

MAY 25 2018

Sherri R. Carter, Executive Officer/Clerk
By: Jan Josef Manrique, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES—CENTRAL DISTRICT

XENUS LIN, DENISE MORROW,
JOSEPHINE MARTINEZ and ANNIE
PIN, on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

BEVERLY HILLS HOTEL
CORPORATION, a California corporation;
SAJAHTERA, INC., a Delaware
corporation doing business as the
BEVERLY HILLS HOTEL; KAVA
HOLDINGS, INC., a Delaware corporation
doing business as the HOTEL BEL-AIR;
and DOES 1 to 100, inclusive,

Defendants.

Case No.: BC540170

CLASS ACTION

Case Assigned to the
Honorable Carolyn B. Kuhl
Dept. 12

**ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Complaint Filed: March 24, 2014
Class Certified: April 26, 2016
Preliminary Approval
of Settlement Granted: January 12, 2018

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:**

2 The Motion for Final Approval of Class Action Settlement came before this Court, the
3 Honorable Carolyn B. Kuhl presiding, on May 25, 2018. The Court considered the papers
4 submitted in support of the Motion, the Court HEREBY ORDERS THE FOLLOWING:

5 1. On April 26, 2016, the Court granted class certification of the following class:
6 “All current and former California-based massage therapists and
7 estheticians whom Defendants classified as ‘independent contractors’
8 during the time period of March 24, 2010, to final judgment”.

9 2. On September 30, 2017, the parties agreed to material terms of settlement and
10 subsequently executed a Stipulation of Settlement and submitted the settlement to Court for
11 preliminary approval. On January 5, 2018, the parties submitted an Amended Stipulation of
12 Settlement and Release to address concerns raised by the Court.

13 3. On January 12, 2018, the Court granted preliminary approval of the Settlement
14 Stipulation and the Class based upon the terms set forth in the Amended Stipulation of
15 Settlement and Release. Capitalized terms shall have the definitions set forth in the Amended
16 Settlement Stipulation.

17 4. The Settlement is fair, adequate and reasonable to the Class. The Settlement
18 falls within the range of reasonableness and is presumptively valid. The parties and the Claims
19 Administrator have complied with the Order Granting Preliminary Approval. Accordingly, the
20 Court hereby finally approves the common settlement fund (the “*Common Fund*”) in the gross
21 amount of \$915,000 (the “*Gross Fund Value*”). The Common Fund shall be used to pay, and
22 is inclusive of, all settlement distributions to be paid to the Class Members, the costs of claims
23 administration, Plaintiffs’ attorney’s fees and expenses and Plaintiffs’ requested enhancement
24 awards, and specifically excluding all of Defendants’ withholding and payroll tax obligations.
25 All applicable employer-side payroll taxes, including FICA, on the portion of the Settlement
26 characterized as wages, shall be paid by Defendants separate and apart from the Common
27 Fund. The Common Fund is all-in, with no reversion to Defendants. All amounts paid into the
28 Common Fund by Defendants will be held in a segregated client trust account by the Claims

1 Administrator. .

2 5. Plaintiffs Xenus Lin, Denise Morrow, Josephine Martinez and Annie Pin are
3 approved as the Class Representatives for the Class.

4 6. The proposed enhancement awards of \$15,000 payable to each Plaintiff Class
5 Representative for her services as a class representative are approved *in light of additional*
6 *facts presented at argument on the Final Approval Motion.*
7 Stephen F. McAndrew and Mitchell F. Kaufman of Kaufman McAndrew LLP
8 are approved Class Counsel for the Class.

9 8. The proposed awards of \$305,000 in attorneys' fees and \$21,207.20 in actual
10 costs payable to Class Counsel are approved. *The attorneys' fees are*

11 9. *reasonable in light of the benefit obtained for the class.*
12 Simpluris, Inc., acted as the Claims Administrator.

13 10. The proposed payment of \$5,946.00 in costs to Simpluris for its services as the
14 Claims Administrator is approved.

15 11. No injunctive relief is ordered.

16 12. The Court finds the mailing and distribution of the Notice, as set forth in the
17 Implementation Schedule, met the requirements of due process and provided the best notice
18 practicable under the circumstances and constituted due and sufficient notice to all persons
19 entitled thereto.

