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DEPUTY

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individually and on behalf of similarly situated employees

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

RAUL SAGASTUME, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

THE WOODBRIDGE GOLF & COUNTRY
CLUB, a California Corporation; NICK
SALVETTI, an individual; and DOES 1 to
100, inclusive,

Defendants.

Case No. STK-CV-UOE-2023-0010980

*Assigned for All Purposes to Hon. Barbara
Kronlund, Department 10D*

CLASS ACTION

**PROPOSED ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: **OCT 17 2024**
Time: 9:00 a.m.
Dept.: 10D
Judge: Hon. Barbara Kronlund

Filed: October 17, 2023
FAC Filed: February 5, 2024
Trial Date: None Set

SEP 20 2024

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action and PAGA Settlement ("Motion") in the
3 above referenced case came before this Court, on _____ at 9:00 a.m., in Department
4 10D before the Honorable Barbara Kronlund, presiding. Named Plaintiff Raul Sagastume ("Plaintiff")
5 filed this putative class action on October 17, 2023. The operative Complaint alleges that Defendants
6 The Woodbridge Golf & Country Club, and Nick Salvetti ("Defendants") violated California law by 1)
7 failing to pay overtime wages, 2) failing to pay minimum wages, 3) failing to provide meal periods or
8 pay premiums in lieu thereof, 4) failing to provide rest periods or pay premiums in lieu thereof, 5)
9 failing to provide accurate wage statements, 6) failing to timely pay all final wages, 7) failing to
10 reimburse expenses, and 8) engaging in unfair competition. Plaintiff has also alleged Defendants are
11 liable for civil penalties under the Private Attorney's General Act ("PAGA") based on these violations.
12 Plaintiff sought attorneys' fees and costs as part of this Action. Defendants denied all of Plaintiff's
13 claims and denied that this case was appropriate for class treatment. No class has been certified. The
14 Court presently takes no position on the merits of Plaintiff's contentions or Defendant's defenses.

15 The parties have agreed to settle the class and PAGA claims. Defendants will provide
16 monetary consideration in exchange for a release of claims consistent with the terms of the proposed
17 settlement as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and
18 Release ("Agreement" or "Settlement"). Any capitalized terms herein shall have the same meaning as
19 set forth in the Agreement. The Court, having received and considered Plaintiff's Motion for
20 Preliminary Approval of Class Action and PAGA Settlement, the declarations in support, the
21 Agreement, the proposed Notice of Settlement, and other evidence, HEREBY ORDERS AND
22 MAKES DETERMINATIONS AS FOLLOWS:

23 **I. PRELIMINARILY CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF**
24 **CLASS REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

25 The Court finds that certification of the following class for settlement purposes only is
26 appropriate under the California Code of Civil Procedure and related case law:

27 All individuals who have worked, or continue to work, for Defendants in
28 California as a non-exempt employee at any time between October 17,

2019, up to either (1) the Preliminary Approval Date, or (2) June 30, 2024, whichever is earlier.

The Court recognizes that the foregoing definition is for Class Member identification purposes only and is not intended to capture the claims at issue or limit or alter the released claims under the Agreement.

The Court finds that Class Members meet the ascertainability and numerosity requirements since the parties can identify with a matter of certainty, based on payroll records, individuals who fall within the definition and the number of Class Members would make joinder impractical. The commonality and predominance requirements are met for settlement purposes since there are questions of law and fact common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's contentions that Defendants caused the alleged violations outlined above by 1) failing to properly calculate the number of overtime and double wages owed to Plaintiff and similarly situated employees, because they failed to utilize the more favorable of the daily and/or weekly calculation methods where appropriate, 2) failing to account for the overlap of two different pay periods when calculating total hours and overtime hours worked which led to incorrect dates, amounts for hours and wages, 3) failing to authorize and permit Plaintiff and similarly situated employees to take uninterrupted meal and rest periods due to inadequate staffing and high volume of work, 4) failing to pay Plaintiff and similarly situated employees for working during their meal periods while they were clocked out, 5) having meal period policy that was defective because it did not advise employees that they were entitled to a meal period if they worked five hours in a day but it stated that employees must take a break if they work six (6) hours or more in a day, and 6) failing to have a policy to reimburse Plaintiff and similarly situated employees for the use of their personal cell phones for work purposes. The PAGA, waiting time penalty, wage statement violation, and unfair competition claims also derive from these alleged violations. Additionally, Class Members seek the same remedies under state law. The typicality requirement for settlement purposes is also satisfied since the claims of the Class Representative is based on the same facts and legal theories as those applicable to the class members.

