

EXHIBIT B

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

DANIEL MORALES,

Plaintiff,

v.

WISEGUYS CUSTOM HOME
THEATER, L.L.C.; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 37-2019-00070151-CU-OE-CTL

CLASS ACTION

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

Assigned for all purposes to:
Hon. Katherine Bacal

Date: -----, 2021
Time: ----- a.m.
Dept.: C-69

Action Filed: November 27, 2019
Trial Date: None set

1 On -----2021 at ----- a.m, the Court held a hearing on Plaintiff's Motion for
2 Preliminary Approval of Class Action Settlement (the "Motion"). The Court has reviewed the
3 Motion and the Joint Stipulation of Class Action Settlement and Release of Claims ("Settlement
4 Agreement"), along with the proposed Notice of Class Action Settlement ("Notice") and
5 Exclusion Form attached to the Declaration of Kevin Mahoney, pursuant to which Plaintiff
6 DANIEL MORALES ("Plaintiff" or "Class Representative"), individually and on behalf of the
7 Settlement Class for which he seeks to be the representative, has agreed to settle his claims
8 against Defendant WISEGUYS CUSTOM HOME THEATER, L.L.C., et al. (hereinafter
9 "Defendant"). The Court having also considered the Memorandum of Points and Authorities in
10 support of the Motion and the declaration of counsel submitted in support thereof, and for good
11 cause appearing therein, the Court now FINDS and ORDERS as follows:

12
13 1. The proposed Settlement Class satisfies the requirement of a class because the
14 members are readily ascertainable and a well-defined community of interest exists in the questions
15 of law and fact affecting the Parties.

16 2. Pursuant to the Settlement, the certified class is defined as: " all current and
17 former non-exempt employees employed by Defendant in California on or after November 27,
18 2015 through the Date of Preliminary Approval of the Stipulation. Current and former non-
19 exempt employees of Defendant who have previously settled with Defendant for any and all
20 claims and causes of action as alleged in the operative complaint ("Settling Class Members")
21 shall not receive an individual settlement payment for the Class Allocation. The rest of the Class
22 shall be referred to as the Non-Settling Class Members. Both the Settling Class Members and the
23 Non-Settling Class Members shall be entitled to receive individual settlement payment for the
24 PAGA allocation."

25 3. The Class Period is November 27, 2015 through the filing of Plaintiff's Motion
26 for Preliminary Approval. PAGA Period is February 7, 2018 through filing of Plaintiff's Motion
27 for Preliminary Approval. The Court hereby approves the class definition.

28 4. The Settlement (including the proposed award of attorneys' fees, LWDA payment,

litigation costs, and Enhancement Payment to the Class Representatives) falls within the “range of reasonableness” and therefore the Court grants preliminary approval of the Settlement. Based on a review of the papers submitted by the Parties, the Court finds that the Settlement is the result of arm’s length negotiations conducted after Class Counsel had thoroughly and adequately investigated the claims and became familiar with the strengths and weaknesses of those claims.

5. The Court finds and concludes that the proposed Notice and Exclusion Form, and the procedures set forth in the Settlement for providing notice to the Class will provide the best notice practicable, satisfy all notice requirements, adequately advise Class Members of their rights under this Settlement, and therefore meet the requirements of due process. The Notice of Settlement (“Notice”) fairly, plainly, accurately, and reasonably informs Class Members of: (1) appropriate information about the nature of this Action, the definition of the Class, the identity of Class Counsel, and the essential terms of the Settlement; (2) appropriate information about Plaintiffs and Class Counsel’s forthcoming applications for the enhancement payment to the Class Representatives and the Class Counsel attorneys’ fees and litigation costs award; (3) appropriate information about how the proceeds of the Settlement will be distributed, and about Class Members’ rights to appear through counsel if they desire; (4) appropriate information about how to object to the Settlement or submit an Exclusion Request Form, if a Class Member wishes to do so; and (5) appropriate instructions as to how to obtain additional information regarding this Action and the Settlement. The proposed plan for mailing the Notice, Claim Form, and Exclusion Form, by first class mail to the most current mailing address information from a National Change of Address Search (NCOA) based on the most current information provided from Defendants’ records, is an appropriate method, reasonably designed to reach all individuals who would be bound by the Settlement. If Notice forms are returned because of incorrect addresses, the Claim Administrator shall use reasonable practices to obtain more current address information for Class Members (such as utilizing Class Members’ Social Security numbers to search electronic address databases) and re-mail the Notice forms to any new address thus obtained. If new address information is obtained by return mail, the Claim

1 Administrator shall promptly forward the Notice to the addressee via first class regular U.S.
2 Mail. On all such re-mails, the Claims Administrator shall indicate on the Notice the date it was
3 re-mailed, and notify counsel for Defendants and Plaintiff of the date of each re-mailing.

