

LAW OFFICE OF KENNETH A. GOLDMAN, PC
16133 Ventura Boulevard, Suite 1200
Encino, California 91436

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VENTURA SUPERIOR COURT

05/1/23

VENTURA SUPERIOR COURT

FILED

05/25/2023

Brenda L. McCormick
Executive Officer and Clerk

Cristal Alvarez

SUPERIOR COURT OF CALIFORNIA

COUNTY OF VENTURA

RICARDO BOCANEGRA, individually and
on behalf of others similarly situated,

Plaintiff,

v.

**GRIMES ROCK, INC; RUSSELL
COCHRAN; LINDA COCHRAN; ROBERT
LYNCH; LaVERNE LYNCH; and DOES 1-
50,**

Defendants.

Unlimited Jurisdiction

Case No.: 56-2021-00560399-CU-OE-VTA
[Assigned to Hon. Henry J. Walsh, Dept. 42]

Class Action

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT

Hearing Date: May 23, 2023
Trial Date: 8:30 a.m.
Department: 42

~~PROPOSED~~ ORDER GRANTING PRELIMINARY APPROVAL

ORDER

The Motion for Preliminary Approval of Class Action Settlement came before this Court on May 23, 2023, the Honorable Henry Walsh presiding. Kenneth A. Goldman of Law Office Kenneth A. Goldman, PC appeared on behalf of Plaintiff Ricardo Bocanegra ("Plaintiff"). Rafael Gonzalez of Mullen & Henzell L.L.P. appeared on behalf of Defendants.

Having considered the Stipulation of Class Action and PAGA Settlement and the Exhibits attached thereto (hereafter, the "Settlement Agreement"), having considered the Motion for Preliminary Approval of Class Action Settlement filed by the parties, having considered the respective points and authorities and declarations submitted by the parties in support thereof, and good cause appearing therefor,

THE COURT HEREBY ORDERS AS FOLLOWS:

1. For purposes of this Preliminary Approval Order, the Court incorporates by reference the definitions in the Settlement Agreement, and all defined terms herein shall have the same meaning as set forth in the Settlement Agreement.

2. The Court grants preliminary approval of the Settlement as set forth in the Settlement Agreement and finds the terms to be within the range of reasonableness of a settlement that ultimately could be potentially granted approval by the Court at the Final Fairness and Approval Hearing. For purposes of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that there is a sufficiently well-defined community of interest among the Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following "Settlement Class Members" defined as follows:

All persons employed by Defendant Grimes Rock, Inc. within California and classified as nonexempt at any point during the period from November 22, 2017, through February 28, 2023, inclusive.

3. Based on the submissions of the parties, the Court conditionally makes the following findings:

a. The Settlement Class Members are so numerous as to make joinder

impracticable;

- b. There are questions of law and fact common to the Settlement Class, and such questions predominate over any questions affecting only individual Settlement Class Members;
- c. Plaintiff's claims and the defenses thereto are typical of the claims of Settlement Class Members and the defenses thereto;
- d. Plaintiff and her counsel can and have fairly and adequately protected the interests of the Settlement Class Members in this action; and
- e. A class action is superior to all other available methods for fair and efficient resolution of this action.

4. For purposes of the Settlement only, the Court designates named Plaintiff Ricardo Bocanegra as Class Representative.

5. For purposes of the Settlement only, the Court designates Law Office Kenneth A. Goldman, PC and Law Offices of Sahag Majarian, II as Settlement Class Counsel.

6. The Court confirms ILYM Group, Inc. as the Settlement Administrator and orders the Settlement Administrator to perform the duties stated in the Settlement Agreement.

7. A Final Fairness and Approval Hearing on the question of whether the proposed Settlement should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class is scheduled in Department 42 of the Ventura Superior Court, located at 800 Victoria Avenue, Ventura, California, on 8/28/23, at 8:30 a.m./p.m.

8. At the Final Fairness and Approval Hearing, the Court will consider: (a) whether the Settlement should be approved as fair, reasonable and adequate for the Class; (b) whether a judgment granting approval of the Settlement should be entered; and (c) whether Plaintiff's application for an award of attorneys' fees, reimbursement of litigation expenses, and class representative enhancement award should be granted.

9. Counsel for the parties shall file a motion for final approval of the Settlement, a motion for an award of attorneys' fees, reimbursement of litigation expenses, and supporting documents by no later than nine (9) court days prior to the Final Fairness and Approval Hearing

1 date.

2 10. The Court approves, as to form and content, the Notice of Proposed Class Action
3 Settlement and Hearing Date for Final Approval ("Notice"), which is attached hereto as "**Exhibit**
4 **A**", which shall be translated into Spanish by the Settlement Administrator and sent to the
5 Settlement Class in both English and Spanish. The Court further approves the procedures for
6 Settlement Class Members to opt out of or object to the Settlement as set forth in the Settlement
7 Agreement and Notice.

