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FILED
LOS ANGELES SUPERIOR COURT

MAR 14 2017

BY: Nancy Navarro Deputy
NANCY NAVARRO

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

NAZARIO HERNANDEZ, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

GOLD POINT TRANSPORTATION, INC., a
California corporation; GNC ASSOCIATION,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: BC477445
Related to BC516215 and BC508808

ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

Date: February 21, 2017
Time: 2:00 p.m.
Dept.: 307

I. BACKGROUND

Anthony Hall and Nazario Hernandez each filed class action lawsuits against Defendant Gold Point Transportation, Inc. The complaint filed by Plaintiff Nazario Hernandez (BC477445) includes claims against Defendant GNC Association, Inc., while the Hall pleading (BC516215) does not. These two cases were related to each other and to another case, BC508808, which was resolved separately. Plaintiffs and the class members are current and former drivers employed by Defendant. Plaintiff Hall has determined that he no longer wishes to serve as class representative

1 and it is proposed that Ervin Midence Gonzalez substitute as class representative. The Court
2 requested a signed declaration from Mr. Gonzalez to that effect which was filed March 2, 2017.

3 The Hall action alleges claims for: (1) misclassification of employees; (2) failure to
4 provide meal periods; (3) failure to provide rest breaks; (4) failure to pay overtime wages; (5)
5 failure to pay minimum wages; (6) failure to pay all wages owed upon separation; (7) failure to
6 furnish timely and accurate wage statements; (8) failure to pay all wages owed every pay period;
7 and (9) violation of California Unfair Competition Act.

8 The Hernandez action alleges claims for: (1) failure to pay hourly wages and minimum
9 wages; (2) failure to provide rest and meal periods or compensation in lieu thereof; (3) failure to
10 timely pay wages; (4) failure to reimburse employee expense; (5) knowing and intentional failure
11 to comply with itemized employee wage statement provisions; and (6) violations of the unfair
12 completion law.

13 Plaintiff Hernandez and Defendants Gold Point and GNC participated in a mediation with
14 Lisa Klerman that took place on July 29, 2013 which did not result in a resolution of the
15 Hernandez action. The two cases were deemed related on September 10, 2013. (Declaration of
16 Brian Kabateck, ¶3) Thereafter, on October 28, 2016, a joint mediation took place between both
17 Plaintiffs Hernandez and Hall and Defendant Gold Point wherein counsel for the parties
18 negotiated a potential class-wide settlement agreement.

19 Prior to the original hearing date on this motion, the Court issued a checklist of items for
20 further briefing. The Court received and considered the Joint Supplemental Brief (erroneously
21 captioned under BC516215 rather than lead case BC477445), which was timely filed on
22 February 8, 2017. The Supplemental Brief addressed each checklist item and attached an
23 amended Stipulation and Agreement for Class Action Settlement (Settlement Agreement), along
24 with a red-lined version showing all changes. A fully executed copy of this agreement was
25 provided to the Court at the time of hearing.

1 At hearing the Court requested additional information regarding the reasonableness of the
2 settlement. Lead counsel for plaintiff filed his Supplemental Declaration on February 27, 2017.
3 Having considered the argument of counsel and the matters submitted the Court now rules on
4 Plaintiffs' request for preliminary approval of the settlement.

5 **II. DISCUSSION**

6 **A. SETTLEMENT CLASS DEFINITION**

7 The proposed settlement class is defined as, "All persons who have performed services as
8 an independent contractor-driver for Gold Point Transportation, Inc. at any time between
9 December 27, 2007 through the date the Settlement is preliminarily approved (§I.B)
10 For purposes of settlement the parties stipulate to certification of these classes. (§IV.B)

11 **B. TERMS OF SETTLEMENT AGREEMENT**

12 The essential terms are as follows:

13 The Gross Settlement Amount is \$2,800,000, non-reversionary. (§I.N)

14 If confirmatory discovery reveals that the number of class members is at least 5% larger
15 or the number of workweeks is at least 5% larger than the estimates presented at mediation, the
16 Gross will increase proportionally. (§VIII.C)

