

FILED
ALAMEDA COUNTY

JUL 26 2023

CLERK OF THE SUPERIOR COURT
By  Deputy

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
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Attorneys for Plaintiff

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

SHAUN HARRIS, individually, and on behalf
of other members of the general public
similarly situated;

Plaintiff,

v.

MANCINI'S SLEEPWORLD, INC., a
California corporation; and DOES 1 through
100, inclusive;

Defendants.

Case No.: RG21114991

Assigned for All Purposes to:
Honorable Brad Seligman
Department 23

CLASS ACTION

**AMENDED ~~PROPOSED~~ ORDER OF
FINAL APPROVAL AND JUDGMENT**

[Reservation ID: A-21114991-001]

Hearing Date: July 25, 2023
Hearing Time: 3:00 p.m.
Hearing Place: Department 23

Complaint Filed: October 6, 2021
FAC Filed: October 25, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Shaun Harris' ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Class Action and PAGA Settlement Agreement ("Settlement
4 Agreement," "Settlement," or "Agreement"), hereby **FINDS AND ORDERS:**

5 Plaintiff and Defendant Mancini's Sleepworld, Inc. ("Defendant") entered the Settlement
6 Agreement on or about November 15, 2022 to settle this lawsuit.

7 The Court entered an order dated February 10, 2023 preliminarily approving the
8 settlement of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
9 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
10 Members, providing Class Members with an opportunity to object to the Settlement or exclude
11 themselves from the Class, and scheduling a Final Approval Hearing.

12 The Court held a Final Approval Hearing on July 25, 2023 to determine whether to give
13 final approval to the Settlement of this lawsuit.

14 1. Incorporation of Other Documents. This Amended Order of Final Approval and
15 Judgment ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise
16 provided herein, all capitalized terms in this Order and Judgment shall have the same meaning as
17 set forth in the Settlement Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
19 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
20 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
21 including jurisdiction to approve the Settlement and grants final certification of the Class.

22 3. Final Class Certification. The Court finds the Class satisfies all applicable
23 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
24 process. The Court certifies the Class consisting of all current and former non-exempt or
25 commissioned sales employees of Defendant within the State of California at any time during the
26 period from April 9, 2017 to November 30, 2022 ("Class," "Class Members," and "Class
27 Period"). There are four hundred eighty (480) Class Members who did not submit valid and
28 timely Requests for Exclusion from the Settlement ("Participating Class Members").

1 4. Adequacy of Representation. Class Counsel fully and adequately represented the
2 Class for the purposes of entering and implementing the Settlement and satisfied the
3 requirements of Code of Civil Procedure section 382.

4 5. Class Notice. The Court finds the Court Approved Notice of Class Action and
5 PAGA Settlement and Hearing Date for Final Court Approval ("Class Notice") and its
6 distribution to Class Members were implemented pursuant to the Settlement and this Court's
7 Preliminary Approval Order. The Court also finds the Class Notice:

8 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
9 pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and
10 their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to
11 exclude themselves from the Settlement Agreement; (v) their right to receive settlement
12 payments; (vi) their right to appear at the Final Approval Hearing; and (vii) binding effect of the
13 orders and judgment in this lawsuit on all Participating Class Members;

14 b. constitutes notice that fully satisfied the requirements of Code of Civil
15 Procedure section 382, California Rule of Court 3.769, and due process;

16 c. constitutes the best practicable notice to Class Members under the
17 circumstances of this lawsuit; and

18 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

19 6. Final Settlement Approval. The terms and provisions of the Settlement
20 Agreement have been entered into in good faith and are the product of arm's-length negotiations
21 by experienced counsel who have carried out a meaningful investigation of the claims. The
22 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
23 reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to
24 implement the Settlement Agreement according to its terms and provisions.

25 7. Binding Effect. The terms and provisions of the Settlement Agreement and this
26 Order and Judgment are binding on Plaintiff, Participating Class Members, Aggrieved
27 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
28 successors, and assigns. In addition, those terms shall have res judicata and other preclusive

1 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
2 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
3 that were or could have been raised in this lawsuit and are encompassed by the Released Class
4 Claims and Released Private Attorneys General Act of 2004 ("PAGA") Claims. The Settlement
5 Agreement will have no binding effect upon, and provide no res judicata preclusion to, those
6 Class Members who have submitted timely requests for exclusion.

