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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

JVONN GONZALEZ, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiffs,

v.

THE TORO COMPANY, a Delaware
Corporation; and DOES 1-50, Inclusive,

Defendant(s).

Case No. 37-2022-00042665-CO-OE-CTL

ASSIGNED FOR ALL PURPOSES TO:
Hon. Matthew C. Braner

~~PROPOSED~~ ORDER

Date: November 3, 2023
Time: 9:00 a.m.

Department: C-60
Complaint filed: October 24, 2022
Trial Date: None Set

This matter having come before the Honorable Judge Matthew C. Braner of the Superior Court of the State of California, in and for the County of San Diego, at 9:00 a.m. on November 3, 2023, with Nicole Barvie, Esq., of Barvie Law, APC as counsel for Plaintiff JVONN GONZALEZ ("Plaintiff"), and Pablo Orozco, Esq. of Nilan Johnson appearing for Defendant THE TORO COMPANY (hereinafter "Defendant"). The Court, having carefully considered the briefs, argument of counsel and all the matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Unopposed Motion for Preliminary Approval of Class Action and PAGA Settlement.

IT IS HEREBY ORDERED:

1
2 1. The Court preliminarily approves the Class Action Settlement Agreement ("Agreement")
3 attached as Exhibit 1 to the Declaration of Nicole Barvié in Support of Plaintiff's Motion for Preliminary
4 Approval of Class Action Settlement. This is based on the Court's determination that the Settlement set
5 forth in the Agreement is within the range of possible final approval, pursuant to the provisions of Section
6 382 of the California Code of Civil Procedure and California Rules of Court, Rule 3.769.

7 2. This Order incorporates by reference the definitions in the Agreement, and all terms
8 defined therein shall have the same meaning in this Order as set forth in the Agreement.

9 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
10 Defendant shall pay is One Million Four Hundred Seventy-Five Thousand Dollars and Zero Cents
11 (\$1,475,000.00). It appears to the Court on a preliminary basis that the settlement amount and terms are
12 fair, adequate, and reasonable as to all Class Members when balanced against the probable outcome of
13 further litigation relating to certification, liability, and damages issues. It further appears that investigation
14 and research have been conducted such that counsel for the Parties are able to reasonably evaluate their
15 respective positions. It further appears to the Court that settlement at this time will avoid substantial
16 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further
17 prosecution of the litigation. It further appears that the Settlement has been reached as the result of
18 intensive, serious, and non-collusive arms-length negotiations.

19 4. The Court preliminarily finds that the Settlement appears to be within the range of
20 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has
21 reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that
22 the monetary settlement awards made available to the Settlement Class members are fair, adequate, and
23 reasonable when balanced against the probable outcome of further litigation relating to certification,
24 liability, and damages issues.

25 5. Plaintiff seeks an award of Attorneys' Fees and Costs in the amount of up-to one-third of
26 the Gross Settlement Amount for attorneys' fees, currently estimated at Four Hundred Ninety-One
27 Thousand Six Hundred Sixty-Six Dollars and sixty-six cents (\$491,666.66), an award of litigation
28 expenses incurred not to exceed Twenty Thousand Dollars (\$20,000.00), and proposed Class

1 Representative Enhancement to the Named Plaintiff, Jvonn Gonzalez, in an amount not to exceed Ten
2 Thousand Dollars (\$10,000.00). While these awards appear to be within the range of reasonableness, the
3 Court will not approve the Class Counsel Award or Class Representative Enhancement Payment until the
4 Final Approval Hearing.

5 6. The Court recognizes that Plaintiff and Defendant agreed to certification of a class for
6 settlement purposes only. This agreement will not be deemed admissible in this or any other proceeding
7 should this Settlement not become final. For settlement purposes only, the Court conditionally certifies
8 the following Class:

9 "All individuals who were employed by Defendant in California and classified as all non-
10 exempt employees who are or previously were employed by the Toro Company and who
11 performed work in California at any time during the period of October 24, 2018 through
12 September 27, 2023 (the "Class Period").

13 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
14 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is
15 ascertainable and so numerous that joinder of all members of the Settlement Class members is
16 impracticable; (b) common questions of law and fact predominate, and there is a well-defined community
17 of interest amongst the Settlement Class members with respect to the subject matter of the litigation; (c)
18 the claims of the Class Representative are typical of the claims of the Settlement Class members; (d) the
19 Class Representative will fairly and adequately protect the interests of the Settlement Class members; (e)
20 a class action is superior to other available methods for the efficient adjudication of this controversy; and
21 (f) Class Counsel are qualified to act as counsel for the Class Representative in his individual capacity
22 and as the representative of the Settlement Class members.

23 8. The Court provisionally appoints Plaintiff JVONN GONZEZ as the representative of the
24 Class.

25 9. The Court provisionally appoints Nicole Barvie, Esq., of Barvie Law, APC as Class
26 Counsel for the Settlement Class members.

27 10. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated
28 to wages shall be paid separately paid by Defendant or ~~paid from the Gross Settlement~~.