4 6. Settlement Class Members, including both current and former employees of
5 Defendant, are not required to take any action to receive Individual Settlement Awards based on
6 the qualifying hours calculation.

7 7. The Notice and Exclusions Form (collectively, the "Notice Packet"), and the
8 manner of distributing the Notice Packet, are approved.

9 8. The Parties are ordered to carry out the Settlement according to its terms.

10 9. Plaintiff Daniel Morales is appointed the Class Representative for the class.
11 Kevin Mahoney and Lilit Tunyan of Mahoney Law Group, APC are appointed Class Counsel.

12 10. The Court appoints Phoenix Class Action Administration Solutions as the Claims
13 Administrator. Promptly following the entry of this Order, the Claims Administrator will prepare
14 final versions of the Notice Packets, incorporating into them the relevant dates and deadlines set
15 forth in this order.
16

17 11. Within ten (10) calendar days of preliminary approval, Defendant shall provide the
18 Claims Administrator with the following information that is within Defendant's possession for
19 each Class Member: (1) the Class Member's name, (2) last known address, (3) last four digits of
20 the Class Member's social security number, (4) the Class Member's employee identification
21 number; and (4) each Class Member's total number of workweeks. This information shall be
22 based on Defendant's payroll and other business records and in a format readily accessible to
23 Defendant. The data contained in the Database shall remain confidential and shall not be disclosed
24 to anyone, except to applicable taxing authorities and as needed by the Claims Administrator to
25 carry out the reasonable efforts required by this Agreement, or pursuant to express written
26 authorization by Defendants or by order of the Court. The Claims Administrator shall be
27 authorized to use any reasonable practices to locate Class Members in order to provide them with
28 Notice Packets and/or Settlement Payments. Neither Class Counsel nor the Claims Administrator

1 may use the Database for any purpose other than to administer the Settlement as provided in the
2 Settlement.

3 12. Within fourteen (14) calendar days after receiving the Class List from Defendant,
4 the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-
5 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List or
6 through a National Change of Address database search. For any envelopes from this mailing
7 returned as non-deliverable on or before thirty (30) days after mailing, the Settlement
8 Administrator will use any forwarding address provided to re-mail the returned envelope and, if
9 no forwarding address is provided, will perform a skip trace to identify an address to which the
10 envelope may be forwarded. The Settlement Administrator shall undertake such effort and further
11 mailing within five (5) calendar days after receipt of the returned envelope. If a Class Member's
12 Notice packet is re-mailed, the Class Members shall have an additional fourteen (14) calendar days
13 from the date of re-mailing or until the sixty (60) day Response Deadline has expired, whichever
14 is later to provide his/her dispute, request for exclusion or objection. The Settlement Administrator
15 will maintain a report of the date of such re-mailings of the Notice Packet. No additional mailings
16 shall occur. Any Class Member who does not actually receive notice after the steps outlined above
17 and thus does not properly and timely opt out as discussed below is a Settlement Member, subject
18 to the terms of this Settlement.
19

20 13. Class Members will receive an Individual Payment unless they submit a timely
21 Request for Exclusion Form.

22 14. In the event more than five (5%) of the Settlement Class opt out of the Settlement,
23 Defendants maintain the right to withdraw from the Settlement. The date of filing with the
24 Claims Administrator shall be the exclusive means for determining whether an objection has
25 been timely filed.

26 15. The deadline for serving the Notice to Class Members is _____.

27 16. The deadline for Class Members Objecting or Opting out is _____.

28 17. The Court will conduct a Final Fairness Hearing on _____, at

1 _____ a.m. in Department 1 to determine: (1) whether the proposed Settlement
2 is fair, reasonable, and adequate and should be finally approved by the Court; (2) the amount of
3 attorneys' fees and costs to award to Class Counsel; and (3) the amount of Enhancement Payment
4 to the Class Representatives. If the settlement is finally approved by the Court, this matter will be
5 dismissed, with prejudice, and Defendants will receive a release of claims as set forth in the
6 Settlement Agreement.

7 18. Briefs in Support of the Final Fairness approval shall be filed on or before
8 _____.

9 19. The Court reserves the right to continue the date of the Final Fairness Hearing
10 without further notice to Class Members. The Court retains jurisdiction to consider all further
11 applications arising out of or in connection with the Settlement.
12

13 20. In the event the Settlement is not finally approved, or otherwise does not become
14 effective in accordance within the terms of the Settlement, this Order shall be rendered null and
15 void and shall be vacated, and the Parties shall revert to their respective positions as of before
16 entering into the Settlement.
17

18 **IT IS SO ORDERED.**

19
20 DATED: _____

21 _____
22 THE HONORABLE KATHERINE BACAL
23 JUDGE OF THE SUPERIOR COURT
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