

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Renald Konini (Cal. State Bar No. 312080)
Shimoda & Rodriguez Law, PC
3 9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
4 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

5 Attorneys for Plaintiff AHMAD ZUBAIR HUSSAINI,
6 individually and on behalf of similarly situated employees

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8 **SUPERIOR COURT OF CALIFORNIA**
9 **FOR THE COUNTY OF SACRAMENTO**

10 AHMAD ZUBAIR HUSSAINI, individually
11 and on behalf of all other similarly situated
12 employees,

13 Plaintiff,

14 vs.

15 INTEGRATED RESOURCES, INC., a
16 California Corporation; SIEMENS
17 MOBILITY, INC., a Delaware Corporation;
and DOES 1 to 100, inclusive,

18 Defendants.
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Case No. 34-2021-00297152

*Assigned for All Purposes to Hon. Jill H. Talley,
Department 25*

CLASS ACTION

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

Reservation No. 2662354

Date: November 4, 2022
Time: 9:00 a.m.
Dept.: 25

Filed: March 23, 2021
FAC Filed: May 12, 2021
Trial Date: None Set

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 this Court, on November 4, 2022, at 9:00 a.m., in Department 25
4 before the Honorable Jill H. Talley, presiding. Named Plaintiff Ahmad Zubair Hussaini (“Plaintiff”)
5 filed this putative class action on March 23, 2021. The operative Complaint alleges that Defendants
6 Integrated Resources, Inc., and Siemens Mobility, Inc. (“Defendants”) violated California law by 1)
7 failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods, 4)
8 failing to provide rest periods, 5) failing to provide accurate wage statements, 6) failing to timely pay
9 all final wages, 7) failing to reimburse employees for incurred expenses, and 8) by engaging in unfair
10 competition. Plaintiff has also alleged Defendants are liable for a civil penalties under the Private
11 Attorneys General Act (“PAGA”) based on these violations. Plaintiff sought attorneys’ fees and costs
12 as part of this Action. Defendants denied all of Plaintiff's claims and denied that this case was
13 appropriate for class treatment. No class has been certified.

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

22 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
23 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

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

26 All non-exempt employees who have been, or continue to be, employed in
27 California by Integrated Resources, Inc., at any time between March 23,
28 2017, up to either (1) the Preliminary Approval Date, or (2) 60 days after
the Agreement was fully executed, whichever is earlier.

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

4 The Court finds that Class Members meet the ascertainability and numerosity requirements since
5 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
6 the definition and the number of Class Members would make joinder impractical. The commonality and
7 predominance requirements are met for settlement purposes since there are questions of law and fact
8 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
9 contentions that Defendants caused the violations outlined above by 1) failing to properly record and
10 pay for all hours worked due to rounding and requiring off-the-clock work, 2) failing to authorize and
11 permit timely meal periods and/or a second meal period and third rest period, 3) failing to reimburse for
12 use of cell phone required to track employees time, 4) failing to reimburse travel expenses required as
13 part of the employees position, and 5) failing to pay daily overtime. The PAGA, waiting time penalty,
14 wage statement violation, and unfair competition claims also derive from these violations.
15 Additionally, Class Members seek the same remedies under state law. The typicality requirement for
16 settlement purposes is also satisfied since the claims of the Class Representative is based on the same
17 facts and legal theories as those applicable to the class members.

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

22 The Court finds that Plaintiff Ahmad Zubair Hussaini and Plaintiff's counsel, Galen T. Shimoda
23 and Justin P. Rodriguez of Shimoda & Rodriguez Law, PC, to be adequate representatives of the
24 settlement class. The Court appoints them as Class Representative and Class Counsel, respectively.

25 **II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

26 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
27 A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and
28 adequate and falls within the range of reasonableness of a settlement that could ultimately be given final

1 approval by this Court. The Court finds the Settlement was agreed upon only after extensive
2 investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who
3 took reasonable steps and measures to weigh the potential value of the disputed claims against the risks
4 of continued litigation. The Court also acknowledges that Class Members may present any objections to
5 the Settlement at a fairness hearing approved by this Court or opt-out of being bound by the
6 preliminarily approved Agreement. The Court preliminarily approves the Agreement and all terms
7 therein as if stated here in full, including the \$395,000 Gross Settlement Amount.

8 The Court approves of ILYM Group, Inc. acting as the Settlement Administrator in this case and
9 hereby appoints them to fulfill those duties as outlined in the Agreement.

