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9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
11 **(UNLIMITED JURISDICTION)**

12 JUAN P. MOLINA,

13 Plaintiff,

14 vs.

15 CACIQUE, INC., and DOES 1 to 20,
16 INCLUSIVE

17 Defendants.
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RESERVATION No. 180313297250

Case No. BC603600

ASSIGNED FOR ALL PURPOSES TO HON.
MARK V. MOONEY, JR. DEPT. 68

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

Date: ^{January} December 18, 2018⁹

Time: 8:30 a.m.

Courtroom: Dept. 68

Judge: Hon. Mark V. Mooney, Jr.

Action Filed: December 9, 2015

Trial Date: Not Set

1 On December 18, 2018, a hearing was held on the parties' joint motion for final approval of
2 the parties' proposed class action settlement. Virginia Villegas, Villegas Carrera, LLP appeared for
3 Plaintiff, and Diane L. Kimberlin of Littler Mendelson, appeared for Defendant Cacique, Inc.
4 ("Cacique").

5 The parties have previously filed with this Court their Stipulation Re: Class Action Settlement
6 and Release (the "Settlement" or "Settlement Agreement"). This Court preliminarily approved the
7 Settlement in its Order Granting Preliminary Approval of Settlement ("Preliminary Approval Order").
8 In accordance with this Preliminary Approval Order, Class Members have been given notice of the
9 terms of the Settlement and the opportunity to object to it, to exclude themselves from its provisions
10 and/or challenge the work week data. There were no requests for exclusions and there were no
11 objections to the settlement.

12 Having received and considered the proposed Settlement, the supporting papers filed by the
13 parties, including the Declarations of Virginia Villegas, Juan P. Molina, Jessica Barnett, and Richard
14 Pearl, in Support of the Joint Motion for Final Approval of Class Action Settlement, the evidence
15 previously received by the Court pursuant to the Joint Motion And Motion For Order (1) Conditionally
16 Certifying Settlement Class; (2) Preliminarily Approving Class Action Settlement; (3) Directing
17 Distribution Of Class Notice; and (4) Setting Hearing For Final Approval Of Settlement filed on
18 December 7, 2018, and the final approval hearing on December 18, 2018, the Court GRANTS FINAL
19 APPROVAL to the Settlement and HEREBY ORDERS and MAKES DETERMINATIONS as
20 follows:

21 1. Except as otherwise specified, for the purposes of this Order and Judgment, the Court
22 adopts and incorporates by reference all defined terms set forth in the Settlement and Motion for
23 Preliminary Approval.

24 2. By agreement of the Parties, the definition of "Effective Date", set out at Section 1(m)
25 of the Settlement, is modified to read:

26 a. "Effective Date" shall mean the latest of the following: (i) the date after
27 which the right of any Class Member to move to set aside or vacate the
28 Judgment of this court granting final approval of the Settlement, under

1 California Code of Civil Procedure section 663 has expired; or (ii) if a
2 timely motion to set aside or vacate the Judgment is filed, then the Effective
3 Date shall be the date of final resolution of that motion and any resulting
4 appeal from a denial of such a motion (including any requests for re-hearing
5 and/or petitions for *certiorari*, resulting in final judicial approval of the
6 Settlement.

7 3. The Court has jurisdiction over the subject matter of this litigation, Plaintiff, the
8 Settlement Class, and Defendant.

9 4. Pursuant to this Court's Preliminary Approval Order, a Notice of Class Action
10 Settlement was sent to 26 individuals identified as Class members by first-class mail, after first
11 processing such addresses against the National Change of Address ("NCOA") database, maintained
12 by the United States Postal Service ("USPS"), for purposes of updating and confirming the mailing
13 addresses of the Class Members. To the extent that an updated address was found in the NCOA
14 database, the updated address was utilized for the mailing of the Notice. To the extent that no updated
15 address was found in the NCOA database, the original address provided by Defendant was utilized for
16 the mailing of the Notice. This notice informed class members of the terms of the Settlement, their
17 right to opt out of the class and pursue their own remedies, their opportunity to file written objections,
18 their right to challenge the work week data, and their right to appear in person or by counsel at the
19 final approval hearing and be heard regarding approval of the settlement. Adequate periods of time
20 were provided by each of these procedures. The Notice given to the Class met requirements of
21 California law and due process. The Notice to the Class was adequate.

