

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Fletcher W. Schmidt (SBN 286462)
fschmidt@haineslawgroup.com
Matthew K. Moen (SBN 305956)
mmoen@haineslawgroup.com
Susan J. Perez (SBN 329044)
sperez@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

SANTIAGO GUTIERREZ, as an individual
and on behalf of all others similarly situated,

Plaintiff,
vs.

M.M.C.L., INC. dba CALIFORNIA
LANDCARE, a California corporation; and
DOES 1 through 100,

Defendants.

Case No. 30-2021-01182371-CU-OE-CXC

*[Case assigned for all purposes to the Hon.
Randall J. Sherman, Dept. CX105]*

**[PROPOSED] JUDGMENT AND ORDER
GRANTING PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT, ATTORNEYS' FEES AND
COSTS, AND CLASS REPRESENTATIVE
ENHANCEMENT PAYMENT**

Date: June 2, 2023
Time: 10:00 a.m.
Dept.: CX105

Action Filed: February 2, 2021
Trial Date: None Set

1 **[PROPOSED] JUDGMENT AND ORDER**

2 Plaintiff Santiago Gutierrez’s Motion for Final Approval of Class Action Settlement,
3 Attorneys’ Fees and Costs, and Class Representative Enhancement Payment came on regularly
4 for hearing before this Court on June 2, 2023, at 10:00 a.m., pursuant to California Rule of
5 Court 3.769 and this Court’s Order Granting Preliminary Approval of Class Action Settlement
6 (“Preliminary Approval Order”) (ROA#80). Having considered the Stipulation of Settlement,
7 attached as Exhibit A to the July 7, 2022 Declaration of Matthew K. Moen (ROA#44) and the
8 Amendment to the Stipulation of Settlement, attached as Exhibit 1 to the January 9, 2023
9 Declaration of Matthew K. Moen (ROA#66) (collectively, the “Settlement” or “Settlement
10 Agreement”), Plaintiff’s Motion for Final Approval of Class Action Settlement, and all other
11 documents and evidence presented in support thereof, and recognizing the sharply disputed
12 factual and legal issues involved in this case, the risks of further prosecution, and the benefits to
13 be received by the Settlement Class members pursuant to the Settlement, the Court hereby
14 makes a final ruling that the proposed Settlement is fair, reasonable, and adequate, and is the
15 product of good faith, arms’-length negotiations between the parties. Good cause appearing
16 therefor, the Court hereby GRANTS Plaintiff’s Motion for Final Approval of Class Action
17 Settlement and HEREBY ORDERS THE FOLLOWING:

18 1. Final judgment is hereby entered in conformity with the Settlement and this
19 Court’s Preliminary Approval Order.

20 2. The conditional class certification contained in the Preliminary Approval Order
21 is hereby made final, and the Court thus certifies, for purposes of the Settlement, the Settlement
22 Class defined as:

23 All current and former non-exempt employees who worked for Defendant
24 M.M.C.L., Inc. dba California Landcare (“Defendant”) in California at
25 any time between February 2, 2017 and October 31, 2021 (the “Class
26 Period”) and who did not sign a “Release Agreement” with Defendant in
27 connection with its *Chindarah v. Pick Up Stix, Inc.* campaign.
28

1 3. Plaintiff Santiago Gutierrez is hereby confirmed as the Class Representative and
2 Fletcher W. Schmidt, Paul K. Haines, Matthew K. Moen, and Susan J. Perez of Haines Law
3 Group, APC are hereby confirmed as Class Counsel.

4 4. Notice was provided to the Settlement Class members as set forth in the
5 Settlement Agreement, which was approved by the Court on January 27, 2023 (ROA#80), and
6 the notice process has been completed in conformity with the Court's Orders. The Court finds
7 that said notice constituted reasonable notice under the circumstances, and constituted valid,
8 due, and sufficient notice to all Settlement Class members. The Notice of Class Action
9 Settlement provided due and adequate notice of the proceedings and matters set forth therein,
10 informed Settlement Class members of their rights, and fully satisfied the requirements of
11 California Code of Civil Procedure § 382, California Rules of Court 3.766 and 3.769, the
12 California and United States Constitutions, and other applicable law.

13 5. The Court finds that no Class Member objected to the Settlement and zero
14 individuals requested to be excluded from the Settlement, resulting in a 100% participation rate.
15 The Court determines that this response supports final approval.

16 6. The Court hereby approves the Settlement as set forth in the Settlement
17 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
18 Agreement according to its terms.

19 7. For purposes of settlement only, the Court finds that: (a) the Settlement Class
20 members are ascertainable and so numerous that joinder of all members is impracticable;
21 (b) there are questions of law or fact common to the Settlement Class members, and there is a
22 well-defined community of interest among Settlement Class members with respect to the
23 subject matter of the litigation; (c) the claims of the Class Representative are typical of the
24 claims of the Settlement Class members; (d) the Class Representative has fairly and adequately
25 protected the interests of the Settlement Class members; (e) a class action is superior to other
26 available methods for an efficient adjudication of this controversy; and (f) Class Counsel is
27 qualified to serve as counsel for the Class Representative and the Settlement Class members.

1 8. The Court finds that given the absence of objections, and objections being a
2 prerequisite to appeal, this Order shall be considered final as of the Effective Date (which is
3 defined in the Settlement Agreement as the date which the Court signs an order granting final
4 approval of the Settlement).

