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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO-CENTRAL DIVISION

CHARLES CRAFT, an individual in his
representative capacity on behalf of all
Aggrieved Employees,

Plaintiffs,

v.

UAG ESCONDIDO M1, Inc., *et al.*, and
DOES 1 through 50,

Defendants.

) Case No.: 37-2021-00000982-CU-OE-
) CTL

) Judge: Hon. Richard Straus
) Department: 75

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

) Date Complaint Filed: January 8, 2021

1 **ORDER GRANTING PRELIMINARY APPROVAL**

2 This matter came on for hearing on October 1, 2021, at 9:00 a.m. in
3 Department 75 of the above-captioned court on the Motion for Preliminary Approval
4 of Class Action Settlement, upon the terms and conditions set forth in the Class
5 Action Settlement Agreement, a copy of which is submitted to the Court as Exhibit
6 “1” to the Declaration of Thomas Rutledge, filed concurrently with the Motion for
7 Preliminary Approval.

8 The Court, having fully reviewed the Motion for Preliminary Approval; the
9 Memorandum of Points and Authorities, and Declaration filed in support thereof; the
10 Settlement Agreement, and the Notice to Class Settlement (“Class Notice”); and in
11 recognition of the Court's duty to make a preliminary determination as to the
12 reasonableness of any proposed class action settlement, and if preliminarily
13 determined to be reasonable, to ensure proper notice is provided to Settlement Class
14 Members in accordance with due process requirements, and to set a Final Fairness
15 Hearing regarding the proposed settlement, and having heard the argument of Counsel
16 for the respective parties,

17 **THE COURT MAKES THE FOLLOWING DETERMINATIONS AND**
18 **ORDER:**

19 It appears to the Court on a preliminary basis that the settlement amount is fair
20 and reasonable to the Class when balanced against the probable outcome of further
21 litigation relating to class certification, liability and damages issues and potential
22 appeals; it further appears that significant investigation, research, and litigation has
23 been conducted such that counsel for the Parties at this time are able to reasonably
24 evaluate their respective positions; it further appears that settlement at this time will
25 avoid substantial costs, delay and risks that would be presented by the further
26 prosecution of the litigation; it further appears that the proposed Settlement has been
27 reached as the result of intensive, serious and non-collusive negotiations between the
28 Parties.

1 Accordingly, good cause appearing, the Motion for Preliminary Approval of
2 the Class Action Settlement is hereby GRANTED, and as a part of said preliminary
3 approval, the Court hereby orders that the class be conditionally certified for
4 settlement purposes only, and that the Law Offices of Thomas D. Rutledge and Ian
5 Pancer be conditionally and preliminarily appointed Class Counsel.

6 **THE COURT FURTHER FINDS AS FOLLOWS:**

7 1. The Court finds on a preliminary basis that the settlement agreement,
8 incorporated by this reference and made a part of this order granting preliminary
9 approval, is within the range of reasonableness of a settlement that could ultimately
10 be given final approval by this Court, although the Court notes that Defendants
11 vigorously deny and continue to deny generally each and all the claims and
12 contentions alleged in this Action.

13 2. The Court preliminarily finds that the terms of the settlement are fair,
14 just, reasonable, and adequate, pursuant to § 382 of the California Code of Civil
15 Procedure.

16 3. The Court finds that the elements of numerosity, commonality,
17 typicality, and adequacy here exist to support conditional certification of the class for
18 settlement purposes only, with Plaintiff Craft acting as the Class Representative, and
19 that the settlement has no obvious deficiencies and does not improperly grant
20 preferential treatment to the class representative or segments of the class.

21 4. The Court further finds that significant investigation, research, litigation,
22 and formal and informal discovery have been conducted such that the Counsel for the
23 Parties are able to reasonably evaluate their respective positions, and that the
24 settlement appears to be the product of serious, informed, and non-collusive
25 negotiations.

26 5. The Court also finds that the settlement is a fair and reasonable
27 resolution of a bona fide dispute over provisions of the Labor Code and preliminarily
28 finds, for settlement purposes only, the requirements of Code of Civil Procedure §

1 382 are satisfied.

2 6. The Class Members provisionally certified by this order for settlement
3 purposes include all persons employed by Defendants in California as non-exempt
4 employees from October 19, 2019 to the date of preliminary approval of the
5 Settlement.

6 7. The Court approves Phoenix Settlement Administrators to serve as the
7 claims administrator.

8 8. The Court approves the proposed Class Notice (attached as Exhibit A to
9 Ex. 1 of the Declaration of Thomas D. Rutledge ISO Motion for Preliminary
10 Approval), and orders the proposed Class Notice to be mailed to Settlement Class
11 Members in accordance with the terms of the Settlement.