20 13. No objections to the Settlement have been filed.

21 14. No Class Members have opted out of the Settlement.

22 15. Because no Class Members objected to the Settlement and no Class Members
23 opted out of the Settlement, the Court determines and orders that all Class Members are bound
24 by this Order Granting Final Approval of the Settlement.

25 16. As set forth in the Declaration of Claims Administrator Norman Alcantara, the
26 claims paid to Class Members totaled \$522,864.20.

27 17. The Court directs the mailing of the settlement payments by first class mail to
28 Class Members in accordance with the Implementation Schedule set forth below.

18. The Court directs the mailing of the enhancement payments by first class mail
to Class Representatives in accordance with the Implementation Schedule set forth below.

1 19. The Court directs the mailing of the payments for attorney's fees and costs by
2 first class mail to Class Counsel in accordance with the Implementation Schedule set forth
3 below.

4 20. Participating Class Members will have 180 days from the date of issuance to
5 cash their Settlement checks. Any and all uncashed or returned Settlement checks shall be
6 shall be transmitted by the Settlement Administrator as follows: (a) 25% to the State Treasury
7 for deposit in the Trial Court Improvement and Modernization Fund; (b) 25% to the State
8 Treasury for deposit into the Equal Access Fund of the. Judicial Branch; and (c) 50% to the
9 California Department of Industrial Relations Unpaid Wage Fund, with an identification of the
10 Participating Class Member who failed to cash his/her Settlement check at 50% of the value of
11 the Class Member's uncashed Settlement check.

12 21. Notice of Final Approval and Judgment shall be given by posting on the Class
13 Administrator's website.

14 22. Upon completion of administration, the Claims Administrator shall provide a
15 written declaration under oath certifying such completion to counsel for the parties and the
16 court. The Parties shall cause the Claims Administrator's certification of completion to be filed
17 with this Court *according to the following schedule.*

18 23. The Court hereby retains exclusive and continuing jurisdiction over this Action
19 for purposes of supervising, administering, implementing, interpreting, and enforcing this
20 Order and Judgment, as well as the Agreement.

21 24. Plaintiffs shall give notice of this Judgment to Class Members, pursuant to Rule
22 3.771 of the California Rules of Court by posting an electronic copy of this Judgment on the
23 Claims Administrator's website.

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1 The Court orders the following **Implementation Schedule** for further proceedings:

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(a)	Final Approval Hearing:	May 25, 2018, at 10 a.m.
(b)	Effective date:	May 25, 2018 [effective when Order entered]
(c)	Deadline for Defendant to fund settlement:	June 9, 2018 [Within fifteen (15) calendar days after the Final Settlement Date].
(d)	Deadline for Claims Administrator to mail payments to Class Members:	June 24, 2018 [Within 15 calendar days after receiving funding].
(e)	Deadline for Claims Administrator to mail payment of enhancement to plaintiffs and attorneys fees and costs to Class Counsel:	June 24, 2018 [Within 15 calendar days after receiving funding].
(f)	Deadline for Claims Administrator to post notice of Order Granting Final Approval and Judgment on Simpluris website (Cal Rule of Court 3.771(b):	June 24, 2018 [At time of mailing payments].
(g)	Have Chris move this to next page Deadline for Claims Administrator to	January 5, 2019 [At least 195 days after mailing

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	mail any and all uncashed or returned Settlement checks to the State Treasury and California Department of Industrial Relations Unpaid Wage Fund as set forth in the Amended Stipulation of Settlement:	settlement payments to Class Members].
(h)	Deadline for Claims Administrator to provide final accounting and written certification regarding payments to Counsel for the parties:	January 25, 2019 [Within 20 calendar days after mailing amount of uncashed checks].
(i)	Parties to submit Claims Administrator's final accounting and written certification to Court:	February 14, 2019 [Within 20 calendar days after mailing amount of uncashed checks].
(j)	Non-appearance case review re final compliance:	March 14, 2019

IT IS SO ORDERED.

cert ²⁵
Dated: *May 24, 2018*

Carolyn B. Kuhl
Honorable Carolyn B. Kuhl
Judge of the Los Angeles Superior Court