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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ANTHONY GUTIERREZ, as an individual
and on behalf of those similarly situated,

Plaintiff,

vs.

OPTIONS FOR YOUTH-VICTOR VALLEY,
INC., a California Corporation; OPTIONS
FOR YOUTH-ACTION, INC., a California
Corporation; OPTIONS FOR YOUTH-
CALIFORNIA, INC., a California
Corporation; OPTIONS FOR YOUTH-
DUARTE, INC., a California Corporation;
OPTIONS FOR YOUTH-SAN
BERNARDINO, INC., a California
Corporation; OPTIONS FOR YOUTH-SAN
GABRIEL, INC., a California Corporation;
OPTIONS FOR YOUTH-SAN JUAN, INC., a
California Corporation; and Does 1 through
50, Inclusive,

Defendants.

CASE NO.: CIVSB2132685

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: June 25, 2024
Hearing Time: 8:30 a.m.

Judge: Hon. Jessica Morgan
Dept: 26

Date Filed: November 24, 2021
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Anthony Gutierrez (“Plaintiff”) for an order finally
2 approving the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendants
3 Options For Youth-Victor Valley, Inc., Options For Youth-Acton, Inc., Options for Youth-
4 California, Inc., Options for Youth-Duarte, Inc., Options for Youth-San Bernardino, Inc., Options
5 for Youth-San Gabriel, Inc., and Options for Youth-San Juan, Inc. (“Defendants”), attorneys’ fees
6 and costs, service payment, and the expenses of the Administrator duly came on for hearing on June
7 25, 2024 before the Honorable Jessica Morgan.

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9 **I.**
10 **FINDINGS**

11 Based on the oral and written argument and evidence presented in connection with the
12 motion, the Court makes the following findings:

- 13 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 14 2. This Court has jurisdiction over the subject matter of this litigation pending before
15 the Superior Court for the State of California, in and for the County of San Bernardino, and over all
16 Parties to this litigation, including the Class.
- 17 3. Based on a review of the papers submitted by Plaintiff and a review of the applicable
18 law, the Court finds that the Gross Settlement Amount of Seven Hundred Fifty Thousand Dollars
19 (\$750,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 20 4. The Court further finds that the Settlement was the result of arm’s length negotiations
21 conducted after Class Counsel had adequately investigated the claims and became familiar with the
22 strengths and weaknesses of those claims. In particular, the amount of the Settlement, and the
23 assistance of an experienced mediator in the settlement process, among other factors, support the
24 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

25 **Preliminary Approval of the Settlement**

- 26 5. On January 18, 2024, the Court granted preliminary approval of the Settlement. At
27 the same time, the Court approved conditional certification of the Class for settlement purposes

1 only. Also at this time, the Court dismissed Defendants Options for Youth-Burbank, Inc. and
2 Options for Youth-Upland, Inc. without prejudice.

3 **Notice to the Class**

4 6. In compliance with the Preliminary Approval Order, the Court-approved Class
5 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
6 about March 15, 2024. Mailing of the Class Notice to their last-known addresses was the best
7 notice practicable under the circumstances and was reasonably calculated to communicate actual
8 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
9 Members fully and accurately informed the Class Members of all material elements of the proposed
10 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
11 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
12 laws of the State of California, the United States Constitution, due process and other applicable law.
13 The Class Notice fairly and adequately described the Settlement and provided Class Members
14 adequate instructions and a variety of means to obtain additional information.

15 7. The Response Deadline for opting out or submitting written objections to the
16 Settlement was May 14, 2024, which for re-mailings was extended by fourteen (14) days. There
17 was an adequate interval between notice and the deadline to permit Class Members to choose what
18 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
19 Members to participate in this hearing, and all Class Members and other persons wishing to be heard
20 have had a full and fair opportunity to be heard. Class Members also have had a full and fair
21 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court
22 determines that all Class Members who did not timely and properly submit a request for exclusion
23 are bound by the Settlement and this Final Approval Order and Judgment.

24 **Fairness of the Settlement**

25 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.* 48
26 Cal.App.4th 1794, 1801 (1996).

27 a. The settlement was reached through arm's-length bargaining between the
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1 Parties during an all-day mediation before Hon. Carl. J. West (Ret.), a respected jurist and
2 experienced mediator of wage and hour class actions. There has been no collusion between the
3 Parties in reaching the Settlement.

4 b. Plaintiff and his counsel's investigation and discovery have been sufficient to
5 allow the Court and counsel to act intelligently.

6 c. Counsel for all Parties are experienced in similar employment class action
7 litigation. Plaintiffs' counsel recommended approval of the Agreement.

