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and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

JOSE VALENCIA, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

MITTERA GROUP, INC., an IOWA
corporation, and DOES 1-20, inclusive,

Defendants.

Case No.: 30-2022-01297827-CU-OE-CXC

Assigned For All Purposes To:

Judge: Hon. Randall J. Sherman
Dept.: CX-105

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Action Filed: December 19, 2022
Trial Date: None Set

1 This matter came on for hearing on March 7, 2025 at 10:00 a.m. in Department CX-105 of
2 the above-captioned court on the Motion for an Order Granting Preliminary Approval of Class
3 Action Settlement.

4 The Court, having fully reviewed the Motion for Preliminary Approval of Class Action
5 Settlement; the Points and Authorities and Declarations filed in support thereof; the Supplemental
6 Briefing in support thereof, the Class Action Settlement Agreement, and Class Notice, including the
7 Amendment, ("Settlement Agreement"); and the Notice of Proposed Class Settlement ("Class
8 Notice"); and in recognition of the Court's duty to make a preliminary determination as to the
9 reasonableness of any proposed class action settlement, and if preliminarily determined to be
10 reasonable, to ensure proper notice is provided to class members in accordance with due process
11 requirements, and to set a Final Fairness Hearing to consider the proposed settlement as to the good
12 faith, fairness, adequacy and reasonableness of any proposed settlement, **HEREBY MAKES THE**
13 **FOLLOWING DETERMINATIONS AND ORDERS:**

14 The Court finds on a preliminary basis that the Settlement Agreement, incorporated in full
15 by this reference and made part of this Order Granting Preliminary Approval of Class Action
16 Settlement, appears to be in the range of reasonableness of a settlement which could ultimately be
17 given final approval by this Court. The Court notes that Defendant Mittera Group, Inc.
18 ("Defendant") has agreed to pay a non-reversionary Gross Settlement Amount of \$2,150,000 which
19 amount will be fully funded and paid out by Defendant provided certain conditions of the
20 Settlement Agreement are met. Included within the Gross Settlement Amount is a Net Settlement
21 Amount in the amount of approximately \$1,295,833.33. Defendant will pay out the entirety of the
22 Net Settlement Amount to Participating Class Members. It appears to the Court on a preliminary
23 basis that the settlement amount is fair and reasonable to the Class when balanced against the
24 probable outcome of further litigation relating to class certification, liability and damages issues and
25 potential appeals. It further appears that significant investigation, research, and litigation has been
26 conducted such that counsel for the parties at this time are able to reasonably evaluate their
27 respective positions. It further appears that settlement at this time will avoid substantial costs, delay,
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1 and risks that would be presented by the further prosecution of the litigation. It further appears that
2 the proposed settlement has been reached as the result of intensive, serious, and non-collusive
3 negotiations between the parties.

4 **ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR AN ORDER**
5 **GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY**
6 **GRANTED, AND AS A PART OF SAID PRELIMINARY APPROVAL, THE COURT HEREBY**
7 **ORDERS THAT THE CLASS BE CONDITIONALLY CERTIFIED FOR SETTLEMENT**
8 **PURPOSES ONLY, AND THAT CHRISTOPHER A. ADAMS, VACHE A. THOMASSIAN**
9 **AND CASPAR JIVALAGIAN OF KJT LAW GROUP LLP, BE CONDITIONALLY AND**
10 **PRELIMINARILY APPOINTED CLASS COUNSEL.**

11 **MORE SPECIFICALLY, THE COURT FINDS AS FOLLOWS:**

12 The Class provisionally certified by this Order for settlement purposes is as follows:

13 “Class Member” and “Settlement Class Members” means all current and former persons
14 employed by Defendants in California as non-exempt employees at any time during the Class
15 Period. “Class Period” means the period from the period from April 26, 2021 to March 31, 2024.