10 On a preliminary and conditional basis, the Court approves of the amounts allocated under the
11 Agreement for attorney's fees and costs (35% of the Gross Settlement Amount and \$15,000,
12 respectively), for an Enhancement Payment to the Class Representative (\$15,000), and for Settlement
13 Administrator Costs (\$20,000). The Court finds that an award of fees under the common fund doctrine
14 is appropriate in this case because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class
15 Members), the benefits that Plaintiff and Class Counsel were able to negotiate on behalf of Class
16 Members can be accurately traced as set forth in the Agreement, and the fee can be shifted with
17 exactitude to those benefiting as the fee request is a specific, lump-sum percentage of the Gross
18 Settlement Amount. *See Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 271 (9th Cir. 1989);
19 *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v. Robert Half Internat., Inc.*, 1 Cal.5th 480, 506
20 (2016). The attorneys' fee request as a percentage of the Gross Settlement Amount is within the range
21 of percentages that have been approved by other Courts in similar cases. The Court will again review
22 these amounts and allocations in connection with the final approval hearing. Plaintiff and Class Counsel
23 are directed to provide additional information in connection with the motion for final approval that will
24 enable the Court to perform a lodestar cross check of the requested attorney's fees, quantify the amount
25 of time spent by Plaintiff on this case and any further risks and/or burdens incurred as a result of acting
26 as Class Representative, and an updated declaration in support of actual litigation costs.

27 The amounts allocated under the Agreement for attorney's fees and costs, for an Enhancement
28 Payment to the Class Representative, and Settlement Administrator Costs shall be included in the Notice

1 of Settlement to enable Class Members to review and comment thereon. The Court will consider the
2 reaction of Class Members when evaluating the reasonableness of the requested amounts at final
3 approval. *See In re Heritage Bond Litig.*, 2005 U.S. Dist. LEXIS 13555, 71 (C.D. Cal. 2005) (“the
4 absence of objections or disapproval by class members to class counsel’s fee request further supports
5 finding the fee request reasonable”). To the extent the Court ultimately awards less than the amounts
6 allocated under the Agreement for attorney’s fees and costs, for an Enhancement Payment to the Class
7 Representative, and Settlement Administrator Costs, the difference between the amounts awarded and
8 the amounts requested shall be added to the Net Settlement Amount for distribution to Qualified Class
9 Members pro rata as set forth in the Agreement.

10 The Court approves of the Ten Thousand Dollars (\$10,000) PAGA Payment, which shall be paid
11 from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the
12 alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
13 Workforce Development Agency (“LWDA”) and Twenty-Five percent (25%) will be paid to Aggrieved
14 Employees on a pro rata basis as described in the Agreement. The Court also finds that the Agreement
15 provides a recovery that creates an effective substantial deterrent to any potential future non-compliance,
16 furthering the purpose of the Labor Code and LWDA.

17 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
18 portion of the Net Settlement Amount issued to Qualified Class Members and/or Aggrieved Employees
19 that are not cashed by the deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono,
20 Inc., and the Center for Workers’ Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718
21 (2006). No portion of the Gross Settlement Amount will revert to Defendants for any reason. However,
22 any monies Defendants deposited in the QSF that were necessary to satisfy Defendants’ respective tax
23 obligations (*e.g.* employer FICA, FUTA and SDI contributions on wage payments) on the unclaimed
24 funds will be refunded to Defendants in accordance with their proportional responsibility for those
25 amounts and will not be a part of the *cy pres* distribution.

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

1 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
2 **INCLUDING THE NOTICE OF SETTLEMENT**

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

14 The Court also finds that because there is a strong interest in providing Class Members the
15 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
16 privacy rights, the sharing of employment information, including social security numbers, is not a
17 serious intrusion on their privacy rights. Hence, the Court orders Defendants to provide first and last
18 name, last known mailing address, social security number, and hire and termination dates, total number
19 of workweeks during which the Class Member performed any actual work to the Settlement
20 Administrator only, and not to Plaintiff or Class Counsel, in order to process this settlement as
21 contemplated within the Agreement and approved by this Order. The Settlement Administrator shall
22 only use this information for the purposes identified in the Agreement and shall keep this information
23 confidential consistent with the terms of the Agreement.

24 **IV. IMPLEMENTATION SCHEDULE**

25 Accordingly, with good cause shown, the Court hereby approves and orders that the following
26 implementation schedule be adhered to:
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Last day for Defendants to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 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 Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts to Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Qualified Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
Last day for Qualified Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Qualified Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline

1 Last day for Settlement Administrator to provide
2 Parties with compliance declaration

Within 21 calendar days after settlement
check cashing deadline

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4 **FINAL APPROVAL AND HEARING**

5 The Court hereby grants Plaintiff's Motion and directs the parties to contact the Clerk for
6 Department 25 to schedule a final approval hearing to take place in this Department on a Friday at 9:00
7 a.m. consistent with the administration timelines set forth in the Agreement. Briefs and supporting
8 documentation to be submitted according to the California Code of Civil Procedure, in this Department.
9 Qualified Class Members who object in a timely manner as set forth in the Agreement, may appear and
10 present such objections at the fairness hearing in person or by counsel.

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

16 **IT IS SO ORDERED.**

17 Date: _____

By: _____

18 Judge of the Superior Court
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