7 8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
8 any action to enforce the terms and provisions of the Settlement Agreement.

9 9. Release by Participating Class Members. Effective on the date when Defendant
10 fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the
11 Wage Portion of the Individual Class Payments, all Participating Class Members, on behalf of
12 themselves and their respective former and present representatives, agents, attorneys, heirs,
13 administrators, successors, and assigns, release Released Parties from the Released Class Claims.

14 a. Release by Aggrieved Employees. Effective on the date when Defendant fully
15 funds the entire Gross Settlement Amount and funds all employer payroll taxes
16 owed on the Wage Portion of the Individual Class Payments, all Aggrieved
17 Employees are deemed to release, on behalf of themselves and their respective
18 former and present representatives, agents, attorneys, heirs, administrators,
19 successors, and assigns, the Released Parties from the Released PAGA Claims.

20 b. Plaintiff's Release. Effective on the date when Defendant fully funds the entire
21 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage
22 Portion of the Individual Class Payments, Plaintiff and his or her respective
23 former and present spouses, representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns generally release and discharge Released
25 Parties from Plaintiff's Release. Plaintiff expressly also waives and relinquishes
26 the provisions, rights, and benefits, if any, of section 1542 of the Civil Code.

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1 c. Released Parties. The Released Parties include Defendant and each of its former
2 and present directors, officers, shareholders, owners, members, attorneys,
3 insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

4 10. Class Representative Service Payment. The Court finds the Class Representative
5 Service Payment of \$10,000, to be paid by Defendant to Plaintiff out of the Gross Settlement
6 Amount, to be reasonable and appropriate. The Class Representative Service Payment is to be
7 paid pursuant to the terms and provisions set forth in the Agreement.

8 a. The rationale for making enhancement payments is class representatives should
9 be compensated for the expense and risk they incurred in conferring a benefit on
10 the Class. Criteria courts consider include: (1) risk to the class representatives in
11 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
12 effort spent by the class representatives; (4) duration of the litigation; and (5)
13 personal benefit (or lack thereof) enjoyed by class representatives.

14 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
15 risks inherent in the services as the class representative, duration of the case and
16 time involved, and benefits created for the Class, the Court approves the payment
17 of the Class Representative Service Payment of \$10,000 to Plaintiff.

18 11. Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.
19 The Court finds the Class Counsel Fees Payment of \$750,000, to be paid by Defendant to Class
20 Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. In addition, the
21 Court finds the Class Counsel Litigation Expenses Payment as reimbursement for actual
22 litigation costs incurred of \$20,558.37, to be paid by Defendant to Class Counsel out of the
23 Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid
24 pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not
25 be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
26 Class Counsel or any other counsel representing Plaintiff or Class Members. Defendant shall also
27 not be required to pay for any other attorneys' fees and expenses, costs, or disbursements
28 incurred by Plaintiff or Class Members in connection with or related in any manner to this

lawsuit, Settlement Agreement, settlement administration, and/or Released Class Claims and Released PAGA Claims.

a. The Court has an independent right and responsibility to review the Class Counsel Fees Payment and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The Class Counsel Fees Payment of \$750,000 is thirty percent (30%) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken, novel and difficult nature of this litigation, skills required, percentage fees award in previous and other cases, the lodestar-cross check, and contingent fees charged in the marketplace, the Court finds the Class Counsel Fees Payment is reasonable, and is approved.

b. The Court reviewed the declaration of Douglas Han regarding the costs expended in prosecuting this case. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$30,000 in litigation costs. The Court finds Class Counsel expended \$20,558.37 in litigation costs, and such costs were reasonable. Thus, the Court approves the payment of the Class Counsel Litigation Expenses Payment of \$20,558.37 from the common fund for the reimbursement of Class Counsel's litigation costs.

12. Administration Expenses Payment. The Court finds Administration Expenses Payment of \$12,000, to be paid by Defendant to the Administrator out of the Gross Settlement Amount, to be reasonable and appropriate. The Administration Expenses Payment are to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

a. The Court reviewed the declaration of Laura Singh from CPT Group, Inc., the Court-approved Administrator. The Court finds notice was provided to the Class pursuant to the Preliminary Approval Order, constitutes the best practicable notice to the Class, and satisfied due process. Thus, the Court approves the payment of

1 the Administration Expenses Payment of \$12,000 for the Administrator's services
2 in administering the Settlement.

