Agreement and the authorities, evidence,
16 and argument set forth in Class Counsel's application, an award of attorneys' fees of \$195,000
17 as final payment for and complete satisfaction of any and all attorneys' fees owed to Class
18 Counsel is hereby granted. The Court finds that Class Counsel's request falls within the range
19 of reasonableness and that the result achieved justifies the award. The payment of fees to Class
20 Counsel shall be made in accordance with the terms of the Settlement.

21 14. Pursuant to the terms of the Settlement Agreement and the authorities, evidence,
22 and argument set forth in Class Counsel's application, an award of costs of \$15,352.54 as
23 payment for costs incurred to date by Class Counsel is hereby granted. The payment of costs to
24 Class Counsel shall be made in accordance with the terms of the Settlement Agreement.

25 15. The Court hereby confirms its prior approval of Plaintiff Frank Sica as the Class
26 Representative and orders payment to the Class Representative for his service and as
27 consideration for his full and general release of any individual claims in the sum of \$7,500 to
28

1 Plaintiff Sica. The payment of the Class Representative Incentive Award/General Release
2 Payment shall be made in accordance with the terms of the Settlement Agreement.

3 16. The Court approves the payment of \$9,000 to Simpluris for settlement
4 administration services in this matter.

5 17. The Court approves the distribution of the Net Settlement Amount to Settlement
6 Class Members in accordance with the terms of the Settlement Agreement.

7 18. The Court approves the payment of any residual funds to Legal Aid at Work, the
8 parties' selected *cy pres* beneficiary and a 501(c)(3) organization that provides low-wage
9 workers with legal representation, education and policy advocacy to enforce and strengthen
10 workers' rights. (<https://legallaidatwork.org>). The Court finds that having Legal Aid at Work as
11 the *cy pres* beneficiary is "next best use" to giving the funds to the Settlement Class Members
12 as it is related to the lawsuit's subject matter and the class. *Romero v. Perryman (In re*
13 *Easysaver Rewards Litig.)*, 906 F.3d 747, 761 (9th Cir. 2018).

14 19. If this settlement does not become final and effective in accordance with the
15 terms of the Settlement Agreement, this Final Approval Order and Judgment and all orders
16 entered in connection herewith, shall be vacated and shall have no further force or effect.

17 20. This Judgment and Final Order shall have a res judicata effect and bar the named
18 Plaintiff and each Settlement Class Member from bringing any action asserting any Released
19 Claims against any of the Released Parties.

20 21. This Court shall retain jurisdiction to enforce the terms of the Settlement
21 Agreement and this Judgment and Final Order.

22 22. The Clerk of the Court shall enter Judgment in accordance with this Judgment
23 and Final Order.

24 23. This action shall be **DISMISSED WITH PREJUDICE.**

25 **IT IS SO ORDERED.**

26 Dated: _____, 2022

27 _____
28 THE HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge