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9 Attorneys for Plaintiff Andy Jacques and the Putative Class

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN JOAQUIN

12 ANDY JACQUES an individual,

13 Plaintiff,

14 vs.

15 MIKE'S MOBILE, INC., a corporation; and
16 DOES 1-10, inclusive,

17 Defendants.
18

Case No.: STK-CV-UOE-2022-2329

NOTICE OF ENTRY OF ORDER

19 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

20 **PLEASE TAKE NOTICE** that, on October 28, 2022, the Court in this matter entered a
21 Judgment and Order Granting Plaintiff's Unopposed Motion for Final Approval of Class Action
22 Settlement and Motion for Attorneys' Fees, Costs, and Service Payments, a true and correct copy
23 of which is attached hereto as **Exhibit A**.

24 **DATED:** November 7, 2022

MAYALL HURLEY P.C.

25
26 By _____

WILLIAM J. GORHAM, III

VLADIMIR J. KOZINA

ROBERT J. WASSERMAN

Attorneys for Plaintiff and the Putative Class

Exhibit A

1 **MAYALL HURLEY P.C.**
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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SAN JOAQUIN

13 ANDY JACQUES, an individual,

14 Plaintiff,

15 vs.

16 MIKE'S MOBILE, INC., a corporation; and
17 DOES 1-10, inclusive,

18 Defendants.

Case No.: STK-CV-UOE-2022-2329

[PROPOSED] JUDGMENT AND ORDER
GRANTING PLAINTIFF'S UNOPPOSED
MOTION FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS, AND SERVICE
PAYMENTS

Date: October 28, 2022
Time: 9:00 a.m.
Dept: 10C
Judge: Hon. Jayne Lee

19
20
21 Plaintiff Andy Jacques' ("Jacques" or "Plaintiff") Unopposed Motion for Final Approval of
22 Class Action Settlement and ("the Motion for Final Approval") and Motion for Attorneys' Fees,
23 Costs, and Service Payments (the "Fee Motion") came on regularly for hearing on October 28, 2022,
24 at 9:00 a.m. in Department 10C of the above-entitled Court. Appearances are reflected in the
25 Court's record. The Court, having fully and carefully considered Plaintiff's Motion for Final
26 Approval and Fee Motion, the memoranda and declarations in support thereof, the Parties' Class
27 Action Settlement and Release of Claims, and the oral arguments made at the hearing, hereby makes
28

10C
1072
OCT 28 2022

AMS
Filed

BRANDON E. RILEY, CLERK

By

DEPUTY

OCT 04 2022

1 the following determinations and orders¹:

2 1. Plaintiff's Motion for Preliminary Approval was granted on July 1, 2022. Plaintiff's
3 Motion for Final Approval and Fee Motion were timely filed. No objections were filed by any Class
4 Members.

5 2. The Court finds that the Settlement was reached after arm's-length negotiations
6 between the Parties, including a mediation; the proposed Settlement was concluded only after
7 counsel for the Parties conducted adequate investigation and informal discovery; and the Settlement
8 of this action, as embodied in the terms of the Settlement, is finally approved as fair, reasonable, and
9 adequate and in compliance with all applicable requirements of the California Code of Civil
10 Procedure and the Federal Rules of Civil Procedure and any other applicable law, and in the best
11 interests of the Class Members.

12 3. Plaintiff Jacques is confirmed as Class Representative.

13 4. Mayall Hurley P.C., by and through lead counsel William J. Gorham, III, Vladimir J.
14 Kozina, and Robert J. Wasserman are appointed as Class Counsel.

15 5. Simpluris, Inc. is confirmed as Settlement Administrator of the Settlement.

16 6. Prior to granting the preliminary approval, the Court evaluated the standards for class
17 certification. Nothing has been raised subsequently that might affect the Court's prior analysis as to
18 whether certification is appropriate here, and the Court has no cause to revisit that analysis. The
19 Court finds that final certification as the Class is appropriate under California Rules of Court, Rule
20 3.769 and California Code of Civil Procedure section 382 and certifies the following Class and Sub-
21 Class:

22 All current and former hourly paid or non-exempt employees of Defendant
23 who worked at any time between July 22, 2017, and July 1, 2022.