8 d. The percentage of objectors and requests for exclusion is small. No
9 objections were received. One (1) request for exclusion was received.

10 e. The participation rate was high. 1,062 Class Members will be mailed a
11 settlement payment, representing 99.91% of the overall Class.

12 9. The consideration to be given to the Class Members under the terms of the
13 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
14 asserted in this action and is fair, reasonable, and adequate compensation for the release of Class
15 Members' claims, given the uncertainties and significant risks of the litigation and the delays which
16 would ensue from continued prosecution of the action.

17 10. The Agreement is approved as fair, adequate, and reasonable and in the best interests
18 of the Class Members.

19 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

20 11. An award of \$250,000 for attorneys' fees, representing one-third of the Gross
21 Settlement Amount, and \$17,430.30 for litigation costs and expenses, is reasonable, in light of the
22 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
23 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
24 and billing statement.

25 **Class Representative Service Payment**

26 12. The Agreement provides for a Class Representative Service Payment of not more
27 than \$10,000 to Plaintiff, subject to the Court's approval. The Court finds that a Class
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1 Representative Service Payment in the amount of \$10,000 to Plaintiff is reasonable in light of the
2 risks and burdens undertaken by Plaintiff in this litigation, for his time and effort in bringing and
3 prosecuting this matter on behalf of the Class, and for his execution of a general release.

4 **Administration Expenses Payment**

5 13. The Administrator shall calculate and administer the payment to be made to the Class
6 Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the Class
7 Representative Service Payment to Plaintiff, issue all required tax reporting forms, calculate
8 withholdings and perform the other remaining duties set forth in the Agreement. The Administrator
9 has documented \$20,000 in fees and expenses, and this amount is reasonable considering the work
10 performed by the Administrator.

11 **PAGA Penalties**

12 14. The Agreement provides for PAGA Penalties of \$50,000 out of the Gross
13 Settlement Amount, \$37,500 of which shall be allocated to the Labor & Workforce Development
14 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
15 Agreement pursuant to the PAGA and \$12,500 to be distributed to the Aggrieved Employees and
16 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
17 (\$12,500) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees
18 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's number of
19 PAGA Pay Periods worked. "Aggrieved Employees" are all individuals who were employed by
20 Defendants in California and who were classified as a non-exempt employee at any time during the
21 PAGA Period (September 23, 2020, through July 7, 2023). Pursuant to Labor Code section 2699,
22 subdivision (l)(2), the LWDA was provided notice of the Agreement and these settlement terms and
23 has not indicated any objection thereto. The Court finds the PAGA Penalties to be reasonable.

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25 **II.**

26 **ORDERS**

27 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:
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1 15. The Class is certified for the purposes of settlement only. The Class is defined as
2 follows:

3 All individuals who were employed by Defendants in California and who were
4 classified as a non-exempt employee at any time during the Class Period (September
23, 2020 through July 7, 2023).

5 16. All persons who meet the foregoing definition are members of the Class, except for
6 those individuals who filed a valid request for exclusion (“opt out”) from the Class. The one
7 individual who requested exclusion is Christopher Torres.

8 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
9 best interest of the Class. Defendants shall fully fund the Gross Settlement Amount, and also fund
10 the amounts necessary to fully pay Defendants’ share of payroll taxes in accordance with the
11 Agreement, by transmitting the funds to the Administrator no later than 15 days after the Effective
12 Date.

13 18. Class Counsel are awarded attorneys’ fees in the amount of \$250,000 and costs in the
14 amount of \$17,430.30. Class Counsel shall not seek or obtain any other compensation or
15 reimbursement from Defendants, Plaintiff or members of the Class.

16 19. The payment of Class Representative Service Payment in the amount of \$10,000 to
17 Plaintiff is approved.

18 20. The payment of \$20,000 to the Administrator for its fees and expenses is approved.

19 21. The PAGA Penalties of \$50,000 is approved and is to be distributed in accordance
20 with the Agreement.

21 22. Pursuant to Labor Code section 2699, subdivision (l)(2), Class Counsel shall submit a
22 copy of this Final Approval Order and Judgment to the LWDA within 10 days after its entry.

23 23. Neither the Agreement nor this Settlement is an admission by Defendants, nor is this
24 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
25 wrongdoing by Defendants or that this Action is appropriate for class or representative treatment
26 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
27 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is,
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1 may be construed as, or may be used as an admission by or against Defendants of any fault,
2 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
3 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
4 evidence of, an admission, or concession with regard to the denials or defenses by Defendants.
5 Notwithstanding these restrictions, Defendants may file in the Action or in any other proceeding this
6 Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the
7 Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,
8 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
9 Claims and/or Released PAGA Claims.

10 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
11 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
12 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
13 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment to
14 individual Class Members.

