

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
Website: www.zakaylaw.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 559-8292
Facsimile: (619) 559-8291
Website: www.jcl-lawfirm.com

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA**

DEBBIE FELIX, an individual; RICK)
MALEAD, an individual, on behalf of)
themselves, and on behalf of all persons)
similarly situated, and in their representative)
capacity on behalf of the State of California)
and fellow Aggrieved Employees,)

Plaintiffs,

vs.

TVI, INC., d.b.a. SAVERS, a Washington)
corporation; and DOES 1 through 50,)
Inclusive;)

Defendants.

Case No. 21CV376407

[PROPOSED] FINAL APPROVAL ORDER

Date: February 17, 2022
Time: 1:30 P.M.
Dept.: 1

Action Filed: February 24, 2021

Plaintiffs' motion for an order finally approving the Class Action Settlement Agreement ("Agreement") and motion for an award of attorneys' fees, costs and service awards duly came on for hearing on February 17, 2022 before the above-entitled Court. Zakay Law Group, APC and the JCL Law Firm, APC appeared on behalf of Plaintiffs Debbie Felix and Rick Melead ("Plaintiffs"). Jackson Lewis, PC appeared on behalf of Defendant TVI, Inc. ("Defendant").

I.
FINDINGS

Based on the oral and written argument and evidence presented in connection with the motion, the Court makes the following findings:

1. All terms used herein shall have the same meaning as defined in the Agreement.

2. This Court has jurisdiction over the subject matter of this litigation pending in the California Superior Court for the County of Santa Clara ("Court"), Case No. 21CV376407, entitled *Felix, et al., v. TVI, Inc. et al.*, and over all Parties to this litigation, including the Class.

Preliminary Approval of the Settlement

3. On October 22, 2021 the Court granted preliminary approval of a class-wide settlement. At this same time the court approved certification of a provisional settlement class for settlement purposes only. The Court confirms this Order and finally approves the settlement and the certification of the Class.

Notice to the Class

4. In compliance with the Preliminary Approval Order, Class Notice was mailed by first class mail to the Class Members at their last known addresses on November 19, 2021 Mailing of the Class Notice to their last known addresses was the best notice practicable under the circumstances and was reasonably calculated to communicate actual notice of the litigation and the proposed settlement to the members of the Class. The Court finds that the Class Notice provided fully satisfies the requirements of California Rules of Court, rule 3.769.

5. The deadline for opting out or objecting was January 3, 2022. There was an adequate interval between notice and deadline to permit Class Members to choose what to do and act on their decision. No Class Members objected. No Class Members requested exclusion.

Fairness Of The Settlement

6. The Agreement provides for a Gross Settlement Amount of \$1,500,000. The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

1 a. The settlement was reached through arms-length bargaining between
2 the parties. There is no evidence of any collusion between the parties in reaching the proposed
3 settlement.

4 b. The Parties' investigation and discovery have been sufficient to
5 allow the Court and counsel to act intelligently.

6 c. Counsel for all parties are experienced in similar employment class
7 action litigation and have previously settled similar class claims on behalf of employees claiming
8 compensation. All counsel recommended approval of the Settlement.

9 d. The percentage of objectors and requests for exclusion is small. No
10 objections were received. No requests for exclusion were received.

11 e. The participation rate is high. All Class Members will be
12 participating in the Settlement and will be sent settlement payments.

13 7. The consideration to be given to the Class under the terms of the Agreement
14 is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in
15 this Action and is fair, reasonable and adequate compensation for the dismissal release of the
16 Released Class Claims, given the uncertainties and risks of the litigation and the delays which
17 would ensue from continued prosecution of the Action.

18 8. The Agreement is finally approved as fair, adequate and reasonable and in
19 the best interests of the Class Members.

20 **Attorneys' Fees and Litigation Expenses**

21 9. The Agreement provides for an award of up to 1/3 of the Gross Settlement
22 Amount to Class Counsel as the Class Counsel Fees Payment in this Action, subject to the Court's
23 approval. The Agreement also provides for an award of their actual litigation expenses incurred
24 in an amount not to exceed \$25,000 as the Class Counsel Litigation Expenses Payment. Class
25 Counsel requests an award of \$25,000 as reimbursement for litigation expenses, and \$500,000 for
26 attorneys' fees.

27 10. An award of \$500,000 for the Class Counsel Fees Payment and \$25,000 for
28 the Class Counsel Litigation Expenses Payment is reasonable in light of the contingent nature of

1 Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class
2 Counsel. The requested attorneys' fee award represents 1/3 of the common fund, which is
3 reasonable and at the low end of the range for fee awards in common fund cases, and is supported
4 by Class Counsel's lodestar.