22 5. Out of the identified Class Members, none has objected to any aspect of the proposed
23 Settlement, and none has opted out of the proposed Settlement. The reaction of the Settlement Class
24 to the proposed Settlement supports the conclusion that the proposed Settlement is fair, reasonable and
25 adequate.

26 6. For settlement purposes only, the following Settlement Class is certified:

27 all persons who were employed by Cacique as Route Sales
28 Representatives assigned or supervised from its facility in City of
Industry, California, at any time during December 9, 2011, through

October 31, 2016, at which time Cacique eliminated the position of Route Sales Representative at its City of Industry facility

7. Juan P. Molina is confirmed as Class Representative.
8. Virginia Villegas of Villegas Carrera, LLP is confirmed as Class Counsel.
9. For settlement purposes only, the proposed Settlement Class meets the requirements for certification under C.C.P. § 382. Specifically, for settlement purposes: (1) the proposed Settlement Class is numerous and ascertainable; (2) there are predominant common questions of law or fact; (3) the Class Representative's claims are typical of the claims of the members of the proposed Settlement Class; (4) the Class Representative has fairly and adequately protected the interests of the Settlement Class Members; (5) Class Counsel is qualified to serve as counsel for the Class Representative and the Settlement Class; and (6) a class action is superior to other methods to efficiently adjudicate this controversy through settlement.

10. The Court finds that no class member has objected to the terms of the settlement. The Court further finds and determines that the terms of the Settlement are fair, reasonable and adequate to the class and to each class member and that the Class Members who have not opted out will be bound by the Settlement, that the Settlement is ordered finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered to be consummated.

11. The Court finds and determines that the payments to be made to the Settlement Class Members as provided for in the Settlement are fair and reasonable. The Court gives final approval to and orders the payment of those amounts be made in accordance with the terms of the Settlement.

12. The Settlement provides for an award of up to One Hundred Thirty-Three Thousand and Two Hundred Dollars and Zero Cents (\$133,200) to Class Counsel as attorneys' fees in this action, representing thirty-three and a third percent (33.3%) of the Maximum Gross Settlement Amount, subject to the Court's approval. The Stipulation also provides for an award of up to Twenty-Two Thousand Dollars and Zero Cents (\$22,000.00) for litigation costs. Class Counsel requests an award of \$22,000.00 as reimbursement for litigation costs, and \$133,200.00 for attorneys' fees. An award of \$133,200.00 for attorneys' fees and \$22,000.00 for litigation costs is reasonable, in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested attorneys' fee award represents a thirty-three and third percent

1 (33.3%) of the Maximum Gross Settlement Amount and is less than Class Counsel's overall lodestar,
2 which is therefore reasonable.

3 13. The Court approves the payment to the LWDA of 75% of \$10,000 (\$7,500) as its share
4 of the settlement of civil penalties under the Private Attorney General Act.

5 14. The Court approves the payment of \$4000.00 to the Claims Administrator for the fees
6 and expenses of claims administration.

7 15. Pursuant to the Settlement Agreement, any checks issued to Settlement Class Members
8 shall remain valid and negotiable for One Hundred Eighty (180) days from the date of their issuance.
9 After that time, any unclaimed checks will be tendered by the Settlement Administrator to the
10 California Department of Industrial Relations Unpaid Wage Fund. As there were no undeliverable
11 addresses, the likelihood that there will be any unpaid cash residues is small. Nevertheless, in the
12 event there are unclaimed checks, by tendering the funds to the California Department of Industrial
13 Relations Unpaid Wage Fund furthers the purposes of C.C.P. § 384(a), by ensuring that the funds go
14 to the workers for whom the funds were intended for and thus furthering the purposes of the underlying
15 class action. Pursuant to § 384(b), the parties will report to the Court (as indicated below) the total
16 amount that was actually paid to the Class Members.

17 16. The Court finds and determines that the payment of Thirty-five Thousand Dollars
18 (\$35,000) to the Class Representative Juan P. Molina, as a Class Representative Payment and for
19 executing a Complete Release of All claims is fair and reasonable. The Court gives final approval to
20 and orders that the payment of that amount be paid to the Class Representative out of the Maximum
21 Gross Settlement Amount in accordance with the terms of the Settlement, on the condition that Molina
22 shall have executed the Complete Release of All Claims as set forth in the Settlement.

