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Filed JUL 28 2021
BRANDON E. RILEY, CLERK

By [Signature]
Clerk

9 Attorneys for Plaintiff RAUL RODRIGUEZ CORONADO
10 individually and on behalf of similarly situated employees

11 **SUPERIOR COURT OF CALIFORNIA**

12 **FOR THE COUNTY OF SAN JOAQUIN**

13 RAUL RODRIGUEZ CORONADO,
14 individually and on behalf of all other
15 similarly situated employees,

16 Plaintiff,

17 vs.

18 MGD, INC., a California Corporation; and
19 DOES 1 to 100, inclusive,

20 Defendant.

Case No. STK-CV-UOE-2021-893

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: **JUL 28 2021**

Time: 9:00 a.m.

Dept.: 10B

Judge: Hon. ~~Carter-Holly~~ **ERC**

Filed: February 1, 2021

FAC Filed: April 9, 2021

Trial Date: None Set

JUN 25 2021

FILED BY FAX

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the
3 above referenced case came before the Honorable Carter Holly in Department 10B. Named Plaintiff
4 Raul Rodriguez Coronado ("Plaintiff") filed this putative class action on February 1, 2021. The
5 operative Complaint alleges that Defendant MGD, Inc. ("Defendant") violated California law by
6 failing to pay all paid sick leave owed resulting in unfair competition, failing to pay final wages, and
7 issuing inaccurate wage statements. Plaintiff has also alleged Defendant is liable for a civil penalties
8 under the Private Attorneys General Act ("PAGA") based on these violations. Plaintiff sought
9 attorneys' fees and costs as part of this Action. Defendant denied all of Plaintiff's claims and denied
10 that this case was appropriate for class treatment. No class has been certified.

11 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
12 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
13 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
14 ("Agreement"). Any capitalized terms herein shall have the same meaning as set forth in the
15 Agreement. The Court, having received and considered Plaintiff's Motion for Preliminary Approval of
16 Class Action and PAGA Settlement, the declarations in support, the Agreement, the proposed Notice
17 of Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS
18 FOLLOWS:

19 **1. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
20 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

21 The Court finds that certification of the following class for settlement purposes only is
22 appropriate under the California Code of Civil Procedure and related case law:

23 All individuals who have, or continue to, work for Defendant in California
24 as non-exempt employees from February 1, 2017 up to either (1) the
Preliminary Approval Date, or (2) July 19, 2021, whichever is earlier.

25 The Court recognizes that the foregoing definition is for Class Member identification purposes
26 only and is not intended to capture the claims at issue or limit or alter the released claims under the
27 Agreement.

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1 The Court finds that Class Members meet the ascertainability and numerosity requirements since
2 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
3 the definition and the number of Class Members would make joinder impractical. The commonality and
4 predominance requirements are met for settlement purposes since there are questions of law and fact
5 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
6 contentions that Defendant caused the violations outlined above by failing to incorporate the value of
7 nondiscretionary bonuses into putative class members' regular rates of pay for the purpose of paying
8 sick leave. The PAGA, waiting time penalty, and wage statement violation claims also derive from this
9 violation. Additionally, Class Members seek the same remedies under state law. The typicality
10 requirement for settlement purposes is also satisfied since the claims of the Class Representative is
11 based on the same facts and legal theories as those applicable to the class members.

12 The Court also finds that preliminarily and conditionally certifying the settlement class is
13 required to avoid each Class Member from litigating similar claims individually. This settlement will
14 achieve economies of scale for Class Members with relatively small individual claims and conserve the
15 resources of the judicial system.

16 The Court finds that Plaintiff Raul Rodriguez Coronado and Plaintiff's counsel,
17 Galen T. Shimoda and Justin P. Rodriguez of the Shimoda Law Corp., to be adequate representatives of
18 the settlement class. The Court appoints them as class representative and class counsel, respectively.

19 **2. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

20 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
21 A. The Court finds on a preliminary basis that the Agreement falls within the range of reasonableness of
22 a settlement, which could ultimately be given final approval by this Court. The Court also
23 acknowledges that Class Members may object to the settlement at a fairness hearing approved by this
24 Court or opt-out of being bound by the preliminarily approved Agreement.

25 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
26 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
27 preliminarily approves the Agreement and all terms therein as if stated here in full, including the
28 \$105,000.00 Gross Settlement Amount.

1 The Court orders that Plaintiff Raul Rodriguez Coronado will receive \$7,500.00 as a Class
2 Representative Enhancement Payment in addition to any amount Plaintiff may be entitled to under the
3 Agreement's pro rata distribution formula for Plaintiff's time and effort on behalf of Class Members.

4 The Court orders and approves Simpluris, Inc. to act as the Claims Administrator in this case.
5 The Claims Administrator will take its fees out of the Gross Settlement Amount, which are not to exceed
6 \$7,000.00. Any difference between the actual cost of the Claims Administrator and the approved
7 payment will be redistributed to Qualified Claimants on a pro-rata basis.