17 The Net Settlement Amount is \$1,780,667:

18 Up to \$933,333 for attorney fees (§II.A);

19 Up to \$45,000 for attorney costs (Ibid.);

20 Up to \$10,000 (for two \$5,000 service awards) (Ibid.);

21 Estimated \$16,000 - \$20,000 for claims administration costs (Ibid.)

22 (The cap is \$25,000, only if needed, with the additional \$5,000 paid directly by

23 Defendant rather than deducted from gross (§I.EE; §II.F);

24 \$15,000 (75% of \$20,000 PAGA penalty) to the LWDA (Ibid.); and

25

1 There is no claims process. Each Participating Class Member (defined as a class
2 member who does not opt out, §I.W) will receive a pro rata share of the Net based on the
3 number of weeks worked during the Class Period as a percentage of total weeks worked
4 by all Participating Class Members. (§II.B.1)

5 The Objection/Exclusion Deadline is 45 days. (§I.T; §IV.F; §IV.G)

6 Class members who receive re-mailed notice packets have 45 days from the date the
7 notice was re-mailed to respond. (Ibid.)

8 If more than 10% opt out, Defendant may rescind. (§VIII.B)

9 For tax purposes, payments will be allocated 33.33% to unreimbursed expenses and
10 66.66% to penalties and interest. (§II.B.4) The settlement administrator will issue 1099s and
11 Defendant will not owe any payroll taxes. (Ibid.)

12 Checks must be cashed within 180 days of issuance; thereafter, funds escheat to the State
13 of California, State Controller's Office, Unclaimed Property Division, in the name(s) of the
14 corresponding Participating Class Member(s), which shall remain available for those
15 Participating Class members to claim thereafter. (§II.B.5)

16 The settlement administrator is Simpluris, Inc. (§I.DD)

17 All class members who do not opt out will release certain claims against Defendant. (See
18 further discussion below)

19 **C. SETTLEMENT STANDARDS AND PROCEDURE**

20 California Rules of Court, rule 3.769(a) provides: "A settlement or compromise of an
21 entire class action, or of a cause of action in a class action, or as to a party, requires the approval
22 of the court after hearing." "Any party to a settlement agreement may serve and file a written
23 notice of motion for preliminary approval of the settlement. The settlement agreement and
24 proposed notice to class members must be filed with the motion, and the proposed order must be
25 lodged with the motion." See CRC rule 3.769(c).

1 “In a class action lawsuit, the court undertakes the responsibility to assess fairness in
2 order to prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class
3 action. The purpose of the requirement [of court review] is the protection of those class
4 members, including the named plaintiffs, whose rights may not have been given due regard by
5 the negotiating parties.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America*
6 (2006) 141 Cal. App.4th 46, 60 (internal quotation marks omitted); *Wershba v. Apple Computer,*
7 *Inc.* (2001) 91 Cal.App.4th 224, 245 (“*Wershba*”): Court needs to “scrutinize the proposed
8 settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is
9 not the product of fraud or overreaching by, or collusion between, the negotiating parties, and
10 that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned,” internal
11 quotation marks omitted.)

12 “The burden is on the proponent of the settlement to show that it is fair and reasonable.
13 However ‘a presumption of fairness exists where: (1) the settlement is reached through arm's-
14 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
15 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of
16 objectors is small.’” (*Wershba* at 245, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
17 1794, 1802 (“*Dunk*”).) Notwithstanding an initial presumption of fairness, “the court should not
18 give rubber-stamp approval.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116,
19 130 (“*Kullar*”). “Rather, to protect the interests of absent class members, the court must
20 independently and objectively analyze the evidence and circumstances before it in order to
21 determine whether the settlement is in the best interests of those whose claims will be
22 extinguished.” *Id.* In that determination, the court should consider factors such as “the strength
23 of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk
24 of maintaining class action status through trial, the amount offered in settlement, the extent of
25 discovery completed and stage of the proceedings, the experience and views of counsel, the

1 presence of a governmental participant, and the reaction of the class members to the proposed
2 settlement.” *Id.* at 128. “Th[is] list of factors is not exclusive and the court is free to engage in a
3 balancing and weighing of factors depending on the circumstances of each case.” (*Wershba* at
4 245.)

