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2021 SEP 23 AM 11:25  
LAW AND MOTION DEPT. 53/54  
SUPERIOR COURT  
OF CALIFORNIA  
SACRAMENTO COUNTY

Attorneys for Michael Scott and Hugh Henley

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO

MICHAEL SCOTT, and HUGH HENLEY,  
individually, and on behalf of other members of  
the general public similarly situated,


Plaintiff,

vs.

GOODWILL INDUSTRIES OF  
SACRAMENTO VALLEY & NORTHERN  
NEVADA, INC., a California corporation; and  
DOES 1 through 10, inclusive,

Defendants.

Case No.: 34-2017-00219819-CU-OE-GDS

Assigned to the Hon. Shama H. Mesiwala 

~~AMENDED PROPOSED~~ ORDER  
GRANTING MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT

Date: September 14, 2021  
Time: 1:30 p.m.  
Place: Department 53

RESERVATION NO.: 2582252



BY FAX

1 **ORDER**

2 Having considered Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement  
3 (the "Motion"), and the points and authorities submitted in support of the Motion, including the Joint  
4 Stipulation of Class Action Settlement and Release ("Settlement Agreement" or "Settlement"), and  
5 **GOOD CAUSE** appearing, **IT IS HEREBY ORDERED** that the Motion is **GRANTED**, subject to  
6 the following findings and orders:

7 1. Plaintiffs Michael Scott and Hugh Henley's unopposed motion for preliminary approval  
8 is granted. (Code of Civil Procedure § 382, California Rules of Court, Rule 3.769).

9 2. The trial court has broad discretion to determine whether a proposed settlement in a class  
10 action is fair. (*Rebney v. Wells Fargo Bank* (1990) 220 Cal. App.3d 1117, 1138.)

11 3. Newberg on Class Actions (4th Ed.), the authoritative treatise on class actions, discusses  
12 the process for approving the settlement of a class action. At § 11.24, "Procedure for Submitting Class  
13 Settlement for Approval," Newberg describes the review at the preliminary stage as the submission by  
14 the parties of the essential terms of the agreement for informal review of the settlement papers by the  
15 Court. In reviewing a request for preliminary approval of a class action settlement, the Court's task is to  
16 determine whether the proposed settlement is within the "range of reasonableness" that would warrant  
17 sending out a notice of the settlement and giving the class members the opportunity to object. (Newberg  
18 on Class Actions, 4th. Ed. (2002) § 11.25). In making its fairness determination, the Court should  
19 consider the relevant factors, such as the strength of the Plaintiffs' case, the risk, expenses, complexity  
20 and likely duration of further litigation, the risk of maintaining class action status through trial, the  
21 amount offered in settlement, the extent of discovery completed and the stage of the proceedings, and the  
22 experience and views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)  
23 Preliminary approval by the trial court is simply a conditional finding that the settlement appears to be  
24 within the range of acceptable settlements. (See, e.g. *Kullar v. Footlocker Retail Inc.* (2008) 168  
25 Cal.App.4th 116.). Generally, the Court will presume the absence of fraud or collusion in the negotiation  
26 of the settlement unless evidence to the contrary is offered. In short, there is a presumption that  
27 negotiations were conducted in good faith. (Newberg, *supra*, at §11.51.)

28 4. The Court finds that the proposed settlement, reached after mediation, appears not to be

1 the product of fraud or overreaching and appears to be fair, reasonable, adequate and in the best interests  
2 of the members of the putative class and thereby meets the criteria for preliminary approval. (*Nordstrom*  
3 *Com. Cases* (2010) 186 Cal.App.4th 576, 581.)

4 5. In this wage and hour action, Plaintiffs allege, among other things, that Defendant  
5 Goodwill Industries of Sacramento Valley & Northern Nevada, Inc., committed wage and hour  
6 violations by failing to pay overtime, failing to pay meal and rest break premiums, failing to pay  
7 minimum wages, failing to reimburse business expenses, failing to pay wages for split shifts, failing to  
8 timely pay final wages, and failing to provide compliant wage statements. Plaintiffs also allege that  
9 Defendant violated Business and Professions Code § 17200.

10 6. According to the proposed settlement reached after a May 4, 2021 mediation, Defendant  
11 has agreed to pay a gross settlement amount of \$2,250,000 to all persons who worked for Defendant as a  
12 non-exempt hourly employee at any time from September 27, 2013 to the date of preliminary approval,  
13 sixty days from the date of mediation or the date on which the total number of weeks worked by class  
14 members was no greater than 450,000, which occurs first. Payments will be allocated to class members  
15 on a pro rata basis based on the number of weeks a class member worked. There are approximately  
16 8,900 class members. The settlement also includes a \$10,000 service award to the named Plaintiffs. The  
17 settlement allows Plaintiff's counsel to seek fees up to \$750,000 (33% of the gross settlement) and up  
18 \$55,000 in costs, all of which will be deducted from the gross settlement amount. The settlement also  
19 provides that class administration fees of up to \$5,000 will be deducted from the gross settlement  
20 amount.

21 7. The Court therefore preliminarily approves the settlement and proposed notice,  
22 provisionally certifies the class for settlement purposes, confirms Plaintiffs as the class representatives,  
23 and Plaintiffs' counsel as class counsel.

24 8. The Court approves, as to form and content, the proposed Notice of Class Action  
25 Settlement ("Notice Packet"), attached as Exhibit A.

26 9. The Court directs the mailing, by First-Class U.S. mail, of the Notice Packets to Class  
27 Members in accordance with the schedule set forth below and the other procedures described in the  
28 Settlement Agreement. The Court finds that the method selected for communicating the preliminary

1 approval of the Settlement Agreement to Class Members is the best notice practicable under the  
2 circumstances, constitutes due and sufficient notice to all persons entitled to notice, and thereby satisfies  
3 due process.

4 10. The Court appoints Plaintiffs Michael Scott and Hugh Henley as the representatives for  
5 the Settlement Class conditionally certified by this Order.

6 11. The Court appoints Capstone Law APC as Class Counsel. The Court finds that counsel  
7 have demonstrable experience litigating, certifying, and settling class actions, and will serve as adequate  
8 counsel for the Class conditionally certified by this Order.

9 12. The Court approves and appoints CPT Group, Inc. as the Settlement Administrator.

10 13. The following dates shall govern for purposes of this Settlement:

Date	Event
October 4, 2021 (or not later than 20 calendar days after the Court grants preliminary approval of the Settlement Agreement, if later)	Last day for Defendant to produce the Class List to the Settlement Administrator.
October 14, 2021 (or not later than 10 calendar days after Defendant produces the Class List, if later)	Last day for the Settlement Administrator to mail Notice Packets to all Class Members.
November 15, 2021 (or not later than 30 calendar days after the Settlement Administrator mails the Notice Packets, if later)	Last day for Class Members to submit Requests for Exclusion or Objections to the Settlement.
December 3, 2021	Last day for Plaintiffs to file the Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Enhancement Payments.
January 11, 2022 at 1:30 p.m.	Hearing on Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Enhancement Payments.

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22 14. The Court expressly reserves the right to continue or adjourn the final approval hearing  
23 without further notice to the Class Members.

24  
25 **IT IS SO ORDERED.**

26 Dated: SEP 23 2021



27 **SHAMA H. MESIWALA**

28 Hon. Shama H. Mesiwala  
Sacramento County Superior Court Judge