

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Jacquelyne VanEmmerik (SBN 339338)
MOON LAW GROUP, P.C.
1055 West Seventh Street, Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: jvanemmerik@moonlawgroup.com

Attorneys for Plaintiff, Mark Judge

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

APR 25 2024

BY: 
Ashley Cassel, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

MARK JUDGE, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

TOSCA SERVICES, LLC; and DOES 1
through 10, inclusive,

Defendants.

Case No.: CIVSB2135155

[Honorable Jessica Morgan, Department S26]

**AMENDED ~~PROPOSED~~ ORDER AND
JUDGMENT GRANTING PLAINTIFF
MARK JUDGE'S MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

FINAL APPROVAL HEARING

Date: April 25, 2024

Time: 8:30 a.m.

Department: S26

Complaint Filed: December 27, 2021

Trial Date: Not Set

1 The Court issued an Order Granting Plaintiff Mark Judge's Motion for Preliminary Approval
2 of Class and Representative Action Settlement on December 18, 2024. Plaintiff Mark Judge
3 ("Plaintiff") now seeks an Order and Judgment Granting Final Approval of the same Stipulation of
4 Class and Representative Action Settlement ("Settlement") between Plaintiff and Defendant Tosca
5 Services, LLC ("Defendant"), attached to the Declaration of Kane Moon in Support of Plaintiff's
6 Motion for Final Approval of Class and Representative Action Settlement as **Exhibit 2**.

7 The Court, having considered Plaintiff's Notice of Motion and Motion for Final Approval of
8 Class and Representative Action Settlement ("Motion"), the supporting Declarations and Exhibits
9 therein, the records and files in this Action, and the absence of any written objections or requests for
10 exclusion from the Settlement; and good cause appearing, **HEREBY ORDERS, ADJUDGES, AND**
11 **DECREEES AS FOLLOWS:**

12 The Court, for purposes of this Final Order and Judgment, refers to all defined terms as set
13 forth in the Settlement.

14 The Court has jurisdiction over all claims asserted in the Action, Plaintiff, all Participating
15 Class Members, all PAGA Members, and Defendant.

16 The Settlement appears to have been made and entered into in good faith and is hereby
17 approved, subject to any limitations on the requested fees and payments as set forth below.

18 For purposes of effectuating the Settlement, the following Class is hereby certified: all current
19 and former hourly non-exempt employees who worked for Defendant in California as an hourly, non-
20 exempt employee at any time from December 27, 2017, to June 18, 2023. *Settlement*, ¶¶ 3.7, 3.9.

21 No Class Members have objected to the terms of the Settlement, and no Class Members have
22 requested exclusion from the Settlement. *Declaration of Mary Butler*, ¶¶ 11, 12.

23 Plaintiff, all Participating Class Members, and all PAGA Members shall have, by operation of
24 this Final Order and Judgment, fully, finally and forever released, relinquished, and discharged all
25 Released Parties from all Released Claims and Released PAGA Claims upon Defendant's payment
26 of all sums due pursuant to the Settlement, and except as to such rights or claims as may be created
27 by the Settlement, as stated in the Settlement and reproduced here:
28

- 1 1. **Released Parties** means (1) Defendant; (2) Defendant's respective past, present and
2 future parent corporations, affiliates, affiliates' companies, subsidiaries, divisions,
3 d/b/a's, predecessors, insurers, successors, franchisees, franchisors, assigns, principals,
4 heirs, their current and former employees, accountants, auditors, attorneys, consultants,
5 officers, managers, members, partners, directors, shareholders, agents, both
6 individually and in their business capacities of any of the following: and (3) any
7 individual or entity which could be jointly liable with any of the foregoing for any of
8 the Released Claims and the Released PAGA Claim. *Settlement*, ¶ 3.44.
- 9 2. **Released Claims** means any and all claims, debts, liabilities, demands, obligations,
10 guarantees, costs, expenses, attorneys' fees, damages, or causes of action contingent or
11 accrued for, that are pleaded, or that could have been pleaded, based on the facts and
12 claims alleged in the Action, which include the First through Eighth Causes of Action
13 alleged in the operative complaint in the Action (and corresponding requests for relief),
14 namely (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and
15 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 510, 1194 and
16 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure
17 to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to
18 Indemnify Necessary Business Expenses (Cal. Lab. Code § 2802); (6) Failure to
19 Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (7) Failure to
20 Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8) Unfair
21 Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) and all other claims,
22 rights, demands, liabilities and causes of action that may have been alleged based on
23 the facts alleged in the operative complaint in the Action. *Settlement*, ¶ 3.42.
- 24 3. **Released PAGA Claims** means any and all claims, debts, liabilities, demands,
25 obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action
26 contingent or accrued for, that are pleaded, or that could have been pleaded, based on
27 the facts and claims alleged in the Action, which include the First through Eighth
28 Causes of Action alleged in the operative complaint in the Action (and corresponding