23 17. The Court orders that the Settlement Administrator shall deposit the Settlement Funds
24 in an interest bearing account and that, if any checks for payments to Class Members are uncashed,
25 the interest on such amounts will be transmitted, along with any interest earned on the Settlement
26 Funds between the date of the deposit of the funds and the date on which they are disbursed to Class
27 Members, shall be applied to the individual amounts tendered by the Settlement Administrator to the
28 California Department of Industrial Relations Unpaid Wage Fund, as described in paragraph 18 below.

1 18. Nothing in this order will preclude any action to enforce the parties' obligations under
2 the Settlement or under this Order. On or before November 30, 2019, Plaintiff shall file a Final Report
3 stating the total amount actually paid to class members, and the amount remaining to be tendered by
4 the Settlement Administrator to the California Department of Industrial Relations Unpaid Wage Fund.
5 Upon the Effective Date, in exchange for the promises provided under the Settlement Agreement and
6 under this Order, all Class Members who did not opt out, are permanently barred from prosecuting
7 against Defendant Cacique, Inc. its current and former affiliates and related entities, including, without
8 limitation, its current and former parents and subsidiaries, predecessors, successors, divisions, joint
9 ventures and assigns, and each of these entities' past, present and/or future, and current and former
10 direct and/or indirect directors, officers, employees, partners, members, investors, principals, agents,
11 insurers, co-insurers, re-insurers, shareholders, administrators, attorneys and personal or legal
12 representatives all causes of action alleged or that could have been alleged by the members of the
13 Settlement Class based on the facts in the FAC including, without limitation, all of the following claims
14 for relief: 1) Failure to Pay Minimum Wages in Violation of Wage Order 7-2001 and Labor Code §1194
15 and the federal Fair Labor Standards Act ("FLSA"); (2) Failure to Pay Overtime & Double Time
16 Wages In Violation Of California Labor Code §§ 510 And 1198, Wage Order 7-2001 and the FLSA
17 (3) Failure To Provide, Authorize, Permit And /Or Make Available Meal and Rest Periods In
18 Violation of California Labor Code §§ 226.7 and 512, Wage Order 7-2001; (4) Civil Penalties Pursuant
19 To Labor Code § 558; (5) Failure To Provide Itemized Wage Statements And Maintain Accurate
20 Payroll Records; (6) Unlawful Wage Deductions Or Compelled Payments By Employees In Violation
21 Of California Labor Code §221 and Wage Order 7-2001 §8 (7) Violation of California Business and
22 Professions Code §§ 17200, *et seq.*; (8) Civil Penalties Pursuant To Private Attorneys General Act,
23 California Labor Code §2699(a); (9) Penalties Pursuant To Section 2699(f) of the Private Attorneys
24 General Act; (10) claims for waiting time penalties under Cal. Lab. Code §203; (11) any other claims
25 or penalties under the wage and hour laws pleaded in the Action or that could have been pleaded based
26 on the allegations, claims, facts and/or legal theories alleged therein; and (12) all damages, penalties,
27 interest and other amounts recoverable under said causes of action under California and federal law, to
28 the extent permissible, including but not limited to the FLSA and the California Labor Code as to the

1 facts alleged in the FAC, the applicable Wage Orders as to the facts alleged in the FAC, and the
2 California Unfair Competition Law as to the facts alleged in the FAC. The Released Claims also include
3 all claims under PAGA that were alleged or that could have been alleged based on the facts in the FAC.
4 The Released Claims also include all claims Plaintiff and Settlement Class Members may have against the
5 Released Parties relating to (i) the payment and allocation of attorneys' fees and costs to Class Counsel
6 pursuant to the Agreement and (ii) the payments to Plaintiff and Class Representative Juan P. Molina of
7 the Class Representative Award. The release is intended to cover any claims that arose during the Class
8 Period.

9 19. By the Rule of Court 3.769(h) the Court retains exclusive and continuing jurisdiction
10 over the litigation, Plaintiff, the Class Members and Defendant for purposes of supervising the
11 interpretation, administration, implementation, construction, effectuation and enforcement of this
12 order and the Settlement.

13 20. Notice of final judgment must be provided to the Settlement Class by posting this Order
14 and the final judgment on the settlement website for a period of not less than 60 days from the date
15 judgment is entered.

16 The parties are hereby ordered to comply with the terms of the Settlement.

17 **IT IS SO ORDERED.**

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20 Dated: _____

Mark V. Mooney, Jr.
Judge Of The Superior Court