5 “A settlement need not obtain 100 percent of the damages sought in order to be fair and
6 reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if ‘the
7 relief afforded by the proposed settlement is substantially narrower than it would be if the suits
8 were to be successfully litigated,’ this is no bar to a class settlement because ‘the public interest
9 may indeed be served by a voluntary settlement in which each side gives ground in the interest of
10 avoiding litigation.’” (*Id.* at 250.)

11 12 **D. ANALYSIS OF SETTLEMENT AGREEMENT**

13 **Does a presumption of fairness exist?**

14 Was the settlement reached through arm’s-length bargaining? Yes. The parties engaged
15 in arms-length mediation before Judge Peter Lichtman on October 28, 2016. (Declaration of
16 Brian Kabateck, ¶5.)

17 Were investigation and discovery sufficient to allow counsel and the court to act
18 intelligently? Yes. The parties have engaged in extensive discovery and the exchange of
19 information and documentation, which has allowed the parties to seriously evaluate the claims
20 alleged. (*Id.* at ¶4.) The parties exchanged a substantial amount of discovery, including 15,000
21 pages of documents, classwide data, and responses to interrogatories. (*Id.* at ¶5.) Class Counsel
22 conducted the depositions of the PMKs for both Defendant Gold Point Transportation and GNC;
23 Defendant conducted depositions of both class representatives. (*Ibid.*) As set forth in the
24 Supplemental Declaration of Brian S. Kabatek information was also provided as to the financial
25 viability of defendant Gold Point, which information is subject to confirmatory discovery. If the

1 discovery reveals more favorable financial circumstances than were represented Co-Class
2 Counsel may withdraw from the settlement. Further, the gross settlement amount will increase
3 under certain circumstances (i.e. if the number of class members or the number of Qualifying
4 Work Weeks is at least 5% greater than what was represented. (Supplemental Dec. of Brian S.
5 Kabatek filed February 27, 2017 at ¶4.)

6 Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class
7 action litigation, including wage and hour class actions. (Kabateck Declaration, ¶13; Declaration
8 of James Hawkins, ¶6.)

9 What percentage of the class has objected? This cannot be determined until the fairness
10 hearing. (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group
11 2014) ¶ 14:139.18: “Should the court receive objections to the proposed settlement, it will
12 consider and either sustain or overrule them at the fairness hearing.”)

13 Conclusion: The settlement is entitled to a presumption of fairness.

14 **Is the settlement fair, adequate, and reasonable?**

15 Strength of Plaintiffs’ case: “The most important factor is the strength of the case for
16 plaintiffs on the merits, balanced against the amount offered in settlement.” (*Kullar* at 130).
17 Plaintiffs have provided the following information regarding the strength of the class claims:
18 Statutory penalties for the misclassification of the drivers ranges from \$3,575,000 to
19 \$10,725,000, and up to \$17,875,000 if Plaintiffs could establish a pattern and practice of willful
20 misclassification. (Motion for Preliminary Approval, pgs. 24-25.) Plaintiffs estimate that a
21 conservative estimate for the meal period and rest break violations is \$9.6 million, (Id. at pgs. 25-
22 26) and for the failure to pay overtime is \$10.7 million. (Id. at 26-27). For the violation of failing
23 to pay all wages due at separation, assuming all 570 former drivers did not receive all wages
24 upon separation, the penalties of this cause of action amount to \$4 million. (Id. at pg. 27.)
25 Damages for penalties for failure to furnish timely and accurate wage statements are estimated to

1 be approximately \$4.9 million. (Id. at pg. 27-28.) The estimate for failure to reimburse business
2 expenses (items such as truck insurance, truck maintenance, and fuel) is \$27.3 million. (Id. at
3 28.) Plaintiffs have thus calculated Defendant's exposure is between \$60 million and \$74
4 million. (Id. at pgs. 28-29.) With a gross settlement amount of \$2.8 million, the settlement
5 represents approximately 3.8 to 4.6% of the total estimated damages. The Settlement represents a
6 compromise based on the facts and circumstances of this action, including significant litigation
7 risk. (Id. at Pg. 29.) Class Counsel have also considered Defendant's financial position.
8 (Kabateck Declaration, ¶5; . (Supplemental Dec. of Brian S. Kabatek filed February 27, 2017 at
9 ¶4.; Hawkins Declaration, ¶19.) Counsel believes that class members could not do substantially
10 better than this settlement by litigating alone. (Hawkins Declaration, ¶17.)

