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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN LUIS OBISPO

ELISA ALVAREZ, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

v.

SLO ARCHES, INC., a California Corporation;
IVERNIA, INCORPORATED, a California
Corporation; GOLDEN SENECA, INC., a
California Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 21CV-0533

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: December 7, 2023
Time: 9:00 a.m.

Judge: Hon. Rita C. Federman
Dept.: D-2

1 Plaintiff's motion for an order finally approving the Stipulation of Class and PAGA Action
2 Claims and Release of Claims ("Agreement") and Motion for Class Counsel Award and Class
3 Representative Service Award duly came on for hearing on December 7, 2023, before the above-
4 entitled Court. Zakay Law Group, APLC, and the JCL Law Firm, APC, appeared on behalf of
5 Plaintiff ELISA ALVAREZ ("Plaintiff"). O'Hagan Meyer appeared on behalf of Defendants SLO
6 ARCHES, INC., a California Corporation; IVERNIA, INCORPORATED, a California
7 Corporation; and GOLDEN SENECA, INC., a California Corporation (hereinafter "Defendants").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of San Luis Obispo ("Court"), Case No. 21CV-0533,
16 entitled *Alvarez v. SLO Arches, Inc. et al.* and over all Parties to this litigation, including the Class.

17 **Preliminary Approval of the Settlement**

18 3. On July 28, 2023, the Court granted preliminary approval of a class-wide
19 settlement. At this same time the court approved certification of a provisional settlement class for
20 settlement purposes only. The Court confirms this Order and finally approves the settlement and
21 the certification of the Class.

22 **Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Class Notice was
24 mailed by first class mail to the Class Members at their last known addresses on October 11, 2023.

25 5. Mailing of the Class Notice to their last known addresses was the best notice
26 practicable under the circumstances and was reasonably calculated to communicate actual notice of
27 the litigation and the proposed settlement to the members of the Class Members. The Court finds
28

1 that the Class Notice provided fully satisfies the requirements of California Rules of Court, rule
2 3.769.

3 6. The Response Deadline for opting out or objecting was November 27, 2023.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. No Class Members requested
6 exclusion.

7 **Fairness Of The Settlement**

8 7. The Agreement provides for a Gross Settlement Amount of \$750,000.00.
9 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
10 Cal.App.4th 1794, 1801.)

11 a. The settlement was reached through arms-length bargaining between
12 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
13 settlement.

14 b. The Parties' investigation and discovery have been sufficient to allow
15 the Court and counsel to act intelligently.

16 c. Counsel for all parties are experienced in similar employment class
17 action litigation and have previously settled similar class claims on behalf of employees claiming
18 compensation. All counsel recommended approval of the Settlement.

19 d. No objections were received. No requests for exclusion were
20 received.

21 e. The participation rate is high. 100% of Class Members will be
22 participating in the Settlement and will be sent settlement payments.

23 8. The consideration to be given to the Class Members under the terms of the
24 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
25 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the
26 Released Class Claims and Released PAGA Claims, given the uncertainties and risks of the
27 litigation and the delays which would ensue from continued prosecution of the Action.

1 9. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Participating Class Members.

3 **PAGA Payment**

4 10. The Agreement provides for a payment of PAGA Payment in the amount of
5 \$37,500.00. The Court has reviewed the PAGA Payment and finds and determines that the PAGA
6 Payment and the allocation of \$28,125.00 to LWDA and \$9,375.00 of the PAGA Payment to
7 Aggrieved Employees is fair and reasonable and complies with the requirements set forth in *Moniz*
8 *v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56.

9 **Class Counsel Fees and Litigation Expenses**

10 11. The Agreement provides for a Class Counsel Award in the amount of up to
11 Two Hundred Seventy Thousand Dollars and Zero Cents (\$270,000.00). Subject to Court approval,
12 the Class Counsel Award consists of attorneys' fees equal to one-third (1/3) of the Gross Settlement
13 Amount, or Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) and reimbursement
14 of costs and expenses in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00).

15 12. A Class Counsel Award of Two Hundred Seventy Thousand Dollars and Zero
16 Cents (\$270,000.00) comprised of attorneys' fees in the amount of Two Hundred Fifty Thousand
17 Dollars and Zero Cents (\$250,000.00) and reimbursement of costs and expenses in the amount of
18 Twenty Thousand Dollars and Zero Cents (\$20,000.00) is reasonable in light of the contingent
19 nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class
20 Counsel. The requested attorneys' fee award represents 1/3 of the common fund, which is
21 reasonable, and is supported by Class Counsel's lodestar.

22 **Class Representative Service Award**

23 13. The Agreement provides for a Class Representative Service Award of up to
24 Ten Thousand Dollars and Zero Cents (\$10,000.00) for Plaintiff, Elisa Alvarez, subject to the
25 Court's approval. The Court finds that the amount of Ten Thousand Dollars and Zero Cents
26 (\$10,000.00) is reasonable in light of the risks and burdens undertaken by the Plaintiff in this class
27 action litigation.

28 ///

1 **Settlement Administration Costs**

2 14. The Agreement provides for Settlement Administration Costs to be paid in
3 an amount not to exceed \$16,000.00. The Declaration of the Settlement Administrator provides that
4 the actual claims administration expenses were \$15,300.00. The amount of this payment is
5 reasonable in light of the work performed by the Settlement Administrator.