The Court also finds that preliminarily and conditionally certifying the settlement class is required to avoid each Class Member from litigating similar claims individually. This Settlement will

1 achieve economies of scale for Class Members with relatively small individual claims and conserve the
2 resources of the judicial system.

3 The Court finds that Plaintiff Raul Sagastume and Plaintiff's counsel, Galen T. Shimoda
4 Justin P. Rodriguez, and Renald Konini of Shimoda & Rodriguez Law, PC, to be adequate
5 representatives of the settlement class. The Court appoints them as Class Representative and Class
6 Counsel, respectively.

7 **II. PRELIMINARILY APPROVING CLASS ACTION AND PAGA SETTLEMENT**

8 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
9 A. The Court finds, on a preliminary and conditional basis, that the Settlement is fair, reasonable, and
10 adequate and falls within the range of reasonableness of a settlement that could ultimately be given final
11 approval by this Court. The Court finds the Settlement was agreed upon only after extensive
12 investigation, litigation, and arms-length negotiations by counsel experienced in complex litigation, who
13 took reasonable steps and measures to weigh the potential value of the disputed claims against the risks
14 of continued litigation. The Court also acknowledges that Class Members may present any objections to
15 the Settlement at a fairness hearing approved by this Court or opt-out of being bound by the
16 preliminarily approved Agreement. The Court preliminarily approves the Agreement and all terms
17 therein as if stated here in full, including the \$336,250 Gross Settlement Amount.

18 The Court orders that Plaintiff Raul Sagastume will receive \$10,000 as a Class Representative
19 Enhancement Payment for his time and effort on behalf of Class Members and in exchange for his
20 general release of all his individual claims in addition to any amount Plaintiff may be entitled to under
21 the Agreement's pro rata distribution formula.

22 The Court approves of Apex Class Action acting as the Settlement Administrator in this case and
23 hereby appoints them to fulfill those duties as outlined in the Agreement. The Settlement Administrator
24 will take its fees out of the Gross Settlement Amount, whose fees are not to exceed \$10,000. Any
25 difference between the actual cost of the Settlement Administrator and the approved payment will be
26 redistributed to Qualified Claimants on a pro-rata basis.

27 The Court finds that an award of fees under the common fund doctrine is appropriate in this case
28 because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits can be

1 accurately traced as set forth in the Agreement, Plaintiffs and Class Counsel were able to negotiate on
2 behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as the fee request
3 is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt*
4 *v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v.*
5 *Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of
6 thirty-five percent (35%) of the Gross Settlement Amount, *i.e.*, \$117,687.50, to be appropriate
7 compensation for Class Counsel. The attorneys' fees request is within the range that has been approved
8 by other Courts in similar cases and is reasonable in light of the circumstances of this case, the
9 substantial and beneficial results obtained on behalf of Class Members, and the contingent nature of the
10 recovery over the course of this case, which included potential loss at summary judgment, certification,
11 and/or trial proceedings. Additionally, the Court orders that up to \$15,000 of the settlement proceeds
12 will be paid to Class Counsel for reasonable costs incurred in this case. Any difference between the
13 actual costs incurred and the \$15,000 shall be paid to the Qualified Claimants on a pro-rata basis.

