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ELECTRONICALLY FILED
Superior Court of California,
County of Orange
09/19/2018 at 03:37:00 PM
Clerk of the Superior Court
By Gus Hernandez, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ORANGE
11 UNLIMITED JURISDICTION

13 CHRISTOPHER S. ARIVETT, on behalf of
himself, all others similarly situated,

14 *Plaintiff,*

15 vs.

16 GOLF MART, INC., a California corporation;
17 WORLDWIDE GOLF ENTERPRISES, INC.,
a California corporation; ROGER DUNN,
18 INC., a California corporation; and DOES 1
through 50, inclusive,

19 *Defendants.*

Case No. 30-2017-00947184-CU-OE-CXC

Assigned For All Purposes To The Honorable
William Claster, Department CX104

[PROPOSED] ORDER

1 **[PROPOSED] ORDER**

2 Plaintiff CHRISTOPHER S. ARIVETT (“Plaintiff” or “Named Plaintiff”) Motion for
3 Preliminary Approval of Class Action Settlement came on regularly for hearing before the
4 Honorable William Claster.

5 After full consideration of all the materials filed in support of the Motion, and after hearing
6 the arguments of counsel, and GOOD CAUSE APPEARING THEREFROM, the Court makes the
7 following findings and orders:

- 8 1. The Court GRANTS preliminary approval of the Joint Stipulation and Class Action
9 Settlement and Release pursuant to Rule of Court 3.769 based upon the terms set forth in
10 the Joint Stipulation and Class Action Settlement and Release (“Settlement” or
11 “Settlement Agreement”). The Joint Stipulation and Class Action Settlement and
12 Release is attached as Exhibit A to the Supplemental Declaration of Shaun Setareh, filed
13 August 24, 2018. The class notice is attached as Exhibit A to the Joint Stipulation and
14 Class Action Settlement and Release.
- 15 2. The Court finds that on a preliminary basis the settlement appears to be within the range
16 of reasonableness of a settlement that could ultimately be given final approval by the
17 Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate
18 and reasonable to all potential class members when balanced against the probable
19 outcome of further litigation. It also appears that adequate investigation and analysis has
20 been conducted so that counsel for the settling parties are able to reasonably evaluate
21 their respective positions. It appears to the Court that settlement at this time will avoid
22 substantial additional costs by the parties, as well as avoid the delay and risks presented
23 by further prosecution of the litigation. It also appears the settlement has been reached as
24 a result of arms-length negotiations.
- 25 3. The Settlement was reached through good faith, arm’s length negotiations with the
26 assistance of an experienced mediator. The material financial terms of the settlement
27 preliminarily approved by the Court include the following:
 - 28 a. Class Counsel will receive attorneys’ fees not to exceed \$150,000.

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- b. Class Counsel will receive costs in an amount not to exceed \$15,000.
- c. Simpluris will receive reasonable settlement administration costs not to exceed \$25,000.
- d. Plaintiff Christopher S. Arivett will receive an enhancement award in an amount not to exceed \$5,000.
- e. The Labor and Workforce Development Agency will receive a PAGA allocation in an amount not to exceed \$3,750.

4. The proposed Settlement Class defined in the Settlement as “all current and former non-exempt employees who were employed by one or more of the Defendants within the State of California at any time during the Class Period” is provisionally certified for purposes of the Settlement only. The Settlement Class meets all the requirements for class certification for settlement purposes under Code of Civil Procedure section 382. The class action proceeding is superior to other means of adjudication here because allowing the matter to proceed on a class basis avoids duplicative litigation, the unnecessary waste of judicial resources, and the possibility of inconsistent judgments. The Settlement Class is objectively ascertainable and sufficiently numerous, as the Settlement Class is made up of about 441 individuals, all of whom may be readily ascertained by reference to Defendants’ personnel records. Common questions predominate, as the overarching question is whether given Defendants’ policies employees were not paid all overtime wages at the correct rate and whether they were provided with meal and/or rest periods during their shifts. Plaintiff’s claims are typical of those of the Settlement Class. Like Settlement Class Members, Plaintiff worked in a retail store operated by Defendants and was paid overtime and commissions. Plaintiff was also not provided with uninterrupted, duty-free meal periods before the fifth hour of work and rest periods. Plaintiff is adequate, as he has no conflict of interest with absent Settlement Class Members and has agreed to place the class’s interests above his own. Class Counsel Shaun Setareh of Setareh Law Group is adequate because Class Counsel is experienced in wage and hour class action litigation and has no conflicts of interest