6 **II.**

7 **ORDERS**

8 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

9 1. The Class is certified for the purposes of settlement only. The Settlement
10 Class is hereby defined to include:

11 All non-exempt employees who are or previously were employed by Defendants and
12 performed work in California during the period of September 16, 2017 to May 28,
13 2021.¹

14 2. There are 630 members of the Class. Every person in the Class who did not
15 opt out is a Settlement Class Member. After providing Notice to the Class, there is zero opt-outs to
16 the Settlement.

17 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
18 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
19 this Order and the terms of the Agreement.

20 4. Defendants shall fund the Gross Settlement Amount on the Funding Date. In
21 exchange the Class Members shall release the “Released Parties” from the “Released Class Claims”
22 and the “PAGA Members” shall release the “Released Parties” from the “Released PAGA Claims.”

23 a. The “Released Parties” means Defendants and any and all of its
24 respective owners, officers, directors, partners, shareholders, employees, agents, affiliates,
25

26 _____
27 ¹ During the initial notice period, Defendants discovered that they had under-reported the number of workweeks, and
28 that the actual number of workweeks was 38,783. The Agreement contains a provision allowing Defendants to elect
whether to pay an escalator based on the increased number of workweeks, or to cut off the end date for the Class Period
on the date the number of workweeks reached 32,348. Agreement at ¶ III(A)(2). Defendants elected to cut off the end
date for the Class Period on the date the number of workweeks reached 32,348, which was May 28, 2021.

1 subsidiaries, successors, assigns, executors, trustees, fiduciaries, administrators, beneficiaries,
2 business managers, contractors, insurers, reinsurers, attorneys, employees, past and present and/or
3 legal representatives.

4 b. The “Released Class Claims” are defined as all class claims alleged
5 in the operative First Amended Complaint which occurred during the Class Period, and expressly
6 excluding all other claims, including claims for vested benefits, wrongful termination,
7 unemployment insurance, disability, social security, workers’ compensation, and class claims
8 outside of the Class Period.

9 c. The “Aggrieved Employees” are defined as all non-exempt
10 employees who are or previously were employed by Defendants in California during the PAGA
11 Period. The PAGA Period is defined as the period between September 16, 2020 to May 28, 2021.

12 d. The “Released PAGA Claims” are defined all PAGA claims alleged
13 in the operative First Amended Complaint and Plaintiff’s PAGA notice to the LWDA which
14 occurred during the PAGA Period, and expressly excluding all other claims, including claims for
15 vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’
16 compensation, and PAGA claims outside of the PAGA Period.

17 5. Class Counsel are awarded attorneys’ fees in the amount of \$270,000.00
18 comprised of attorneys’ fees equal to one-third (1/3) of the Gross Settlement Amount, or Two
19 Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) and reimbursement of costs and
20 expenses in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00). Class Counsel
21 shall not seek or obtain any other compensation or reimbursement from Defendants, Plaintiff, or
22 members of the Class.

23 6. The payment of the Class Representative Service Award to the Plaintiff in
24 the amount of \$10,000.00 is approved.

25 7. The payment of \$15,300.00 to the Settlement Administrator for Settlement
26 Administration Costs is approved.

27 8. The PAGA Payment of \$37,500.00 is hereby approved as fair, reasonable,
28 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court

1 finds that Plaintiff and Class Counsel negotiated the PAGA Payment at arms-length, absent of any
2 fraud or collusion.

3 9. Final Judgment is hereby entered in this action. The Final Judgment shall
4 bind each Participating Class Member.

5 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
6 California and all PAGA Members, pursuant to the California Private Attorneys' General Act
7 ("PAGA").

8 11. The Court further finds and determines that Class Counsel satisfied California
9 Labor Code § 2699(l)(2) by giving the LWDA notice of the proposed Settlement of claims arising
10 under the Private Attorney General Act ("PAGA") on June 20, 2023 and November 9, 2023.

11 12. The Court orders Class Counsel to comply with California Labor Code §
12 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court's
13 entry of this Order.

14 13. The Agreement is not an admission by Defendant, nor is this Final Approval
15 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by
16 Defendant. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
17 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
18 admission by or against Defendants of any fault, wrongdoing, or liability whatsoever. The entering
19 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
20 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
21 to the denials or defenses by Defendants and shall not be offered in evidence in any action or
22 proceeding against Defendants in any court, administrative agency or other tribunal for any purpose
23 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and
24 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
25 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
26 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
27 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim
28 or issue preclusion or similar defense as to the claims being released by the Settlement.

1 14. Notice of entry of this Final Approval Order and Judgment shall be given to
2 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice
3 of entry of this Final Approval Order and Judgment to individual Class Members and the Final
4 Approval Order and Judgment shall be posted on Settlement Administrator's website as indicated
5 in the Class Notice.

6 15. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
7 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
8 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
9 connection with the distribution of settlement benefits.

10 16. The Court sets a Case Management Conference RE: Settlement Compliance
11 for _____, at _____. A Declaration RE: Settlement Compliance shall be filed five
12 (5) days prior to the hearing.

13 17. If the Settlement does not become final and effective in accordance with the
14 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
15 Defendants consistent with the terms of the Settlement, then this Final Approval Order and
16 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
17 be vacated.

18 **IT IS SO ORDERED.**

19 DATED: _____, 2023
20
21

22 _____
23 Hon. Rita C. Federman
24 JUDGE OF THE SUPERIOR COURT
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