12 9. The Court finds that the Class Notice constitutes the best notice
13 practicable under the circumstances and is in full compliance with the laws of the
14 state of California and, to the extent applicable, the United States Constitution and the
15 requirements of due process. The Court further finds that the Class Notice fully and
16 accurately informs Settlement Class Members of all material elements of the
17 proposed Class Action Settlement, of each Settlement Class Member's right to be
18 excluded from the class, and each Settlement Class Member's right and opportunity
19 to object to the proposed Class Action Settlement. The Class Notice adequately
20 advises the class about:

- 21 A. The class action;
- 22 B. The settlement terms and the benefits available to each Settlement
23 Class Member;
- 24 C. Each Settlement Class Member's right to object and/or "opt out,"
25 and the timing and procedures for doing so;
- 26 D. The conditional certification of the Class for settlement purposes
27 only;
- 28 E. Preliminary court approval of the proposed settlement;

- 1 F. Timing and procedures for distributing the settlement funds; and
2 G. The date of the final fairness hearing, as well as the rights of
3 members to submit objections and appear in connection with said
4 hearing.

5 Accordingly, the Court hereby approves the proposed Class Notice and finds
6 that mailing to the last known address of members of the class, as specifically
7 described within the Settlement Agreement, constitutes an effective method of
8 notifying Settlement Class Members of their rights with respect to the class action and
9 proposed settlement.

10 **THE COURT FURTHER ORDERS AS FOLLOWS:**

11 10. Within 21 days after entry by the Court of its Order of Preliminary
12 Approval, Defendants shall provide the Settlement Administrator with an updated list
13 containing names, social security numbers, dates of employment, weeks worked
14 based on Defendants' payroll records, and last-known mailing addresses for each
15 member of the Class.

16 11. Any Class Member who wishes to object to the Settlement must file with
17 the Court and submit the objection to the Settlement Administrator pursuant to the
18 directions set forth in the Class Notice at least ten days before the final approval
19 hearing date.

20 12. Any Class Member who wishes to request exclusion from the Settlement
21 including excluding themselves from any monetary relief and associated releases
22 must submit a request for exclusion pursuant to the directions set forth in the Class
23 Notice, and submit a request for exclusion to the Settlement Administrator post-
24 marked within 45 days after the date that the Class Notice is sent to the Settlement
25 Class.

26 13. The Court will hold a hearing at _____.m. on
27 _____, 2022, in Department 75 of the Superior Court of
28 California, County of San Diego located at 330 West Broadway, San Diego, CA

1 92101, to determine whether the Court should grant final approval of the Settlement
2 as fair, reasonable, and adequate. The Court will hear all evidence and argument
3 necessary to evaluate the Settlement, and will consider Plaintiffs' request for the
4 Enhancement Award and Class Counsel's request for attorneys' fees and costs. The
5 Court expressly reserves the right to adjourn or continue the Final Fairness Hearing
6 from time to time without further notice to the Class.

7 14. Any Class Member may be heard in support of, or in opposition to, the
8 Court's determination of the good faith, fairness, reasonableness and adequacy of the
9 proposed settlement, the requested attorney's fees and costs, the requested class
10 representative's enhancement, and any order granting final approval; provided,
11 however, that no person, except Class Counsel and counsel for Defendants shall be
12 heard regarding such matters unless such person has complied with the conditions set
13 forth in the Class Notice.

14 15. If, for any reason, the Court does not execute and file an order granting
15 final approval, or if the effective settlement date does not occur for any reason
16 whatsoever, the settlement agreement and the proposed settlement which is the
17 subject of this order and all evidence and proceedings had in connection therewith
18 shall be dismissed without prejudice to the status quo ante rights of the parties to the
19 litigation, as more specifically set forth in the Settlement Agreement.

20 16. Pending further order of this Court, all proceedings in this matter except
21 those contemplated herein and in the Settlement Agreement are stayed.

22 17. To facilitate administration of the settlement pending final approval,
23 Class Members are enjoined from initiating or prosecuting any proceedings (including
24 filing any claims with the California Division of Labor Standards Enforcement) on
25 any claims to be released pursuant to the settlement, unless and until the Class
26 Member has submitted a valid and timely request to be excluded from the settlement.

27 18. In the event the settlement does not become final for any reason, this
28 preliminary order shall be of no further force or effect and the fact that the Parties

1 were willing to stipulate to class certification as part of the settlement shall have no
2 bearing on, and not be admissible in connection with, the issue of whether a class
3 should be certified in a non-settlement context.

4 **IT IS SO ORDERED.**

5
6 Dated: _____

7 Hon. Richard Straus
8 Judge of the Superior Court of California
9 County of San Diego
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