14 The Court approves of the Twenty Thousand Dollars (\$20,000) PAGA Payment, which shall be
15 paid from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to resolve the
16 alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the Labor and
17 Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to Aggrieved
18 Employees on a pro rata basis as described in the Agreement. The Court also finds that the Agreement
19 provides a recovery that creates an effective, substantial deterrent to any potential future non-
20 compliance, furthering the purpose of the Labor Code and LWDA.

21 The Court approves of the identified *cy pres* beneficiaries and distribution plan wherein any
22 checks issued to Participating Class Members and/or Aggrieved Employees that are not cashed by the
23 deadline to do so shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for
24 Workers' Rights. *See In re Microsoft I-V Cases*, 135 Cal.App.4th 706, 718 (2006). No portion of the
25 Gross Settlement Amount will revert to Defendants for any reason.

26 The releases and waivers for Class Members who do not opt out of being bound by the
27 Agreement (*i.e.* Participating Class Members), Aggrieved Employees, and the Class Representative are
28 also approved by the Court as set forth in the Agreement.

1 **III. APPROVAL OF THE DISTRIBUTION METHOD OF NOTICE TO THE CLASS,**
2 **INCLUDING THE NOTICE OF SETTLEMENT**

3 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiff's
4 Motion as Exhibit F, fairly and adequately advises Class Members of the terms of the Agreement, the
5 rights being waived, their right to opt out, the ability to dispute the number of workweeks worked during
6 the Class Period, their pro rata share of the Net Settlement Amount, how to participate in the settlement,
7 how to file documentation in opposition to the proposed settlement, and when to appear at the fairness
8 hearing to be conducted on the date set forth below. The Court further finds that the Notice of
9 Settlement and proposed distribution of such notice by first class mail to each identified Class Member
10 at his or her most recent address based on a National Change of Address database search from the Class
11 Members' last known address and a skip trace on any Class Members who have the Notice of Settlement
12 returned as "undeliverable" or "not at this address" comports with all constitutional requirements,
13 including those of due process.

14 The Court also finds that because there is a strong interest in providing Class Members the
15 opportunity to participate in the settlement, along with the Parties' efforts to minimize any intrusion to
16 privacy rights, the sharing of employment information, including social security numbers, is not a
17 serious intrusion on their privacy rights. Hence, the Court orders Defendants to provide Class Member
18 information to the Settlement Administrator as set forth in the Agreement, including the first and last
19 name, last known mailing address, last known telephone number, Social Security Number, start and end
20 date (if any) of employment of each Class Member and Aggrieved Employee, and any other information
21 the Settlement Administrator needs to effectuate notice to Class Members and Aggrieved Employees.
22 The Class Member information will be provided to the Settlement Administrator only, and not to
23 Plaintiff or Class Counsel, in order to process this settlement as contemplated within the Agreement and
24 approved by this Order. The Settlement Administrator shall only use this information for the purposes
25 identified in the Agreement and shall keep this information confidential consistent with the terms of the
26 Agreement.

IV. IMPLEMENTATION SCHEDULE

Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Defendants to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendants
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts to Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendants' Counsel	Within 7 calendar days after the Effective Date
Last day for Defendants to fund settlement	Within 21 calendar days after the Effective Date
Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement

Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

FINAL APPROVAL AND HEARING

The Court hereby grants Plaintiff's Motion and sets final approval hearing on the proposed date of March 20, ~~2024~~ ²⁰²⁵, at 9:00 a.m., with briefs and supporting documentation to be submitted according to the California Code of Civil Procedure, in this Department. Participating Class Members who object in a timely manner as set forth in the Agreement, may appear and present such objections at the fairness hearing in person or by counsel.

If for any reason the Court does not grant final approval of the Agreement, all evidence and proceedings held in connection therewith shall be without prejudice to the status quo and rights of the parties to the litigation, including all challenges to personal jurisdiction and to class certification for any purpose other than approving a settlement class. The parties will revert to their respective positions as if no settlement had been reached at all.

IT IS SO ORDERED.

Date: OCT 17 2024

By: 
 Judge of the Superior Court
 BARBARA A. MCLAUGHLIN