requests for relief) under the California Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698, *et seq.*) alleged in Plaintiff's December 19, 2021 PAGA notice to the LWDA and Defendant in LWDA Case No. LWDA-CM-858342-21, or any subsequent amendment thereto, and as alleged and reasonably could have been alleged based on the facts asserted in the operative complaint in the Action including for violations of the California Labor Code and California Industrial Welfare Commission Wage Orders. *Settlement*, ¶ 3.43.

4. **Plaintiff's Further Released Claims** means the claims and causes of action that Plaintiff, individually, and in addition to Plaintiff's release of the Released Claims, expressly and further releases against the Released Parties including by waiver of all rights, protections, and benefits under California Civil Code section 1542, which includes claims related to Plaintiff's employment with Defendant, claims alleged in the Action, and all claims known and unknown that may have existed at the time the Plaintiff signs this Settlement Agreement except as may be prohibited by law such as claims for unemployment insurance, disability insurance, social security benefits, workers' compensation claims, and any claims or causes of action arising out of any event or controversy occurring after the time Plaintiff signs this Settlement Agreement and for any obligation arising out of this Settlement Agreement. *Settlement*, ¶ 3.40.
5. **Effective Date** means the later of the following dates: (i) sixty-five (65) days after the Court enters Final Judgment and no appeal, writ or other challenge to the finality of the judgment has been filed; or (ii) five (5) days after the day when all appeals, writs or other challenges to the Final Judgment have been resolved in a manner that affirms the finality of the judgment and the time for the filing of any further appeals, writs or other challenges has lapsed. *Settlement*, ¶ 3.14.
6. **Funding of Gross Settlement Amount.** No later than thirty-five (35) days after the Effective Date, Defendant shall remit the Gross Settlement Amount in its entirety to the Settlement Administrator via secure wire transfer or by other secure means. *Settlement*, ¶ 39.1.

1 7. **Transfer of Void Individual Settlement and Individual PAGA Payments.** No later
2 than fourteen (14) days after Individual Settlement Payment and Individual PAGA
3 Payment checks become void, the Settlement Administrator shall transfer all amounts
4 associated with the voided checks to the California Controller's Unclaimed Property
5 Fund in the name of the affected Participating Class Members or PAGA Members
6 thereby leaving no "unpaid residue" subject to the requirements of California Code of
7 Civil Procedure section 384(b). *Settlement*, ¶¶ 3.48, 41.2.

8 The Gross Settlement Amount and methodology used to calculate and pay the Individual
9 Settlement Payments and Individual PAGA Payments are fair and reasonable. The Settlement
10 Administrator is authorized to pay the Individual Settlement Payments and Individual PAGA
11 Payments to the Participating Class Members and PAGA Members in accordance with the terms of the
12 Settlement.

13 Defendant shall pay a total of \$1,100,000.00 to resolve the Action. *Settlement*, ¶ 3.20.
14 Defendant will remit the Gross Settlement Amount and the amounts necessary to fully pay its share
15 of payroll taxes to the Administrator no later than thirty-five (35) days after the Effective Date.
16 *Settlement*, ¶ 39.1. No later than seven (7) days after receiving the Gross Settlement Amount in full,
17 the Settlement Administrator shall distribute all payments from the Settlement fund. *Settlement*, ¶ 40.

