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Superior Court of California,
County of San Diego
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FILED
San Diego Superior Court

JAN 20 2023

Clerk of the Superior Court
By: H. Chavarin, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO**

11 REY JESUS SANCHEZ, individually, and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 CLAUSS CONSTRUCTION, a California
16 corporation; and DOES 1 through 10, inclusive,

17 Defendants.

Case No.: 37-2020-00035576-CU

CLASS & REPRESENTATIVE ACTION

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

Date: January 20, 2023
Time: 10:30 AM
Courtroom: C-64
Judge: Hon. John S. Meyer

Complaint Filed: October 5, 2020
Trial Date: Not Yet Set

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

2 Plaintiff REY JESUS GONZALEZ ("Plaintiff") and Defendant CLAUSS CONSTRUCTION
3 ("Defendant") have reached terms of settlement for a putative class action and PAGA case.

4 Plaintiff has filed a Motion for Final Approval of a Class Action and PAGA Settlement of the
5 claims asserted against Defendant in this action, memorialized in the STIPULATION OF SETTLEMENT
6 OF CLASS ACTION AND PAGA CLAIMS AND RELEASE OF CLAIMS; (see Declaration of Kane
7 Moon In Support of Plaintiff's Motion for Final Approval of Class Action Settlement ["Moon Decl."], at
8 Exh. 1). STIPULATION OF SETTLEMENT OF CLASS ACTION AND PAGA CLAIMS AND
9 RELEASE OF CLAIMS is ("Settlement" or "Agreement").

10 After reviewing the Agreement, the completion of the Notice process, and other related documents,
11 and having heard the argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS**
12 **FOLLOWS:**

13 1. The Court finds that the terms of the proposed class action Settlement are fair, reasonable,
14 and adequate, pursuant to California Code of Civil Procedure Section 382. In granting preliminary
15 approval of the class action settlement, the Court has considered the factors identified in *Dunk v. Ford*
16 *Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
17 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006).

18 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
19 non-collusive arms-length negotiations. The Court further finds that the parties have conducted thorough
20 investigation and research, and the attorneys for the parties are able to reasonably evaluate their respective
21 positions. The Court also finds that settlement at this time will avoid additional substantial costs, as well
22 as avoid the delay and risks that would be presented by the further prosecution of the action. The Court
23 finds that the risks of further prosecution are substantial.

24 3. The parties' Settlement is granted preliminary approval as it meets the criteria for
25 preliminary settlement approval. The Settlement falls within the range of reasonableness and appears to
26 be presumptively valid, subject only to any objections that may be raised at the final fairness hearing. The
27 Settlement Class meets the requirements for conditional certification for settlement purposes only under
28 Code of Civil Procedure § 382, and this case is manageable as a PAGA action. The Court finds that it is

appropriate to notify the members of the proposed settlement Class and the Aggrieved Employees of the terms of the proposed settlement.

4. The parties' proposed notice plan is constitutionally sound because individual notices will be mailed to all Class Members and Aggrieved Employees whose identities are known to the parties, and such notice is the best notice practicable. The parties' proposed Class Action and PAGA Settlement Notice (the "Notice"), attached to the Settlement as Exhibit B, is sufficient to inform Class Members and Aggrieved Employees of the terms of the Settlement and their rights under the settlement, and the Class Members' rights to object to the Settlement and receive a payment under the settlement or elect not to participate in the settlement, and the processes for doing so, and the date and location of the final approval hearing, and are therefore approved.

5. The following persons are certified as Class Members solely for the purpose of entering a settlement in this matter:

All current and former hourly nonexempt persons employed by Defendant in the State of California between October 5, 2016, through March 21, 2022. (Settlement, ¶ A(10 and (45))).

6. The Aggrieved Employees are:

All current and former employees of Defendant who worked in California at any time from October 5, ~~2020~~ ²⁰¹⁹, through March 21, 2022.. (Settlement, ¶ A(3)).

7. Plaintiff Rey Jesus Gonzalez is appointed the Class Representative and representative of the Aggrieved Employees. The Court finds Plaintiff's counsel are adequate, as they are experienced in wage and hour class action litigation and have no conflicts of interest with absent Settlement Class Members and Aggrieved Employees, and that they adequately represented the interests of absent class members in the Litigation. Kane Moon and Lilit Ter-Astvatsatryan of Moon & Yang, APC, are appointed Class Counsel.