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with absent Settlement Class Members.

5. Named Plaintiff is a suitable class representative and is appointed as the Class Representative for the Settlement Class.
6. Named Plaintiff’s counsel, Shaun Setareh of the Setareh Law Group, is experienced in matters of this nature and is appointed as Class Counsel for the Settlement Class.
7. The notice provision in the Settlement is constitutionally sound because individual notices will be mailed to all Class Members whose identities are known to the parties, and such notice is the best notice practicable. The proposed Notice of Class Action Settlement is sufficient to inform Class Members of the terms of the Settlement, their rights under the Settlement, their rights to object to the Settlement, and their rights to elect not to participate in the Settlement, the processes for doing so; and the date and location for the final approval hearing, and are therefore approved.
8. Simpluris is approved as Settlement Administrator.
9. A Final Approval Hearing on the question of whether the proposed Settlement, attorneys’ fees and costs to Class Counsel, administrative costs to Simpluris, payment to the Labor & Workforce Development Agency, and the Named Plaintiff’s enhancement award should be finally approved as fair, reasonable and adequate as to the members of the Class is scheduled in Department CX-104 of this Court on March 1, 2019 at 9:00a.m.
10. The Court approves, as to form and content, the Notice of Class Action Settlement, in substantially the form attached as Exhibit A to the Joint Stipulation and Class Action Settlement and Release. The Joint Stipulation and Class Action Settlement and Release is attached as Exhibit A to the Supplemental Declaration of Shaun Setareh, filed August 24, 2018. The Court approves the procedure for Settlement Class members to participate in, to opt out of, and to object to, the Settlement as set forth in the Class Notice.
11. The Court directs the mailing of the Class Notice Packet to all Settlement Class members by in accordance with the Implementation Schedule Set forth below. The Court finds the dates selected for the mailing and distribution of the Class Notice Packet,

1 as set forth in the Implementation Schedule, meet the requirements of due process and
2 provide the best notice practicable under the circumstances and shall constitute due and
3 sufficient notice to all persons entitled thereto.

4 12. The Court orders the following Implementation Schedule for further proceedings:

- 5 a. Deadline for Defendants to submit Settlement Class member contact information
6 to the Settlement Administrator: September 21, 2018 (14 days after entry of
7 Preliminary Approval Order).
- 8 b. The Settlement Administrator shall mail the Class Notice to Settlement Class
9 members via First-Class U.S. Mail within 15 days of receiving Settlement Class
10 member contact information from Defendants.
- 11 c. The Deadline for Settlement Class members to postmark requests for exclusion
12 shall be 60 days after mailing of Class Notice.
- 13 d. The Deadline for Settlement Class members to postmark and file any objections
14 to the Settlement shall be 60 days after mailing of Class Notice Packets.
- 15 e. Deadline for Class Counsel to file Motion for Final Approval of Class Action
16 Settlement and for Award of Attorneys' Fees, Costs and Class Representative
17 Enhancement: February 13, 2019.
- 18 f. Final Fairness and Approval Hearing: March 1, 2019 at 9:00 a.m.

19 13. The Court reserves the right to adjourn or continue the hearing on the Motion for Final
20 Approval and all dates and deadlines of the above Implementation Schedule without
21 further notice to the class.
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25 DATED: 09/19/2018

26 THE HONORABLE WILLIAM CLASTER
27 Judge of the Superior Court
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