18 From the Gross Settlement Amount, a PAGA Payment of \$100,000.00 shall be paid to the
19 California Labor and Workforce Development Agency ("LWDA") and PAGA Members. The LWDA
20 shall receive 75% of the PAGA Payment, or \$75,000.00, and the PAGA Members shall receive 25%
21 of the PAGA Payment, or \$25,000.00, pursuant to the California Private Attorneys General Act of
22 2004, *Labor Code* sections 2698, *et. seq.* *Settlement*, ¶ 3.32.

23 From the Gross Settlement Amount, a Class Representative Service Award in the amount of
24 \$7,500.00 shall be paid to Plaintiff Mark Judge for his service to the Class and general release of
25 claims. *Settlement*, ¶ 14.3. Mark Judge is hereby confirmed as Class Representative.

26 From the Gross Settlement Amount, Settlement Administration Costs in the amount of
27 \$11,000.00 shall be paid to the designated Settlement Administrator, Simpluris, Inc. *Settlement*, ¶¶
28 3.46, 3.47; *Declaration of Mary Butler*, ¶ 14.

1 From the Gross Settlement Amount, a Class Counsel Fee Award equal to one-third of the
2 Gross Settlement Amount, or in the amount of \$366,666.67, and Class Counsel Cost Award in the
3 amount of \$18,851.75 shall be paid to Class Counsel for their reasonable fees and actual costs
4 incurred in furtherance of the Action. *Settlement*, ¶¶ 3.4, 3.5; *Moon Decl.*, Exh. 4. The fees and costs
5 shall be distributed to Class Counsel as set forth in the Settlement. The Court finds that the fees are
6 reasonable in light of the benefit provided to the Class. Moon Law Group, P.C. is hereby confirmed
7 as Class Counsel. The Parties shall bear their own respective attorneys' fees and costs, except as
8 provided for in the Settlement and approved by the Court.

9 The Notice provided to the Class conformed with the requirements of California Rules of
10 Court rules 3.766 and 3.769, and constituted the best notice practicable under the circumstances,
11 providing individual notice to all Class Members who could be identified through reasonable effort
12 and due and adequate notice of the proceedings and matters set forth therein to the Class Members.
13 The Notice fully satisfies the requirements of Due Process.

14 The Parties are ordered to have notice of this Final Order and Judgment sent to all
15 Participating Class Members and PAGA Members in accordance with California Rules of Court
16 section 3.771(b), along with the Individual Settlement Payments and Individual PAGA Payments
17 issued via First Class U.S. Mail to their last known addresses and to the LWDA, pursuant to Labor
18 Code section 2699(1). *Settlement*, ¶¶ 40.6, 40.7.

19 The Court shall retain jurisdiction with respect to all matters related to the administration and
20 consummation of the Settlement and any and all claims asserted in, arising out of, or related to the
21 subject matter of the Action, including, but not limited to, all matters related to the Settlement and the
22 determination of all controversies relating thereto. *Settlement*, ¶ 45.

23 This Judgment is intended to be a final disposition of the Action in its entirety and is intended
24 to be immediately appealable.

25 Plaintiff's Motion is hereby granted, and the Court directs that Judgment shall be entered in
26 accordance with the terms of this Order.

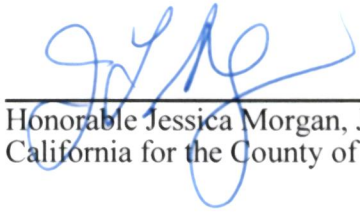
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1 The Court sets a ~~Non Appearance~~ Hearing (Case Review) Re: Distribution on
2 Apri 25, 2025 at 8:30 in Department S26. Class Counsel is ordered to file a final
3 report and declaration regarding distribution no later than 10 days prior directly in S26.

4 **IT IS SO ORDERED.**

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6 DATE: 4/25/24


Honorable Jessica Morgan, Judge of the Superior Court of
California for the County of San Bernardino

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1055 West Seventh Street, Suite 1880, Los Angeles, California 90017. On **April 23, 2024**, I served the foregoing document described as:

[PROPOSED] ORDER AND JUDGMENT GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

X by placing ____ the original X a true copy thereof enclosed in sealed envelope(s) addressed as follows:

☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via e-mail. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this, **April 23, 2024** at Los Angeles, California.

Type or Print Name

Signature