16 The Court finds that (a) the Class is so numerous that joinder of all Class Members is
17 impracticable; (b) The claims of Plaintiff Jose Valencia are typical of the Class Members’ claims; (c)
18 there are questions of law and fact common to the Class, which predominate over any questions
19 affecting only individual Class Members; and (d) class certification is superior to other available
20 methods for the fair and efficient adjudication of the controversy and to effectuate the Settlement.

21 The Court finds that the Class Notice (attached as Exhibit 1 to Settlement Agreement)
22 comports with all constitutional requirements including those of due process.

23 The Court further finds that the proposed Class Notice adequately advises the Class about:
24 (a) the terms of the proposed Settlement and the benefits available to each Class Member; (b) each
25 Class Member’s right to object to and/or opt out of the Settlement and the timing and procedures
26 for doing so; (c) the temporary and conditional certification of the Class for settlement purposes
27 only; (d) preliminary Court approval of the proposed Settlement; (e) timing and procedures for
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1 distributing the settlement funds to the Participating Class Members; and (f) the date of the Final
2 Fairness Hearing as well as the rights of members of the Class to file documentation in support of or
3 in opposition to and appear in connection with said hearing.

4 **ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY APPROVES**
5 **THE PROPOSED NOTICE TO THE CLASS AND FINDS** that mailing to the last known address
6 to members of the Class, as specifically described within the Settlement Agreement, constitutes an
7 effective method of notifying Class Members of their rights with respect to the Class Action and
8 proposed Settlement.

9 **ACCORDINGLY, IT IS HEREBY ORDERED** that:

10 The Class is provisionally certified as a class as defined above.

11 **IT IS FURTHER ORDERED** that Defendant shall within 45 calendar days of this Order
12 provide the Settlement Administrator with (i) each Class Member's full name; (ii) each Class
13 Member's last known address; (iii) each Class Member's last known telephone number; (iv) each
14 Class Member's Social Security number; and (v) each Class Member's start and end dates of
15 employment in a non-exempt position in California.

16 **IT IS FURTHER ORDERED** that the Settlement Administrator shall, within 14 calendar
17 days after receiving the Class Data, and pursuant to the terms of the Settlement Agreement, exercise
18 its best judgment to determine the current mailing address for each Class Member and then mail the
19 Class Notice to the Class by First Class, regular U.S. mail, postage pre-paid, using the most current
20 mailing address available. In the event that a Class Notice is returned to the Settlement
21 Administrator with a forwarding address, the Settlement Administrator will re-send the Class Notice
22 to the forwarding address affixed thereto. If no forwarding address is provided, then the Settlement
23 Administrator will promptly conduct a "standard search," sometimes called, "Skip Traces" or
24 "Credit Header" searches, to locate a better address. If a better address is found, the Settlement
25 Administrator will promptly re-send the Class Notice. If, at any time prior to the opt out deadline, a
26 Class Member contacts the Settlement Administrator, or if Class Counsel does so on his or her
27 behalf, to advise of a change in address, the Class Notice will be re-mailed to the address the Class
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1 Member (or Class Counsel) provides. In the event the procedures set forth herein are followed and
2 the intended recipient of a Class Notice still does not receive the Class Notice, the intended
3 recipient will be a Class Member and will be bound by all terms of the Settlement and the Order of
4 Final Approval entered by the Court.

5 **IT IS FURTHER ORDERED** that any Request for Exclusion must be postmarked or
6 delivered no later than 45 calendar days after the Class Notice is first mailed to the Class (or re-
7 mailed to the Class Member), and must be received by the Settlement Administrator to be valid.

8 **IT IS FURTHER ORDERED** that any dispute submitted by a Class Member regarding the
9 weeks of employment credited to that Class Member under the proposed Settlement must be
10 postmarked no later than 45 calendar days after the date when the Class Notice is first mailed to the
11 Class (or re-mailed to the Class Member), to be considered.

