

Larry W. Lee (State Bar No. 228175)
Kristen M. Agnew (State Bar No. 247656)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff, the Class, and Aggrieved Employees

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

MELISSA MOSS, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

SARES REGIS OPERATING COMPANY,
L.P.; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2021-01201041-CU-OE-CXC

[Assigned for all purposes to the Hon. William
Claster, in Department CX104]

**REVISED ~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

Date: May 5, 2023

Time: 9:00 a.m.

Dept.: CX104

Complaint Filed: May 17, 2021

FAC Filed: August 16, 2021

SAC Filed: June 21, 2022

Trial Date: None Set

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

MAY 22 2023

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

1 Plaintiff Melissa Moss ("Plaintiff" or "Moss"), and the settling Defendant Sares Regis
2 Operating Company, L.P. ("Defendant") (together, the "Parties") have entered into the Joint
3 Stipulation of Class Action and PAGA Settlement and Release of Claims ("Stipulation" or
4 "Settlement Agreement") to settle the above-captioned class action subject to the Court's
5 approval (the "Settlement").

6 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class
7 Action Settlement [ROA 119], including approval of payment to the Class Representative and
8 Class Counsel's application for attorneys' fees and costs. The Court has read, heard, and
9 considered all the pleadings and documents submitted, and the presentations made in connection
10 with the Motion which came on for hearing on May 5, 2023. Plaintiff's motion for final approval
11 of class action settlement is GRANTED.

12 **I. BACKGROUND**

13 On May 17, 2021, Plaintiff filed a complaint against Defendant in the Superior Court of
14 the State of California for the County of Orange on behalf of herself and all similarly situated
15 employees (the "Action"). [ROA 2.] Plaintiff subsequently amended her complaint on August
16 16, 2021, and again on June 10, 2022. The second amended complaint is the operative Complaint
17 ("Complaint"). [ROA 77.]

18 The second amended complaint alleges class and representative action claims for: (1)
19 violation of Labor Code §§ 201, 202, and 203; (2) violation of Labor Code § 226.7; (3) violation
20 of Business and Professions Code § 17200, *et seq.*; and (4) violation of Labor Code § 2698, *et*
21 *seq.* Specifically, Plaintiff alleged that Defendant failed to incorporate non-discretionary wages
22 into the regular rate of pay for the purposes of paying meal and rest break premium pay and
23 issued final wages on a paycard without written authorization.

24 **A. Class Members**

25 The "Class Members" are defined as "all individuals who worked for SRG as an hourly
26 or non-exempt employee in the State of California from May 7, 2019 to July 8, 2021 (the "Class
27 Period"), and who either (a) earned non-discretionary incentive wages and received a meal or
28 rest period premium during the same workweek at any time during the Class Period ("Meal/Rest
Class Members"); or who were paid final wages (upon separation of employment) via a paycard

1 at any time during the Class Period (“Paycard Class Members”).”

2 **B. Operation of the Settlement**

3 Pursuant to the Preliminary Approval Order dated November 15, 2022 [ROA 114], this
4 Court conditionally certified the Class and granted preliminary approval to the Settlement. The
5 Preliminary Approval Order also approved of the proposed form of notice and notice plan. The
6 Court entered the Preliminary Approval Order after review and consideration of all of the
7 pleadings filed in connection herewith.

8 In compliance with the Preliminary Approval Order, the Notice of Proposed Class Action
9 Settlement (“Class Notice”) was sent to all Class Members via first class mail. The notice
10 process was timely completed.

11 This Court finds that the Settlement appears to be the product of serious, informed, non-
12 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
13 treatment to any individuals. The Court finds that the Settlement was entered into in good faith .
14 ~~pursuant to California Code of Civil Procedure § 877.6.~~ The Court further finds that the
15 Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards for final
16 approval of a class action settlement under California law. Under the provisions of California
17 Code of Civil Procedure § 382 and Federal Rule of Civil Procedure 23, as approved for use by
18 the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court
19 has discretion to certify a class where:

20 [Q]uestions of law or fact common to the members of the class
21 predominate over any questions affecting only individual members,
22 and that a class action is superior to the available methods for the
23 fair and efficient adjudication of the controversy...Fed. R. Civ.
24 Proc. 23.

25 Certification of a settlement class is the appropriate judicial device under these
26 circumstances.

27 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
28 FOLLOWS:

1 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
2 Settlement Agreement filed in this case.

3 2. The Court has jurisdiction over the subject matter of the litigation, the Class
4 Representative, Settlement Class Members, and Defendant.

5 3. The Court finds that the dissemination of the Class Notice as disseminated to the
6 Class Members, constituted the best notice practicable under the circumstances to all Persons
7 within the definition of the Class, and fully met the requirements of California law and due
8 process under the United States Constitution.

9 4. The Court approves the Settlement of the above-captioned action, as set forth in
10 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are
11 directed to perform in accordance with the terms set forth in the Settlement Agreement.