8 The Court finds that an award of fees under the common fund doctrine is appropriate in this case
9 because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits can be
10 accurately traced as set forth in the Agreement, Plaintiff and Class Counsel were able to negotiate on
11 behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as the fee request
12 is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt*
13 *v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v.*
14 *Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of
15 thirty-five percent (35%) of the Gross Settlement Amount, *i.e.* \$36,750.00, to be appropriate
16 compensation for Class Counsel. The attorneys' fees request is within the range that has been approved
17 by other Courts in similar cases and is reasonable in light of the circumstances of this case, the
18 substantial and beneficial results obtained on behalf of Class Members, and the contingent nature of the
19 recovery over the course of this case, which included potential loss at summary judgment, certification,
20 and/or trial proceedings. Additionally, the Court orders that up to \$7,000.00 of the settlement proceeds
21 will be paid to Class Counsel for reasonable costs incurred in this case. Any difference between the
22 actual costs incurred and the \$7,000.00 shall be paid to the Qualified Claimants on a pro-rata basis.

23 The Court approves of the Two Thousand Five Hundred Dollars and No Cents (\$2,500.00)
24 PAGA Payment, which shall be paid from the Gross Settlement Amount, not in addition to the Gross
25 Settlement Amount, to resolve the alleged PAGA claims. Seventy-Five percent (75%) of the PAGA
26 Payment will be paid to the Labor and Workforce Development Agency ("LWDA") and Twenty-Five
27 percent (25%) will be paid to Aggrieved Employees on a pro rata basis as described in the Agreement.
28

1 The Court also finds that the Agreement provides a recovery that creates an effective substantial
2 deterrent to any potential future non-compliance, furthering the purpose of the Labor Code and LWDA.

3 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
4 Qualified Claimants and/or Aggrieved Employees that are not cashed by the deadline to do so shall be
5 paid out 50/50 to Capital Pro Bono, Inc. and the Center For Workers' Rights.

6 The releases and waivers for Class Members who do not opt out of being bound by the
7 Agreement (*i.e.* Qualified Claimants), Aggrieved Employees, and the Class Representative are also
8 approved by the Court as set forth in the Agreement.

9 **3. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
10 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

11 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiff's
12 Motion as Exhibit F, fairly and adequately advises Class Members of the terms of the Agreement, the
13 rights being waived, their right to opt out, the ability to dispute the number of workweeks worked during
14 the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the settlement,
15 how to file documentation in opposition to the proposed settlement, and when to appear at the fairness
16 hearing to be conducted on the date set forth below. The Court further finds that the Notice of
17 Settlement and proposed distribution of such notice by first class mail to each identified Class Member
18 at his or her most recent address based on a National Change of Address database search from the Class
19 Members' last known address and a skip trace on any Class Members who have the Notice of Settlement
20 returned as "undeliverable" or "not at this address" comports with all constitutional requirements,
21 including those of due process.

22 The Court also finds that because there is a strong interest in providing Class Members the
23 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
24 privacy rights, the sharing of employment information, including social security numbers, is not a
25 serious intrusion on their privacy rights. Hence, the Court orders Defendant to provide first and last
26 name, last known mailing address, social security number, hire and termination dates, total number of
27 workweeks during which the Class Member performed any actual work to the Claims Administrator
28 only, and not to Plaintiff or Class Counsel, in order to process this settlement as contemplated within the

Agreement and approved by this Order. The Claims Administrator shall only use this information for settlement purposes identified herein, and this information shall be kept confidential, not be shared with any third-party, and used only to administer the settlement.

4. IMPLEMENTATION SCHEDULE

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

Last day for Defendant to provide Claims Administrator with Class Member information	Within 14 calendar days after the Preliminary Approval Date
Last day for Claims Administrator to complete NCOA search, update Class Member mailing information, and mail Notice of Settlement	Within 14 calendar days after the Claims Administrators' receipt of Class Members' information from Defendant
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	45 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Claims Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 21 calendar days after end of the Notice Period
Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendant's Counsel	Within 7 days after the Final Approval Date
Last day for Defendant to fund settlement	Within 21 calendar days after Final Approval Date
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to Aggrieved Employees	Within 7 calendar days after receiving the funds

1 2 3 4 5 6 7 8	Last day for Qualified Members and Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Qualified Members and Aggrieved Employees
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
	Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

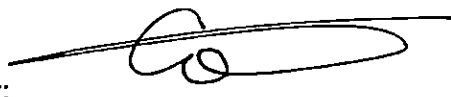
FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of December 9, 2021 at 9:00 a.m. in department 10B with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Class Members who object in a timely manner, and in the manner set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any purpose other than approving a settlement class. The parties will revert to their respective positions as if no settlement had been reached at all.

IT IS SO ORDERED.

Date: 7/29/21

By: 
Judge of the Superior Court