12 **IT IS FURTHER ORDERED** that Class Notice will provide that Class Members who wish to
13 object to the Settlement may ~~must~~ send to the Settlement Administrator a written statement
14 objecting to the Settlement, no later than 45 calendar days after the date the Class Notice is first
15 mailed by the Settlement Administrator. Such objection must: contain a statement of the Class
16 Member's objections, a statement advising if the objecting Class Member plans to address the Court
17 at the Settlement Fairness Hearing, and any legal briefs, papers or memoranda the objecting Class
18 Member proposes to submit to the Court. The Settlement Administrator shall file all such
19 objections with the Court prior to the Final Fairness Hearing.

20 **IT IS FURTHER ORDERED** that the Final Approval ~~Fairness~~ Hearing shall be held before
21 the undersigned on July 11, 2025 at 9:00 a.m., in Department CX-105 of the Superior Court for the
22 State of California County of Orange, located at 751 W. Santa Ana Boulevard, Santa Ana,
23 California 92701 or via remote appearance, to consider the fairness, adequacy and reasonableness
24 of the proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to
25 consider the application of Class Counsel for an award of reasonable attorneys' fees and costs, and
26 the Class Representative Service Payment.

27 ~~**IT IS FURTHER ORDERED** that pending final determination of whether this proposed~~
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1 ~~Settlement should be granted final approval, no member of the Class, either directly or~~
2 ~~representatively, or in any other capacity, shall commence or prosecute any action or proceeding~~
3 ~~asserting any of the Released Class Claims against the Released Parties, as defined in the Settlement~~
4 ~~Agreement.~~

5 **IT IS FURTHER ORDERED** that any Party to this case, including any Class Member, in
6 person or by counsel, may be heard, to the extent allowed by the Court, in support of, or in
7 opposition to, the Court's determination of the good faith, fairness, reasonableness and adequacy of
8 the proposed Settlement, the requested attorneys' fees and costs, the requested Class Representative
9 Service Award, and any Order of Final Approval and Judgment regarding such Settlement, fees,
10 costs and enhancement.

11 **IT IS FURTHER ORDERED** that all briefs regarding the Settlement shall be served and
12 filed in accordance with the following briefing schedule: All briefs and materials in support of an
13 Order of Final Approval and application for attorneys' fees and costs shall be filed with this Court
14 on or before June 25, 2025. Response briefs, if any, in opposition to objections shall be filed with
15 this Court no later than _____. The Settlement Administrator's report shall be filed be with
16 this Court no later than _____. Any written objections to the Settlement and briefs regarding
17 such objections shall be filed with this Court and served in accordance with the Settlement
18 Agreement no later than 45 days after the first mailing of the Class Notices.

19 **IT IS FURTHER ORDERED** that, in the event of final approval and the occurrence of the
20 Effective Settlement Date, all Participating Class Members, and their successors, shall conclusively
21 be deemed to have given full releases of the Released Claims against the Released Parties, ~~and all~~
22 ~~Class Members (other than opt outs) and their successors, shall be permanently enjoined and~~
23 ~~forever barred from asserting any Released Claims against any Released Party as described by the~~
24 ~~Settlement Agreement.~~

25 **IT IS FURTHER ORDERED** that, if for any reason the Court does not execute and file an
26 Order of Final Approval and Judgment does not occur for any reason whatsoever, the Settlement
27 Agreement and the proposed Settlement which is the subject of this Order and all evidence and
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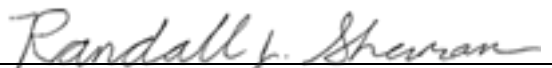
proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the parties to the litigation as more specifically set forth in the Settlement Agreement.

IT IS FURTHER ORDERED that, pending further order of this Court, all proceedings in this matter except those contemplated herein and in the Settlement Agreement are stayed.

The Court expressly reserves the right to adjourn or continue the Final Approval Fairness Hearing from time to time without further notice to the Class.

IT IS SO ORDERED.

Dated: March 7, 2025


Honorable Randall J. Sherman
Judge of the Superior Court