15 25. If the Agreement does not become final and effective in accordance with the terms of
16 the Agreement, then this Final Approval Order and Judgment, and all orders entered in connection
17 herewith, shall be rendered null and void and shall be vacated, and the Parties shall revert to their
18 respective positions as of before entering into the Agreement, and expressly reserve their respective
19 rights regarding the prosecution and defense of this Action, including all available defenses and
20 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
21 action and/or managed as a representative action.

22 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

23 26. Except as set forth in the Agreement and this Final Approval Order and Judgment,
24 Plaintiff, and all members of the Class, shall take nothing in the Action.

25 27. All Parties shall bear their own attorneys' fees and costs, except as otherwise
26 provided in the Agreement and in this Final Approval Order and Judgment.

1 28. Effective on the date when Defendants fully fund the Gross Settlement Amount,
2 Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA will release claims
3 against all Released Parties as follows:

4 (a) All Participating Class Members, on behalf of themselves and their respective
5 former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
6 release Released Parties from the Released Class Claims. All Participating Class Members are
7 deemed to forever and completely release and discharge and covenant not to sue, on behalf of
8 themselves and their respective former and present representatives, agents, attorneys, spouses,
9 domestic partners, children, marital community, estates, heirs, trusts, administrators, successors, and
10 assigns, the Released Parties from the Released Class Claims. The “Released Class Claims”
11 include, without limitation, any and all claims, demands, rights, liabilities, and causes of action that
12 were or could have been pleaded under local, state or federal law based on the facts alleged, or
13 reasonably could have been alleged based on the facts alleged, in the Operative Complaint against
14 Defendants and the Released Parties arising during the Class Period, including claims for (1) failure
15 to pay minimum/regular wages; (2) failure to pay overtime wages; (3) failure to comply with meal
16 break laws; (4) failure to comply with rest break laws; (5) failure to reimburse expenses; (6) failure
17 to provide accurate wage statements; (7) failure to pay wages timely; (8) failure to provide and
18 maintain records; (9) failure to pay sick pay; and (10) violation of the Business and Professions
19 Code Section 17200.

20 (b) All Aggrieved Employees (whether a Participating Class Member or a Non-
21 Participating Class Member), including Plaintiff, standing in the shoes of the Labor
22 Commissioner/LWDA to the extent permitted by law, and on behalf of the State of California and
23 all Aggrieved Employees, are deemed to forever and completely release and discharge and covenant
24 not to sue, on behalf of themselves and their respective former and present representatives, agents,
25 attorneys, spouses, domestic partners, children, marital community, estates, heirs, trusts,
26 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The
27 “Released PAGA Claims” means any and all claims, demands, rights, liabilities, and causes of
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1 action for civil penalties that were or could have been pleaded under local, state or federal law,
2 based on the facts alleged, or reasonably could have been alleged based on the facts alleged, in the
3 Plaintiff's PAGA Notice and the Operative Complaint against Defendants and the Released Parties
4 arising during the PAGA Period, including all claims for civil penalties arising under California
5 Labor Code Sections 201, 202, 203, 204 et seq., 210, 221, 226, 226.7, 227.3, 246, 351, 510, 512,
6 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
7 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure
8 to Provide Seating), and Violation of the applicable Industrial Welfare Commission Wage Order(s).

9 (c) Plaintiff for himself and for his respective spouses, domestic partners, marital
10 community, children, estates, heirs, trusts, successors, beneficiaries, devisees, legatees, executors,
11 administrators, trustees, conservators, guardians, personal representatives, and assignees does
12 forever and completely release and discharge and covenant not to sue the Released Parties with
13 respect to any and all claims, demands, liens, agreements, contracts, grievances, covenants, actions,
14 suits, causes of action, wages, obligations, debts, liquidated damages, penalties, interest, costs,
15 expenses, attorneys' fees, damages, judgments, orders and liabilities of whatever kind or nature in
16 law, equity or otherwise, whether now known or unknown, suspected or unsuspected, concealed or
17 hidden, which Plaintiff now owns or holds or has at any time heretofore owned or held as against
18 said Released Parties, or any of them, as fully set forth in the Agreement.

19 29. For any Class Member or Aggrieved Employee whose Individual Class Payment
20 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the
21 Administrator shall transmit the funds represented by such checks to the California Controller's
22 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
23 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

24 30. The Court hereby enters judgment in the entire Action as of the filing date of this
25 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the finality
26 of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction over the
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interpretation, implementation, and enforcement of the Settlement and all orders entered in connection therewith pursuant to California Code of Civil Procedure section 664.6.

LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.

Dated: _____

HON. JESSICA MORGAN
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA