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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 18 2024

BY 
JESSICA MORALES, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ANTHONY GUTIERREZ, as an individual
and on behalf of those similarly situated,

Plaintiff,

vs.

OPTIONS FOR YOUTH-VICTOR VALLEY,
INC., a California Corporation; OPTIONS
FOR YOUTH-ACTION, INC., a California
Corporation; OPTIONS FOR YOUTH-
CALIFORNIA, INC., a California
Corporation; OPTIONS FOR YOUTH-
DUARTE, INC., a California Corporation;
OPTIONS FOR YOUTH-SAN
BERNARDINO, INC., a California
Corporation; OPTIONS FOR YOUTH-SAN
GABRIEL, INC., a California Corporation;
OPTIONS FOR YOUTH-SAN JUAN, INC., a
California Corporation; and Does 1 through
50, Inclusive,

Defendants.

CASE NO.: CIVSB2132685

**~~PROPOSED~~ PRELIMINARY
APPROVAL ORDER**

Hearing Date: January 18, 2024
Hearing Time: 8:30 a.m.

Judge: Hon. Jessica Morgan
Dept: 26

Date Filed: November 24, 2021
Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter came before the Honorable Jessica Morgan of the Superior Court of the State of
2 California, in and for the County San Bernardino, on January 18, 2024, for hearing on the
3 unopposed motion by Plaintiff Anthony Gutierrez ("Plaintiff") for preliminary approval of the
4 Settlement with Defendants Options For Youth-Victor Valley, Inc., Options For Youth-Acton, Inc.,
5 Options for Youth-California, Inc., Options for Youth-Duarte, Inc., Options for Youth-San
6 Bernardino, Inc., Options for Youth-San Gabriel, Inc., and Options for Youth-San Juan, Inc.
7 ("Defendants"). The Court, having considered the briefs, argument of counsel and all matters
8 presented to the Court and good cause appearing, hereby GRANTS Plaintiff's Motion for
9 Preliminary Approval of Class Action and PAGA Settlement.

10 **IT IS HEREBY ORDERED:**

11 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
12 ("Agreement") attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in Support of
13 Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement. This is based
14 on the Court's determination that the Settlement set forth in the Agreement is within the range of
15 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
16 Procedure and California Rules of Court, rule 3.769.

17 2. This Order incorporates by reference the definitions in the Agreement, and all terms
18 defined therein shall have the same meaning in this Order as set forth in the Agreement.

19 3. Pursuant to the terms of Paragraph 2.5 of the Agreement, Defendants Options for
20 Youth-Burbank, Inc. and Options for Youth-Upland, Inc., are dismissed without prejudice.

21 4. The Gross Settlement Amount that Defendants shall pay is Seven Hundred Fifty
22 Thousand Dollars (\$750,000). It appears to the Court on a preliminary basis that the settlement
23 amount and terms are fair, adequate, and reasonable as to all potential Class Members when
24 balanced against the probable outcome of further litigation and the significant risks relating to
25 certification, liability, and damages issues. It further appears that investigation and research have
26 been conducted such that counsel for the Parties are able to reasonably evaluate their respective
27 positions. It further appears to the Court that the Settlement will avoid substantial additional costs
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1 by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
2 of the Action. It further appears that the Settlement has been reached as the result of serious and
3 non-collusive, arms-length negotiations.

4 5. The Court preliminarily finds that the Settlement appears to be within the range of
5 reasonableness of a settlement that could ultimately be given final approval by this Court. The
6 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
7 preliminarily finds that the monetary settlement awards made available to the Class is fair, adequate,
8 and reasonable when balanced against the probable outcome of further litigation and the significant
9 risks relating to certification, liability, and damages issues.

10 6. The Agreement provides for an attorneys' fees award not to exceed one-third of the
11 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and
12 proposed a Class Representative Service Payment to Plaintiff in an amount not to exceed \$10,000.
13 The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service
14 award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting
15 these requests, including lodestar, prior to final approval.

16 7. The Court recognizes that Plaintiff and Defendant stipulate and agree to
17 representative treatment and certification of a class for settlement purposes only. This stipulation
18 will not be deemed admissible in this or any other proceeding should this Settlement not become
19 final. For settlement purposes only, the Court conditionally certifies the Class which consists of "all
20 individuals who were employed by Defendants in California and who were classified as a non-
21 exempt employee at any time during the Class Period." The "Class Period" is September 23, 2020
22 through July 7, 2023.

23 8. The Court concludes that, for settlement purposes only, the Class meets the
24 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
25 the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable;
26 (b) common questions of law and fact predominate, and there is a well-defined community of
27 interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the
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1 claims of Plaintiff are typical of the claims of the members of the Class; (d) Plaintiff will fairly and
2 adequately protect the interests of the members of the Class; (e) a class action is superior to other
3 available methods for the efficient adjudication of this controversy; and (f) counsel for the Class is
4 qualified to act as counsel for the Class and Plaintiff is an adequate representative of the Class.