11 Risk, expense, complexity and likely duration of further litigation: Given the nature of
12 the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g.,
13 motion practice and appeals) are also likely to prolong the litigation as well as any recovery by
14 the class members.

15 Risk of maintaining class action status through trial: Even if a class is certified, there is
16 always a risk of decertification. (*Weinstat v. Dentsply Intern., Inc.* (2010) 180 Cal.App.4th
17 1213, 1226: "Our Supreme Court has recognized that trial courts should retain some flexibility in
18 conducting class actions, which means, under suitable circumstances, entertaining successive
19 motions on certification if the court subsequently discovers that the propriety of a class action is
20 not appropriate.")

21 Amount offered in settlement: As indicated above, the Gross Settlement Amount is \$2.8
22 million. Assuming that the Court approves all of the maximum requested deductions,
23 approximately \$1,780,667 will be available for automatic distribution to participating class
24 members. Assuming full participation, the average settlement share will be approximately
25 \$2,490. [$\$1,780,667 \text{ Net} \div 715 \text{ Class Members} = \$2,490.44$]. According to Class Counsel, the

1 estimated Individual Settlement Payments per claimant will range from \$25.08 to \$11,511.72.
2 (Hawkins Decl. at ¶18).

3 As noted, *supra*, Defendant is to produce discovery providing the total number of class
4 members and the total number of corresponding Qualifying Work Weeks for those class
5 members. (§VIII.C.2). If the discovery produced to class counsel reveals either that the number
6 of class members is at least 5% larger or the total number of Qualifying Work Weeks is at least
7 5% greater than the corresponding estimates represented to class counsel as the October 28, 2016
8 mediation, then the gross settlement amount will increase proportionally with either the
9 increased number of class members, the increased Qualifying Work Weeks, or both. (§VIII.C.3)

10 Extent of discovery completed and stage of the proceedings: As discussed above, at the
11 time of the settlement, Class Counsel had conducted extensive discovery.

12 Experience and views of counsel: The settlement was negotiated and endorsed by Class
13 Counsel who, as indicated above, are experienced in class action litigation, including wage and
14 hour cases.

15 Presence of a governmental participant: This factor is not applicable here.

16 Reaction of the class members to the proposed settlement: The class members' reactions
17 will not be known until they receive notice and are afforded an opportunity to opt out or object.
18 This factor becomes relevant during the fairness hearing.

19 Conclusion: The settlement can be preliminarily deemed "fair, adequate, and
20 reasonable."

21 **Scope of release**

22 In exchange for the consideration recited in the Settlement Agreement, all Participating
23 Class Members will release the Released Parties from the Released Claims. (§III.A)

24 Released Claims means, "all known and unknown claims, losses, damages...which arise
25 from or related to the facts asserted in the Hernandez and Hall Actions, including...claims for

1 unpaid wages or overtime, including “off-the clock” work and premium wages for alleged meal
2 and/or rest period violations, failure to timely pay wages upon termination, claims made under
3 California Labor Code sections 201, 202, 203, 226, 226.3, 226.7, 226.8, 510, 512, 1194, 1194.2,
4 1197, failure to reimburse business expenses made under California Labor Code section 2802, all
5 similar provision or requirements of the California Industrial Welfare Commission Wage Order
6 5-2001 and California Business and Professions Code sections 17200, et seq., the California
7 Labor Code, applicable Wage Orders of the California Industrial Welfare Commission, or any
8 other federal, state, or local law, which the Class and/or any Class Member has ever had, or
9 hereafter may claim to have, for the Class Period, except for claims brought under the Fair Labor
10 Standards Act, 29 U.S.C. section 201, et seq. and claims for workman’s compensation. This
11 Stipulation and Agreement will release all claims that were expressly alleged in the Hernandez
12 and Hall Actions or that could have been alleged in those Actions based upon the factual and
13 legal allegations in the respective Actions’ operative complaints.” (§I.AA)

14 Plaintiffs provide broader releases. (§III.C)

15 The releases appear to be proper. They are limited in scope and time and are adequately
16 tethered to the pleading. The broader release by Plaintiffs is acceptable as they were represented
17 by counsel when they agreed to these terms, and are receiving additional compensation in
18 exchange.