8. The Court appoints ILYM Group, Inc. to act as the Settlement Administrator, pursuant to the terms set forth in the Agreement.

9. No Class Member requested exclusion from the Class. All Class Members are bound by the Final Approval Order and associated Judgment in the Action. All Class Members are Settlement Class Members.

1 10. Upon entry of this Final Approval Order and the associated Judgment, funding of the
2 Settlement and compensation to the Class Members shall be implemented pursuant to the terms of the
3 Settlement.

4 11. In addition to any recovery that the Plaintiff may receive under the Settlement as a Class
5 Member, and in recognition of the Plaintiff's efforts on behalf of the Class, the Court hereby approves the
6 payment of an enhancement award to Plaintiff in the amount of \$10,000.00.

7 12. The Court approves the payment of attorneys' fees to Class Counsel Moon & Yang, APC,
8 in the amount of \$216,666.66.

9 13. Litigation expenses are approved by the Court in the following amount: \$13,810.35 is
10 awarded to Moon & Yang, APC.

11 14. The Court approves and orders payment in the amount of \$12,050.00 to ILYM Group,
12 Inc. for performance of its services as the Settlement Administrator, as set forth in the Class Notice.

13 15. Upon completion of administration of the Settlement, the Parties shall file a declaration
14 stating that all amounts payable under the Settlement have been paid and that the terms of the Settlement
15 have been completed. In the event that any un-cashed or abandoned checks must be distributed to the
16 unclaimed funds to the State's Controller's Unclaimed Property Funds in the name of the Class Member,
17 The Settlement Administrator will cancel the tax documents associated with those un-cashed or abandoned
18 checks, and the Parties will submit to the Court a revised Judgment that states the final disposition of all
19 amounts under this Settlement, including the aggregate amount of all uncashed checks and any accrued
20 interest, in compliance with California Code of Civil Procedure § 384.

21 16. The Court sets a non-appearance case review hearing regarding compliance with all fund
22 distribution requirements under the Settlement _____ at _____ a.m., in Department
23 C-64 of the above-entitled Court. A declaration from the Settlement Administrator regarding compliance
24 shall be filed with the Court no later than five days before the non-appearance case review. No
25 appearance by the parties is required at the Order to Show Cause hearing if the Settlement Administrator's
26 declaration is timely filed and the Settlement Administrator reports that all of the distributions under the
27 Settlement are complete and, if needed, an Amended Judgment is submitted to address distribution of
28 any unclaimed funds in compliance with California Code of Civil Procedure § 384.

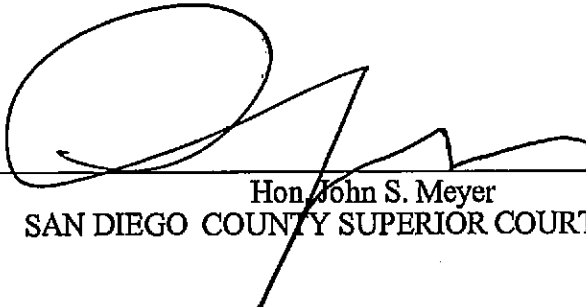
1 17. The Court approves and orders payment in the amount of \$37,500.00 to the Labor and
2 Workforce Development Agency in compromise of claims under the Labor Code Private Attorneys
3 General Act of 2004 (Labor Code § 2698 *et seq.*).

4 18. Once Defendant fully funds the Settlement by paying the Gross Settlement Amount and
5 the employer share of payroll taxes, Plaintiff and the Class Members shall have, by operation of this Final
6 Approval Order and Judgment, fully, finally, and forever released, relinquished, and discharged
7 Defendant from the released claims described in the Settlement.

8 19. In accordance with California Rule of Court 3.771(b), the parties are ordered to give notice
9 of this final Order and the Judgment to all Class Members by posting the Order and the Judgment for 90
10 calendar days on the Settlement Administrator's website.

11
12 **IT IS SO ORDERED.**

13
14 Dated: 1-20-23



Hon. John S. Meyer
SAN DIEGO COUNTY SUPERIOR COURT JUDGE