5 9. The Court provisionally appoints Plaintiff as the representative of the Class. The
6 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
7 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevor G. Moran of Blumenthal
8 Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

9 10. The Agreement provides for \$50,000 PAGA Penalties out of the Gross Settlement
10 Amount, of which \$37,500 shall be allocated to the Labor & Workforce Development Agency
11 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this Agreement
12 pursuant to the PAGA and \$12,500 to the Aggrieved Employees. “Aggrieved Employees” are all
13 individuals who were employed by Defendants in California and who were classified as a non-
14 exempt employee at any time during the PAGA Period (September 23, 2020, through July 7, 2023).
15 Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA will be provided notice of the
16 Agreement and these settlement terms. The Court finds the PAGA Penalties to be reasonable.

17 11. The Court hereby approves, as to form and content, the Class Notice attached to the
18 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
19 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right to
20 be excluded from the Class by submitting a written opt-out request, and of each member’s right and
21 opportunity to object to the Settlement. The Court further finds that the distribution of the Class
22 Notice substantially in the manner and form set forth in the Agreement and this Order meets the
23 requirements of due process, is the best notice practicable under the circumstances, and shall
24 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
25 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
26 Notice Packet is returned because of an incorrect address, the Administrator will promptly search for
27 a more current address for the Class Member and re-mail the Class Notice Packet to any new
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1 address for the Class Member no later than seven (7) days after the receipt of the undelivered Class
2 Notice.

3 12. The Court hereby appoints ILYM Group as the Administrator. No later than forty-
4 five (45) days after this Order, Defendants will provide the Class Data to the Administrator. The
5 Administrator will perform address updates and verifications as necessary prior to the first mailing.
6 Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) days after
7 receiving the Class Data, the Administrator will mail the Class Notice Packet to all Class Members
8 via first-class regular U.S. Mail to their last known address.

9 13. The Court hereby preliminarily approves the proposed procedure for exclusion from
10 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
11 Class as provided in the Class Notice by following the instructions for requesting exclusion from the
12 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked or
13 received no later than sixty (60) calendar days after the date of the mailing of the Class Notice
14 (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline for requests
15 for exclusion will be extended an additional fourteen (14) days. A Request for Exclusion may also
16 be faxed or emailed to the Administrator as indicated in the Class Notice. Any such person who
17 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the
18 Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal,
19 or comment thereon. Class Members who have not requested exclusion shall be bound by all
20 determinations of the Court, the Agreement, and the Judgment. A request for exclusion may only
21 opt out that particular individual, and any attempt to affect an opt out of a group, class, or subclass
22 of individuals is not permitted and will be deemed invalid.

23 14. Any Class Member who has not opted out may appear at the final approval hearing
24 and may object or express the Member’s views regarding the Settlement and may present evidence
25 and file briefs or other papers that may be proper and relevant to the issues to be heard and
26 determined by the Court as provided in the Class Notice. Class Members will have until the
27 Response Deadline to submit their written objections to the Administrator. Written objections may
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1 also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class Notice
2 Packet is re-mailed, the Response Deadline for written objections will be extended an additional
3 fourteen (14) days. Alternatively, Class Members may appear at the Final Approval Hearing to
4 make an oral objection.

5 15. A final approval hearing shall be held before this Court on June 19, 2024 at 8:30 a.m.
6 in Department 26 at the San Bernardino County Superior Court to hear the motion for final approval
7 and the motion for attorneys' fees and costs, and to determine all necessary matters concerning the
8 Settlement, including: whether the proposed settlement of the Action on the terms and conditions
9 provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the
10 Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan
11 of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the
12 Class Members; and to finally approve attorneys' fees and costs, service award, and the fees and
13 expenses of the Administrator. All papers in support of the motion for final approval and for
14 attorneys' fees, costs and service award shall be filed with the Court and served on all counsel no
15 later than sixteen (16) court days before the hearing and the motion shall be heard at this final
16 approval hearing.

17 16. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
18 shall be construed as a concession or admission by Defendants in any way that the claims asserted
19 have any merit or that this Action was properly brought as a class or representative action, and shall
20 not be used as evidence of, or used against Defendants as, an admission or indication in any way,
21 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendants or
22 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is
23 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or
24 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be
25 construed as, offered or admitted in evidence as, received as or deemed to be evidence for any
26 purpose adverse to the Defendants, including, but not limited to, evidence of a presumption,
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1 concession, indication or admission by Defendants of any liability, fault, wrongdoing, omission,
2 concession or damage.

3 17. In the event the Settlement does not become effective in accordance with the terms of
4 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
5 become effective for any reason, this Order shall be rendered null and void and shall be vacated, and
6 the Parties shall revert to their respective positions as of before entering into the Agreement, and
7 expressly reserve their respective rights regarding the prosecution and defense of this Action,
8 including all available defenses and affirmative defenses, and arguments that any claim in the
9 Action could not be certified as a class action and/or managed as a representative action. In such an
10 event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred
11 to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
12 Agreement with respect to the effect of the Agreement if it is not approved.

13 18. The Court reserves the right to adjourn or continue the date of the final approval
14 hearing and all dates provided for in the Agreement without further notice to Class Members and
15 retains jurisdiction to consider all further applications arising out of or connected with the proposed
16 Settlement.

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18 **IT IS SO ORDERED.**

19
20 Dated: _____

1/18/24

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23 _____
24 HON. JESSICA MORGAN
25 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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