19 **May conditional class certification be granted?**

20 **Standards**

21 A detailed analysis of the elements required for class certification is not required, but it is
22 advisable to review each element when a class is being conditionally certified. (*Amchem*
23 *Products, Inc. v. Winsor* (1997) 521 U.S. 591, 620, 622-627.) The trial court can appropriately
24 utilize a different standard to determine the propriety of a settlement class as opposed to a
25 litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement

1 cases. (*Dunk* at 1807, FN 19.) Finally, the Court is under no “ironclad requirement” to conduct
2 an evidentiary hearing to consider whether the prerequisites for class certification have been
3 satisfied. (*Wershba* at 240.)

4 **Analysis**

5 **Numerosity.** There are approximately 715 class members. (Kabateck Decl. at ¶10;
6 Settlement Agreement, §VIII.C.) Thus, numerosity has been established. (*Rose v. City of*
7 *Hayward* (1981) 126 Cal.App.3d 926, 934, stating that “[n]o set number is required as a matter
8 of law for the maintenance of a class action” and citing examples wherein classes of as little as
9 10 [*Bowles v. Superior Court* (1955) 44 Cal.2d 574] and 28 [*Hebbard v. Colgrove* (1972) 28
10 Cal.App.3d 1017] were upheld).

11 **Ascertainability.** The class is defined above. The class definition is “precise, objective
12 and presently ascertainable.” (*Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, 919.) Class
13 members are identifiable from Defendant’s records. (§IV.C)

14 **Community of interest.** “The community of interest requirement involves three factors:
15 ‘(1) predominant common questions of law or fact; (2) class representatives with claims or
16 defenses typical of the class; and (3) class representatives who can adequately represent the
17 class.’” (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) First, the class members share
18 common questions of law and fact regarding Defendant’s classification of them as independent
19 contractors, and, consequently, whether they received proper pay, meal and rest breaks,
20 reimbursement of necessary expenses, and other wage and hour claims. Second, the named
21 Plaintiffs’ claims are typical of the class in that their claims arise out of the same factual and
22 legal circumstances as that of all class members. Lastly, the named Plaintiffs can adequately
23 represent the class because their interests in this action appear to be coextensive with the
24 interests of the class.

1 **Adequacy of class counsel.** As indicated above, Class Counsel have shown experience
2 in class action litigation.

3 **Superiority.** Given the relatively small size of the individual claims, a class action
4 appears to be superior to separate actions by the class members.

5 **Conclusion:** The class may be conditionally certified since the prerequisites of class
6 certification have been satisfied.

7 **Is the notice proper?**

8 **Method of class notice.**

9 Notice will be by direct mail. Within 10 days of preliminary approval, Defendant will
10 provide a class list to the claims administrator. (§IV.C). Within 14 days of receipt of the list, the
11 claims administrator will send notices via first-class mail to all class members using information
12 obtained from Defendant as confirmed by the NCOA. (§IV.D.2). For notices returned as
13 undeliverable, the claims administrator will perform one skip trace and then send additional
14 notices using any new address. (§IV.D.3). The proposed method of class notice appears to
15 provide the best possible means for giving actual notice to putative class members.

16 **Content of class notice.**

17 Notice will be provided in English and Spanish. (§I.Q; §IV.D.1) The revised proposed
18 class notice is attached as Exhibit D to the Joint Supplemental Brief. The notice appears to be
19 acceptable. It includes information such as: a summary of the litigation; the nature of the
20 settlement; the terms of the settlement agreement; the maximum deductions to be made from the
21 gross settlement amount (i.e., attorney fees and costs, the enhancement award, and claims
22 administration costs); the procedures and deadlines for participating in (do nothing), opting out
23 of, or objecting to, the settlement; the consequences of participating in, opting out of, or
24 objecting to, the settlement; and the date, time, and place of the final approval hearing.

25 **Cost of class notice.**

1 As indicated above, the cost of settlement administration is estimated not to exceed
2 \$20,000, and is capped at \$25,000. (§II.A;§I.EE; §II.F). Prior to the time of the final fairness
3 hearing, the settlement administrator must submit a declaration attesting to the total costs
4 incurred and anticipated to be incurred to finalize the settlement for approval by the Court. The
5 class notice will be provided to class members in both English and Spanish. (§IV.D)

6 **Attorney fees and costs**

7 CRC Rule 3.769(b) states: “Any agreement, express or implied, that has been entered into
8 with respect to the payment of attorney fees or the submission of an application for the approval
9 of attorney fees must be set forth in full in any application for approval of the dismissal or
10 settlement of an action that has been certified as a class action.”