24 7. The Class Notice mailed to Class Members informed the Class Members of the
25 Settlement terms, their right to opt out from the Settlement, object to the Settlement, or do nothing,
26

27 ¹ All terms used in this Order Granting Final Approval of Class Action Settlement (the "Order") shall have the same
28 meanings given those terms in the Parties' Class Action Settlement Agreement and Release of Claims ("Settlement
Agreement" or "Settlement"), a copy which is attached as Exhibit A to the Declaration of Vladimir J. Kozina in Support
of Plaintiff's Unopposed Motion and Fee Motion.

1 and the implications of each such action. The Class Notice also advised Class Members of
2 applicable deadlines and other events, including the Final Approval Hearing, and how Class
3 Members can obtain additional information. A dedicated toll-free phone number was created and
4 maintained, which provided Class Members the ability to obtain additional information regarding the
5 Settlement.

6 8. No objection to any component of the Settlement was raised by any Class Member.

7 9. No Class Member opted-out of the Settlement.

8 10. The Claims Administrator sent Notice to 236 individuals on April 15, 2022. Notice
9 was effectuated on 92.7% of the Class.

10 11. The Court concludes that adequate notice was provided to the Class. *Silber v.*
11 *Mabon*, 18 F.3d 1449, 1453–54 (9th Cir. 1994) (noting the court need not ensure all class members
12 receive actual notice, only that “best practicable notice” is given); *Winans v. Emeritus Corp.*, No. 13-
13 cv-03962-HSG, 2016 WL 107574, at *3 (N.D. Cal. Jan. 11, 2016) (“While Rule 23 requires that
14 ‘reasonable effort’ be made to reach all class members, it does not require that each individual
15 actually receive notice.”). The Court accepts the Administrator’s Declaration and finds sufficient
16 notice has been provided to satisfy due process.

17 12. The Court approves the Maximum Settlement Amount of \$195,000.00 as fair,
18 reasonable, and adequate.

19 13. The Court finds that the \$20,000.00 of the MSA allocated to resolve Released PAGA
20 Claims is fair, reasonable and adequate under the circumstances and serves the punitive and
21 deterrent purposes of the PAGA. *Moniz v. Adecco USA, Inc.* (2021) –Cal.Rptr.3d--; 2021 WL
22 5578298 * 9. The moving papers for the Final Approval Motion and Fee Motion were served on the
23 LWDA through the agency’s online filing website. No objection to the Settlement, or the allocation
24 to resolve the Released PAGA Claims, has been offered by the LWDA.

25 14. Of the \$20,000.00 allocated to resolve the Released PAGA Claims, 75% — or
26 \$15,000.00 — will be paid to the Labor and Workforce Development Agency, and 25% — or
27 \$5,000.00 — shall be distributed to Class Members as set forth in the Settlement Agreement

28 15. The Court approves payment to the Administrator in the amount of \$3,100.00

1 16. The Court approves of the proposed Service Payments of \$5,000.00 to Plaintiff Andy
2 Jacques for his service as Class Representative.

3 17. Class Counsel's request of attorneys' fees in the amount of \$64,993.50, or one-third
4 of the Maximum Settlement Amount and declared costs of \$3,570.00 are approved. Class Counsel
5 also provided the Court with the materials necessary to perform a lodestar cross-check. Class
6 Counsel calculate their lodestar fee to be \$89,990.00, based on reasonable hours worked and
7 reasonable hourly rates. Because the fees requested are appropriate under both the common fund
8 and lodestar methods, this Court grants this request.

9 18. In accordance with the terms of the Settlement, as of the Date the QSF is funded or
10 the Effective Date, whichever is later, Participating Class Members will forever and completely
11 release and discharge Defendant and Released Parties from the Released Claims. SA ¶ 58.
12 Additionally, Plaintiff, on behalf of himself, the LWDA, and the other aggrieved employees, will
13 release Defendants and Released Parties from the Released PAGA Claims. SA ¶ 59.

14 19. Participating Class Members shall be permanently enjoined and restrained from and
15 against initiating or pursuing against Defendant any individual, representative, or class claims
16 released by this Settlement.

17 20. Final Judgment is hereby entered based on the Parties' Settlement. The Court retains
18 jurisdiction, however, to enforce the terms of the Settlement, and ensure that its terms and this Order
19 are carried out.

20
21 Dated: 10/28/12
22

23 
24 SUPERIOR COURT JUDGE
25 Jayne C. Lee
26
27
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