5 **Class Representative Service Payments**

6 11. The Agreement provides for a service award of up to \$7,500 for each
7 Plaintiff as the Class Representative Service Payment, subject to the Court's approval. The Court
8 finds that the amount of \$7,500 is reasonable in light of the risks and burdens undertaken by the
9 Plaintiff in this class action litigation.

10 **Settlement Administration Expenses**

11 12. The Agreement provides for Settlement Administration Expenses to be paid
12 in an amount not to exceed \$22,500. The Declaration of the Settlement Administrator provides
13 that the actual claims administration expenses were \$22,500. The amount of this payment is
14 reasonable in light of the work performed by the Settlement Administrator.

15 **II.**

16 **ORDERS**

17 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED,
18 ADJUDGED AND DECREED:

19 1. The Class is certified for the purposes of settlement only. The Class is
20 hereby defined to include:

21 All of Defendant's current and former non-exempt employees employed in
22 California between April 18, 2017 and July 27, 2021.

23 2. Every person in the Class who did not opt out is a Participating Class
24 Member.

25 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
26 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
27 this Order and the terms of the Agreement.
28

1 4. Class Counsel are awarded attorneys' fees in the amount of
2 \$_____ and litigation expenses in the amount of \$_____. Class Counsel shall
3 not seek or obtain any other compensation or reimbursement from Defendant, Plaintiffs or
4 members of the Class.

5 5. The payment of service award to the Plaintiffs in the amount of
6 \$_____ each is approved.

7 6. The payment of \$_____ to the Settlement Administrator for
8 Settlement Administration Expenses is approved.

9 7. The PAGA Payment of \$_____ is approved.

10 8. Final Judgment is hereby entered in this action. The Final Judgment shall
11 bind each Participating Class Member. The Final Judgment shall operate as a full release and
12 discharge of Defendant including its present and former parent companies, subsidiaries, divisions,
13 related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys,
14 insurers, successors and assigns, and any individual or entity which could be liable for any of the
15 Released Class Claims or Released PAGA Claims, and Defendant's counsel of record in the
16 Action. ("Released Parties") from all class action claims under state, federal, or local law, whether
17 statutory, common law, or administrative law, arising out of the claims expressly plead in the
18 *Felix* Action, *Melead* Class Action and *Melead* Federal Class Action and all other claims that
19 could have been plead based on the facts plead in the *Felix* Action, *Melead* Class Action and
20 *Melead* Federal Class Action including: failure to pay minimum and overtime wages; failure to
21 pay for or provide meal and rest periods, failure to pay all wages due to discharged or quitting
22 employees; failure to provide accurate wage statements; alleged violation of Business and
23 Professions Code Section 17200, based on the alleged labor code violations including, but not
24 limited to, injunctive relief; liquidated damages and penalties of any nature, and expressly
25 excluding all other claims, including claims for vested benefits, wrongful termination,
26 unemployment insurance, disability, social security, workers' compensation, and class claims
27 outside of the Class Period as defined in the Agreement.

1 9. In addition to the release given by each Participating Class Member,
2 Plaintiffs also generally release the Released Parties from any and all of the Plaintiffs' Released
3 Claims as defined in the Agreement. This general release by Plaintiffs also includes a waiver of
4 rights under California Civil Code Section 1542.

5 10. The Agreement is not an admission by Defendant or any of the other
6 Released Parties, nor is this Final Approval Order and Judgment a finding, of the validity of any
7 claims in the Action or of any wrongdoing by Defendant or any of the other Released Parties.
8 Neither this Final Approval Order, the Agreement, nor any document referred to herein, nor any
9 action taken to carry out the Settlement is, may be construed as, or may be used as an admission
10 by or against Defendant or any of the other Released Parties of any fault, wrongdoing or liability
11 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
12 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
13 admission or concession with regard to the denials or defenses by Defendant or any of the other
14 Released Parties and shall not be offered in evidence in any action or proceeding against
15 Defendant or any of the Released Parties in any court, administrative agency or other tribunal for
16 any purpose as an admission whatsoever other than to enforce the provisions of this Final
17 Approval Order and Judgment, the Agreement, or any related agreement or release.
18 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
19 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
20 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
21 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
22 claims being released by the Settlement.

23 11. Notice of entry of this Final Approval Order and Judgment shall be given to
24 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
25 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
26 Final Approval Order and Judgment shall be posted on Class Counsel's website as indicated in the
27 Class Notice.

1 12. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
2 interpret, implement, and enforce the Agreement, to hear and resolve any contested challenge to a
3 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
4 connection with the distribution of settlement benefits.

5 11. If the Settlement does not become final and effective in accordance with the
6 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
7 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
8 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
9 be vacated.

10
11 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
12 **ENTERED ACCORDINGLY.**

13 DATED: _____, 2022
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16 _____
17 Hon. Sunil R. Kulkarni
18 Judge, Superior Court for the State of California,
19 County of Santa Clara
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