8 11. The Court directs the Settlement Administrator to mail the Notice by first class mail
9 to the Settlement Class Members in accordance with the Implementation Schedule set forth below.
10 The Court finds the dates selected for the mailing and distribution of the Notice, as set forth in the
11 Implementation Schedule, meet the requirements of due process and provide the best notice
12 practicable under the circumstances and shall constitute due and sufficient notice to all persons
13 entitled thereto.

14 12. The Court finds that the form of notice regarding the pendency of the action and of
15 this Settlement, and the methods of giving notice to members of the Settlement Class, constitute
16 the best notice practicable under the circumstances and constitute valid, due, and sufficient notice
17 to all members of the Settlement Class. They comply fully with the requirements of California
18 Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of
19 Court, rules 3.766 and 3.769, the California and United States Constitutions, and other applicable
20 law.

21 13. The Court encourages written objections to be sent to the Settlement Administrator
22 in advance of the Final Fairness Hearing; however, the Court shall not deny class members the
23 opportunity to present their objections to this Settlement, if any, at the time of the Final Fairness
24 Hearing. Copies of all Objection Forms received from Class Members by the Settlement
25 Administrator, if any, shall be provided to all counsel.

26 14. The procedures and requirements for filing objections in connection with the Final
27 Fairness and Approval Hearing are intended to ensure the efficient administration of justice and
28 the orderly presentation of any Class Member's objection to the Settlement Agreement, in

accordance with the due process rights of all Class Members.

15. Pending the Final Fairness and Approval Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order, are stayed.

16. Counsel for the Parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement Agreement.

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

| Event | Date |
|--|---|
| Last day for Defendant to provide Class Member data to Claims Administrator for preparation of the Class Notice | _____ (10 calendar days after Preliminary Approval) |
| Last day for Claims Administrator to mail the Class Notice to Class Members | _____ (14 days after receiving Class Information from Defendant) |
| Last day for Class Members to submit opt-outs or objections to the Settlement | _____ (45 calendar days after date Class Notice was mailed) |
| Last day to file motion for Final Approval of Class Action Settlement with supporting documents and motion for Attorneys' Fees, Costs, and Enhance Award with supporting documents | _____ (9 court days before Final Fairness & Approval Hearing) |
| Final Fairness & Approval Hearing | <u>August 28, 2023</u> at <u>8:30</u> <u>a.m.</u> /p.m. |

18. The Final Fairness and Approval Hearing and related prior deadlines set forth above may, from time to time and without further notice to the Settlement Class, except those who have filed timely and valid objections, be continued or adjourned by Order of the Court.

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1 The Settlement Administrator shall give notice to any Settlement Class Member who submits a
2 written objection of any continuance of the Final Fairness Hearing.

3 19. The Settlement Administrator shall send copies of each written request for
4 exclusion executed by a Settlement Class Member or his or her representative to counsel for the
5 Parties within three business days of the Settlement Administrator's receipt of said written
6 request.

7 20. The Settlement Administrator shall file a declaration concurrently with the filing
8 of any motion for final approval, authenticating copies of every written objection or request for
9 exclusion received by the Settlement Administrator.

10
11 Dated: May 23, 2023


12
13 HON. HENRY WALSH
14 JUDGE OF THE SUPERIOR COURT
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PROOF OF SERVICE

STATE OF CALIFORNIA, }

COUNTY OF VENTURA }

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 1, 2023, I served the attached documents described as **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT** on all interested parties in this action

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Mark Pachowicz
Kenneth H. Moss
Pachowicz & Goldenring: APLC
6050 Seahawk Street
Ventura, California 93003-6622
 Phone: 805-642.6702
 Fax: 805-642-3145
Attorneys for Defendants

Rafael Gonzalez
Mullen & Henzell L.L.P.
112 E. Victoria Street
Santa Barbara, CA 93101
 Tel: (805) 966-1501
 Fax: (805) 966-9204
 rgonzalez@mullenlaw.com
Attorneys for Defendants

☐ BY MAIL

☐ I deposited such envelope in the mail at Encino, California. The envelope was mailed with postage thereon fully prepaid.

☐ As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

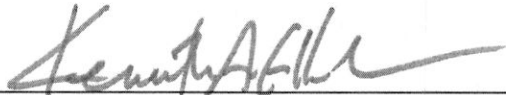
☐ BY ELECTRONIC TRANSMISSION: I caused to be transmitted the document(s) described above on the parties listed via CaseAnywhere.

☒ BY ELECTRONIC TRANSMISSION: I caused to be transmitted the document(s) described above on the parties listed via email to the email addresses listed above pursuant to California Rules of Court Rule 2.251(b)(2) and 2.251(c)(3).

EXECUTED on May 1, 2023, at Encino, California.

☒ STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Kenneth A. Goldman
 Name


 Signature

PROOF OF SERVICE