3 13. PAGA Penalties. The Court finds the PAGA Penalties of \$250,000, seventy-five
4 percent (75%) of which (\$187,500) will be allocated to the California Labor and Workforce
5 Development Agency out of the Gross Settlement Amount and twenty-five percent (25%) of
6 which (\$62,500) will be allocated to Aggrieved Employees, on a pro rata basis, to be reasonable
7 and appropriate. The PAGA Penalties is to be paid pursuant to the terms and provisions set forth
8 in the Settlement Agreement.

9 14. Funding the Settlement. Defendant shall fully fund the Gross Settlement Amount
10 and the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the
11 funds to the Administrator no later than fourteen (14) days after the Effective Date. Within
12 fourteen (14) days after Defendant funds the Gross Settlement Amount, the Administrator will
13 mail all payments due under the Settlement.

14 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
15 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
16 Settlement was the product of arm's-length negotiations following extensive litigation,
17 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
18 Deborah C. Saxe, an experienced and well-respected mediator.

19 a. The fairness of the Settlement is demonstrated by there being no objections to and
20 no requests for exclusion from the Settlement.

21 b. The fairness of the Settlement is further illustrated by the gross *average*
22 Individual Class Payment being approximately \$3,036.34, and the gross *highest*
23 Individual Class Payment being about \$10,115.41.

24 16. Uncashed Checks. Participating Class Members and Aggrieved Employees must
25 cash or deposit their settlement checks within one hundred eighty (180) calendar days after the
26 settlement checks are mailed to them. Uncashed settlement checks will be transmitted to the *cy*
27 *pres* recipient California Rural Legal Assistance, Inc.

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1 17. Modification of Agreement. The Participating Class Members are authorized,
2 upon approval of the Court, to agree to and adopt amendments to or modifications of the
3 Agreement by an express written instrument signed by all Parties or their representatives and
4 approved by the court. Such amendments or modifications shall be consistent with this Order
5 and Judgment and cannot limit the rights of Participating Class Members under the Agreement.

6 18. Final Accounting and Compliance. The Court sets a Compliance Hearing for
7 March 12, 2024 at 3:00 p.m. in Department 23. Within five (5) court days before this hearing,
8 Plaintiff shall file a compliance status report. Pursuant to Code of Civil Procedure section 384,
9 the compliance status report shall specify the total amount paid to Class Members and the
10 residual of the unclaimed settlement funds that will be paid to the entity identified as the
11 recipient of such funds herein, along with a proposed amended judgment to facilitate this.

12 a. Holdback Provision. Ten percent (10%) of the Class Counsel Fees Payment
13 (\$75,000) shall be held in an interest-bearing account, maintained by the
14 Administrator, pending the submission and approval of a final compliance status
15 report after completion of the distribution process.

16 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
17 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
18 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
19 and for any other necessary purpose, including, without limitation:

20 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
21 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
22 arise out of the Settlement or this Order and Judgment;

23 b. entering such additional orders as may be necessary or appropriate to protect or
24 effectuate this Order and Judgment approving the Settlement, and permanently
25 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
26 fair and orderly administration of the Settlement; and

27 c. entering any other necessary or appropriate orders to protect and effectuate this
28 Court's retention of continuing jurisdiction.

1 The Motion for Final Approval of Class Action Settlement, Class Counsel Fees Payment,
2 Class Counsel Litigation Expenses Payment, and Class Representative Service Payment is
3 GRANTED. The Administrator is directed to carry out the terms of the Settlement forthwith.

4 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
5 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
6 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
7 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
8 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
9 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
10 THE JUDGMENT THEREON.

11 IT IS SO ORDERED.

12
13 DATED: 7/26/23



HONORABLE BRAD SELIGMAN
SUPERIOR COURT JUDGE

**PROOF OF SERVICE
1013A(3) CCP**

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 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On August 1, 2023, I served the foregoing document described as

AMENDED ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Harris v. Mancini's Sleepworld, Inc.**
LWDA/Court Case No.: **LWDA Case No.: LWDA-CM-907563-22**
Court Case No.: RG21114991
Alameda County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

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

Executed on August 1, 2023, at Pasadena, California.



Mariah Anderson