12 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear
13 their own costs and attorneys' fees.

14 6. The Court hereby certifies the following Class for settlement purposes only: all
15 individuals who worked for SRG as an hourly or non-exempt employee in the State of California
16 from May 7, 2019 to July 8, 2021 (the "Class Period"), and who either (a) earned non-
17 discretionary incentive wages and received a meal or rest period premium during the same
18 workweek at any time during the Class Period ("Meal/Rest Class Members"); or (b) were paid
19 final wages (upon separation of employment) via a paycard at any time during the Class Period
20 ("Paycard Class Members"). Kathyuska Adelita Delgado. submitted a valid Request for
21 Exclusion from the Class and is not a member of the Settlement Class.

1 7. With respect to the Class and for purposes of approving the settlement only and
2 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
3 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
4 questions of law or fact common to the Class, and there is a well-defined community of interest
5 among Members of the Class with respect to the subject matter of the claims in the Litigation; (c)
6 the claims of Class Representative are typical of the claims of the members of the Class; (d) the
7 Class Representative has fairly and adequately protected the interests of the members of the
8 Class; (e) a class action is superior to other available methods for an efficient adjudication of this
9 controversy; and (f) the counsel of record for the Class Representative, i.e., Class Counsel, are
10 qualified to serve as counsel for the Plaintiff in her individual and representative capacity and for
11 the Class.

12 8. Defendant shall fund \$212,500.00 of the Maximum Settlement Amount, pursuant
13 to the terms of the Settlement Agreement.

14 9. The Court approves the Settlement Share payments, which shall be distributed
15 pursuant to the terms of the Settlement Agreement. Settlement Class Members will be provided
16 with notice of the instant Judgment via an insert included with the settlement check stating: "The
17 Court has granted final approval of the settlement in the matter of *Melissa Moss v. Sares Regis*
18 *Operating Company, L.P.*, Orange County Superior Court Case No. 30-2021-01201041-CU-OE-
19 CXC. You previously received notice that you are a Class Member in this matter and were given
20 the opportunity to opt-out. As you did not choose to opt-out, enclosed please find your share of
21 the settlement."

22 10. The Court approves the following distributions:

23 a. Attorney's fees in the amount of \$63,750, or 30% of the GSA. The Court
24 finds this amount to be a reasonable result in light of the quality of the result obtained, the work
25 performed by class counsel, a review of the billing records provided, and the estimated lodestar.
26 In approving this amount and examining the billing records provided, the Court is not approving
27 any particular hourly billing rates proposed by class counsel.

28 b. Litigation costs in the amount of \$11,125.

1 c. Administration costs in the amount of \$7,500, per the administrator's
2 declaration.

3 d. An enhancement of \$5,000 to Plaintiff. In making this award, the Court
4 has considered only the factors set forth in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238
5 Cal.App.4th 1251 and *Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785.

6 e. Payment to the LWDA of \$5,625, representing the LWDA's share of the
7 amount allocated to the PAGA claim.

8 11. The Court hereby enters final judgment in this case in accordance with the terms
9 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
10 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
11 over the action and the Parties, including all Settlement Class Members, for purposes of
12 enforcing and interpreting this Order and the Settlement.

13 12. Plaintiff shall submit to the Court a final report on or before December 22, 2023
14 setting forth the actual amounts paid to class members and other amounts disbursed pursuant to
15 the settlement. Upon receiving the report, the Court will determine whether further reports
16 and/or a hearing will be necessary.

17 .IT IS SO ORDERED AND ADJUDGED.

18
19 DATED: 5-22-23

20 
HON. WILLIAM CLASTER
SUPERIOR COURT OF CALIFORNIA

1 **PROOF OF SERVICE**

2 **(Code of Civil Procedure Sections 1013a, 2015.5)**

3
4 STATE OF CALIFORNIA]
5]ss.
6 COUNTY OF LOS ANGELES]

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite
9 1250, Los Angeles, California 90071.

10 On May 8, 2023, I served the following document(s) described as: **REVISED**
11 **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION**
12 **SETTLEMENT AND JUDGMENT** on the interested parties in this action as follows:

13 Amy R. Patton
14 arp@paynefears.com
15 Matthew C. Lewis
16 mcl@paynefears.com
17 PAYNE & FEARS LLP
18 Attorneys at Law
19 4 Park Plaza, Suite 1100
20 Irvine, California 92614

21 *Attorney for Defendant Sares Regis Operating Company, L.P.*

22 X BY ELECTRONIC SERVICE: Based on a court order I caused the
23 above-entitled document(s) to be served through the One Legal E-Filing System at the website
24 www.onelegal.com, addressed to all parties appearing on the electronic service list for the above-
25 entitled case. The service transmission was reported as complete and a copy of the filing
26 receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this
27 office.

28 I declare under penalty of perjury under the laws of the State of California that the
above is true and correct. Executed on May 8, 2023, at Los Angeles, California.

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