11. The Court hereby approves, as to form and content, the Notice of Proposed Settlement of

1 Class Action ("Class Notice") attached to the Agreement as **Exhibit "A"**. The Court finds that the notice
2 appears to fully and accurately inform the Settlement Class members and Aggrieved Employees of all
3 material elements of the proposed Settlement, including right of any Settlement Class members to be
4 excluded from the Class by submitting a written request for exclusion, and of each Settlement Class
5 member's right and opportunity to object to the Settlement. The Court further finds that the distribution
6 of the notice substantially in the manner and form set forth in the Agreement and this Order meets the
7 requirements of due process, is the most reasonable notice under the circumstances, and shall constitute
8 due and sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by
9 first class mail, pursuant to the terms set forth in the Agreement.

10 12. The Court hereby appoints APEX Class Action as Settlement Administrator. Within fifteen
11 (15) days of this order, Defendant shall provide, to the Settlement Administrator the Class Data, including
12 information regarding Settlement Class members that Defendant will in good faith compile from its
13 records, including each Settlement Class member's full name; last known mailing address; Social Security
14 Number; email address (if known and available to Defendant), the number of Class Period Workweeks
15 and the number of PAGA Pay Periods. Within fourteen (14) calendar days after receiving the Class Data
16 from Defendant, the Settlement Administrator shall mail the Class Notice to all identified, potential
17 Settlement Class members via first class U.S. Mail using the most current mailing address information
18 available.

19 13. The Court hereby preliminarily approves the proposed procedure for exclusion from the
20 Settlement. Any Settlement Class members may individually choose to opt out of and be excluded from
21 the Settlement as provided in the Notice by following the instructions for requesting exclusion from the
22 Settlement of the Released Claims that are set forth in the Notice. All requests for exclusion must be
23 postmarked or received by the Response Deadline which is forty-five (45) calendar days after the date the
24 Class Notice is mailed to the Class members or, in the case of a re-mailed Notice, not more than fourteen
25 (14) calendar days after the original Response Deadline. Every Class Member who submits a valid and
26 timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual
27 Class Payment or have the right to object to the class action components of the Settlement. Because future
28 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class

1 Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3
2 Section 6 of the Agreement and are eligible for an Individual PAGA Payment. Class members who have
3 not requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment.
4 A request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out
5 of a group, class, or subclass of individuals is not permitted and will be deemed invalid.

6 14. Any Settlement Class members who have not opted out may appear at the final approval
7 of the settlement hearing and may object or express the Settlement Class member's views regarding the
8 Settlement and may present evidence and file briefs or other papers that may be proper and relevant to the
9 issues to be heard and determined by the Court as provided in the Notice. Class members will have forty-
10 five (45) days from the date the Settlement Administrator mails the Class Notice to postmark their written
11 objections to the Settlement Administrator.

12 15. A final settlement approval hearing shall be held before this Court on Feb. 16 ^{AD.}
13 2024, at 9:00 a.m. in Department C-60 of the San Diego County Superior Court to determine all
14 necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on
15 the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be
16 finally approved by the Court; whether an Order Granting Final Approval should be entered herein;
17 whether the plan of allocation contained in the Agreement should be approved as fair, adequate and
18 reasonable to the Class; and to finally approve the Class Counsel Attorneys' Fees and Litigation Costs,
19 Enhancement Service Award to the Named Plaintiff, and the Claims Administrator Costs. All papers in
20 support of the motion for final approval and the motion for Attorneys' Fee and Costs and Enhancement
21 Service Award to Plaintiff, shall be filed with the Court and served on all counsel no later than sixteen
22 (16) court days before the hearing.

23 16. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall
24 be construed as a concession or admission by Defendant in any way, and shall not be used as evidence of,
25 or used against Defendant as, an admission or indication in any way, including with respect to any claim
26 of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation
27 asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any
28 exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts

1 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to
2 be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a
3 presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing,
4 omission, concession or damage.

5 17. In the event the Settlement does not become effective in accordance with the terms of the
6 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
7 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
8 shall revert to their respective positions as of before entering into the Agreement. In such an event, the
9 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or
10 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
11 Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

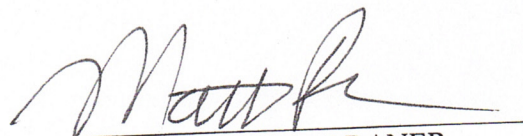
12 18. Pending final determination of whether the Settlement should be approved, Class
13 Representative and all Settlement Class members are barred and enjoined from filing, commencing,
14 prosecuting, intervening in, instigating or in any way participating in the commencement or prosecution
15 of any lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting
16 any claims that are, or relate in any way to, the Released Claims, unless and until they submit a timely
17 request for exclusion pursuant to the Agreement.

18 19. The Court reserves the right to adjourn or continue the date of the final settlement approval
19 hearing and all dates provided for in the Agreement without further notice to Settlement Class members
20 and retains jurisdiction to consider all further applications arising out of or connected with the proposed
21 Settlement.

22 20. The Action is stayed and all trial and related pre-trial dates are vacated, subject to further
23 orders of the Court at the Final Approval Hearing.

24 **IT IS SO ORDERED.**

25 Dated: 11/3/23



26 HON. MATTHEW C. BRANER
27 JUDGE OF THE SUPERIOR COURT
28