11 Ultimately, the award of attorney fees is made by the court at the fairness hearing, using
12 the lodestar method with a multiplier, if appropriate. (*PLCM Group, Inc. v. Drexler* (2000) 22
13 Cal.4th 1084, 1095-1096; *Ramos v. Countrywide Home Loans, Inc.* (2000) 82 Cal.App.4th 615,
14 625-626; *Ketchum III v. Moses* (2000) 24 Cal.4th 1122, 1132-1136.) In common fund cases, the
15 court may use the percentage method, as cross-checked against the lodestar. (*Laffitte v. Robert*
16 *Half International, Inc.* (2016) 1 Cal.5th 480, 503.) Despite any agreement by the parties to the
17 contrary, “the court ha[s] an independent right and responsibility to review the attorney fee
18 provision of the settlement agreement and award only so much as it determined reasonable.”
19 (*Garabedian v. Los Angeles Cellular Telephone Company* (2004) 118 Cal.App.4th 123, 128.)

20 The question of class counsel’s entitlement to \$933,333 in attorney fees will be addressed
21 at the fairness hearing when class counsel brings a noticed motion for attorney fees. Class
22 counsel must provide the court with billing information so that it can properly apply the lodestar
23 method, and must indicate what multiplier (if applicable) is being sought.

24 Class counsel should also be prepared to justify the costs sought by detailing how they
25 were incurred.

1 **Enhancement Award to Class Representatives**

2 The Settlement Agreement provides for an enhancement award of up to \$5,000 each to
3 the class representatives. In connection with the final fairness hearing, the named Plaintiffs must
4 submit declarations attesting to why they should be entitled to enhancement awards in the
5 proposed amount. The named Plaintiffs must explain why they “should be compensated for the
6 expense or risk he has incurred in conferring a benefit on other members of the class.” (*Clark v.*
7 *American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806.) Trial courts should not
8 sanction enhancement awards of thousands of dollars with “nothing more than pro forma claims
9 as to ‘countless’ hours expended, ‘potential stigma’ and ‘potential risk.’ Significantly more
10 specificity, in the form of quantification of time and effort expended on the litigation, and in the
11 form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is
12 required in order for the trial court to conclude that an enhancement was ‘necessary to induce
13 [the named plaintiff] to participate in the suit’” (Id. at 806-807, italics and ellipsis in
14 original.)

15 The Court will decide the issue of the enhancement awards at the time of final approval.

16 **III. CONCLUSION AND ORDER**

17 **A. RULING**

18 The Court:

19 Grants preliminary approval of the settlement as fair, adequate, and reasonable;

20 Grants conditional class certification;

21 Appoints Ervin Midence Gonzalez and Nazario Hernandez as Class Representatives;

22 Appoints Kabateck Brown Kellner LLP and James Hawkins APLC as Class Counsel;

23 Appoints Simpluris, Inc. as Settlement Administrator;

24 Approves the proposed notice plan; and

25 Approves the below schedule of settlement proceedings.

1 **B. PROPOSED SCHEDULE OF SETTLEMENT PROCEEDINGS**

2 Preliminary approval hearing: February 21, 2017.

3 Deadline for Defendant to provide class list to settlement administrator: March 27, 2017
4 (10 days after preliminary approval).

5 Deadline for settlement administrator to mail notices: April 10, 2017 (14 days from
6 receipt of Class List).

7 Deadline for class members to submit a claim form: Not applicable.

8 Deadline for class members to opt out: May 25, 2017 (45 days after mailing of notices).

9 Deadline for class members to object: May 25, 2017 (45 days after mailing of notices).

10 Deadline for class counsel to file motion for final approval: July 11,
11 2017 (16 court days prior to final fairness hearing)

12 Final fairness hearing: August 2 2017, at 10:00 am.

13
14
15 Dated: 3/14/17

Maren E. Nelson

16 MAREN E. NELSON

17 Judge of the Superior Court
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