5 9. As of the date that this Judgment becomes final, all Settlement Class members
6 release and discharge Defendant and its former or present parents, subsidiaries, affiliates,
7 predecessors or successors, agents, employees, officers, directors, and attorneys (collectively,
8 the “Released Parties”) from all claims, demands, rights, liabilities and causes of action that
9 were pled in the operative First Amended Complaint in the Action, or which could have been
10 pled in the operative First Amended Complaint based on the factual allegations therein,
11 including claims for failure to pay overtime and minimum wages, meal period violations, rest
12 period violations, failure to reimburse all necessary business expenses, wage statement
13 penalties, waiting time penalties, and failure to comply with California’s Unfair Competition
14 laws, that arose during the Class Period (“Released Claims”). This release shall run from
15 February 2, 2017 until October 31, 2021.

16 10. As of the date that this Judgment becomes final, all Settlement Class members
17 who worked for Defendant at any time between February 2, 2020 through October 31, 2021 (the
18 “PAGA Period”) shall be deemed to have released and discharged Defendant from all PAGA
19 claims that are based on the Labor Code violations pled in the operative First Amended
20 Complaint in the Action or Plaintiff’s letter to the California Labor and Workforce
21 Development Agency dated February 2, 2021, or which could have been pled in the operative
22 First Amended Complaint in the Action based on the factual allegations therein, that arose
23 during the PAGA Period (the “PAGA Released Claims”). This release shall run from February
24 2, 2020 through October 31, 2021.

25 11. The Court orders Defendant to deposit the entire Maximum Settlement Amount
26 of \$1,250,000.00 with Simpluris, Inc. (the “Settlement Administrator”) within 60 calendar days
27 of the date of this Order.

1 12. The Court finds that the payment to the State of California Labor and Workforce
2 Development Agency (“LWDA”) in the amount of \$30,000.00 for its 75% share of the civil
3 penalties allocated under the PAGA is fair, reasonable, and adequate, and orders the Settlement
4 Administrator to distribute this payment in conformity with the terms of the Settlement.

5 13. The Court finds that the Class Representative Enhancement Payment in the
6 amount of \$5,000.00 is appropriate in recognition of the risks Plaintiff undertook; for the
7 amount of time and effort spent by Plaintiff as the Class Representative; and the service
8 Plaintiff provided to the Settlement Class members. The Court finds that this amount is fair,
9 reasonable, and adequate, and orders that the Settlement Administrator make this payment in
10 conformity with the terms of the Settlement.

11 14. The Court finds that attorneys’ fees in the total amount of \$416,666.67 and
12 litigation costs of \$9,398.81 for Class Counsel are fair, reasonable, and adequate. The Court
13 orders the Settlement Administrator to distribute these payments to Class Counsel in conformity
14 with the terms of the Settlement.

15 15. The Court orders that the Settlement Administrator shall be paid \$5,795.00 from
16 the Maximum Settlement Amount for all of its work done and to be done until the completion
17 of this matter and finds that sum appropriate.

18 16. The Court finds that the Individual Settlement Payments, as provided for in the
19 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
20 distribute these payments in conformity with the terms of the Settlement.

21 17. Pursuant to California Rule of Court 3.771(b), the Court orders that notice of this
22 Judgment be posted on a website hosted by the Settlement Administrator and the URL to be
23 provided to Settlement Class Members with their Individual Settlement Payments.

24 18. Any funds from Individual Settlement Payment checks remaining uncashed after
25 the 180-day check-cashing deadline will be distributed to Girls Inc. of Orange County, a
26 501(c)(3) *cy pres* dedicated to child advocacy in Orange County.

27 19. This document shall constitute a final judgment pursuant to California Rule of
28 Court 3.769(h) which provides, “If the court approves the settlement agreement after the final

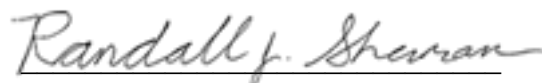
1 approval hearing, the court must make and enter judgment. The judgment must include a
2 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
3 judgment. The court may not enter an order dismissing the action at the same time as, or after,
4 entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final
5 Approval Order, and this Judgment, pursuant to California Rule of Court 3.769(h) and
6 California Code of Civil Procedure § 664.6.

7 20. Pursuant to California Rule of Court, Rule 3.771(b) and the Parties' Settlement
8 Agreement, the Settlement Administrator is Ordered to post notice of this Final Judgment and
9 Order on its website for the Settlement Class members and aggrieved employees.

10 21. Plaintiff will submit to the Court a final report in the form of a declaration from
11 the Settlement Administrator on or before March 8, 2024, setting forth the total amount that was
12 paid to Settlement Class members, the number and amount of any uncashed checks, confirming
13 that distribution efforts are fully completed, including the distribution of uncashed class
14 member checks the *cy pres*, that the Settlement Administrator's work is complete, and that the
15 court's file thus may be closed. Plaintiff must also submit an Amended Judgment stating how
16 much money is being paid to the *cy pres*, including any interest that accrued on the funds, and,
17 if known, the purpose of the distribution to the *cy pres* and how it plans to expend the funds.
18 The Court will hold a non-appearance (if all issues are resolved) Final Report Hearing on March
19 22, 2024 at 10:00 a.m., to review the report and the Amended Judgment and determine if any
20 further reports or hearings are necessary.

21 **IT IS SO ORDERED.**

22 Dated: **June 2, 2023**



Honorable Randall J. Sherman
Judge of the Superior Court