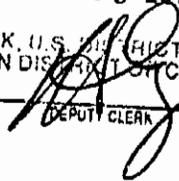


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**FILED**

AUG 08 2011

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY  DEPUTY CLERK

15 UNITED STATES DISTRICT COURT  
16 EASTERN DISTRICT OF CALIFORNIA  
17 (Fresno Division)

18 Case No. 1:10-cv-00271-AWI-GSA

19 JOSE LUIS HERRERA & MARIA MELGOZA,  
20 on behalf of themselves and a class of all non-  
21 exempt California "La Perla Tapatia" employees,

22 *Herrera et al v. Manuel Villa Enterprises, Inc.*  
23 Plaintiffs,

24 vs.

25 MANUEL VILLA ENTERPRISES, INC. (dba  
26 "La Perla Tapatia"), a California Corporation,  
27 MANUEL VILLA, and BERTHA VILLA

28 Defendants.

~~PROPOSED~~ ORDER:

- (1) **CONDITIONALLY CERTIFYING SETTLEMENT CLASS;**
- (2) **APPROVING CLASS SETTLEMENT;**
- (3) **APPROVING FEES AND COSTS APPLICATION**
- (4) **APPOINTING PAYMENT TO CLAIMS ADMINISTRATOR; AND**
- (5) **APPROVING PAGA PAYMENT**

Date: August 8, 2011  
Time: 1:30 p.m.  
Courtroom: 2  
Judge: Anthony W. Ishii

1 On August 8, 2011, a hearing was held on the motion of plaintiffs Jose Luis Herrera and Maria  
2 Melgoza ("Plaintiffs"), for final approval of the class action settlement, for class certification, for  
3 approval of claims administrator payment, and for approval of counsel's fees and costs. Stan S. Mallison  
4 of the Law Offices of Mallison & Martinez appeared for Plaintiffs; and Benjamin Webster of Littler  
5 Mendelson appeared Defendants.

6 The Court having read and considered the papers on the motion, the arguments of counsel, and  
7 the law, and good cause appearing therefore,

8 IT IS ORDERED:

9 1. The Court has jurisdiction over this action and the parties' proposed settlement under 28  
10 U.S.C. sections 1331 and 1367, as plaintiffs' original complaint was brought under federal and  
11 California wage-and-hour law; the Court has original jurisdiction over plaintiffs' federal law claims; and  
12 the Court has supplemental jurisdiction over plaintiffs' state-law claims because they arise from the  
13 same alleged transactions and occurrences as do plaintiffs' federal-law claims.

14 2. The proposed class satisfies the requirements of a settlement class because the class  
15 members are readily ascertainable and a well-defined community of interest exists in the questions of  
16 law and fact affecting the parties.

17 3. The parties' Settlement Agreement (the "Settlement") attached to the Declaration of Stan  
18 S. Mallison is granted final approval as it meets the criteria for final settlement approval. The  
19 Settlement is fair, adequate and reasonable, and appears to be the product of arm's-length and informed  
20 negotiations and to treat all Class Members fairly.

21 4. The following class of persons are certified as the Class in this action solely for the  
22 purposes of the Settlement:

23 All persons who are or have been employed by Defendant Manuel Villa Enterprises in  
24 its grocery stores as regular non-exempt employees in one or more of the Covered  
Positions from February 17, 2006 until February 17, 2010

25 5. The Court hereby approves the Settlement as set forth in the Settlement Agreement and  
26 finds that the Settlement is, in all respects, fair, adequate, and reasonable, and directs the Parties to  
27 effectuate the Settlement according to the terms outlined in the Settlement Agreement. The Court finds  
28 that the Settlement has been reached as a result of intensive, serious, and non-collusive arms-length

1 negotiations. In granting final approval of the Settlement Agreement, the Court considered the nature of  
2 the claims, the amounts and kinds of benefits paid in settlement, the allocation of settlement proceeds  
3 among the Class Members, and the fact that a settlement represents a compromise of the parties'  
4 respective positions rather than the result of a finding of liability at trial. Additionally, the Court finds  
5 that the terms of the Settlement Agreement have no obvious deficiencies and do not improperly grant  
6 preferential treatment to any individual Class Member. Accordingly, the Court finds that the Settlement  
7 Agreement was entered into in good faith. The Court also finds that the Plaintiff Class is properly  
8 certified for settlement purposes only.

9 6. Plaintiffs Jose Luis Herrera and Maria Melgoza are appointed Class Representatives.  
10 Stan S. Mallison and Hector R. Martinez and the Law Offices of Mallison & Martinez are appointed  
11 Class Counsel. The Court further determines that payment in the amount of \$7,500 each for class  
12 representative Jose Luis Herrera and Maria Melgoza for their services, in addition to their individual  
13 Settlement Payments, is fair and reasonable, and gives final approval to and orders such payments in  
14 accordance with the terms of the Settlement Agreement.

15 7. The Court determines that an award of attorneys' fees and reimbursement of out-of-  
16 pocket expenses incurred in prosecuting this litigation to Class Counsel from the Settlement Fund in the  
17 total amount of \$123,920.55 in fees (30% of the total recovery of \$413,068.49) and \$11,074.90 in costs  
18 is reasonable and well-warranted by the amount of work performed and the costs incurred in prosecuting  
19 this litigation. This award of fees and litigation expenses shall be paid by the Settlement Administrator  
20 to Class Counsel, Mallison & Martinez. These payments shall be made by the Settlement Administrator  
21 in accordance with the Settlement Agreement. In the event defendants prepay (or delay) any amounts  
22 and thereby avoid (or increase) interest charges Counsel's award will be adjusted accordingly to reflect a  
23 30% gross recovery. Counsel shall be paid at the same time as

24 8. The Court approves the payment of \$23,000 to Simpluris Inc. to cover the costs of  
25 administration as provided for in the Settlement Agreement. The payment authorized by this paragraph  
26 shall be made in accordance with the terms of the Settlement Agreement.

27 9. The Court finds the Net Settlement Amount and the calculation and method of making  
28 Settlement Payments provided for under the Settlement Agreement to be fair and reasonable.

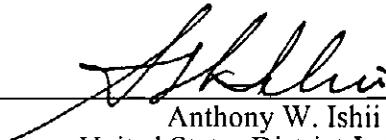
1 Accordingly, the Court approves and orders the calculations of the Settlement Payments to be made to  
2 the Plaintiff Class in accordance with the terms of the Settlement Agreement.

3 10. The court approves the dismissal without prejudice of the PAGA claims as the State of  
4 California is not prejudiced by the dismissal.

5 11. If the Settlement does not become final and effective in accordance with the terms of the  
6 Settlement Agreement, then this Final Order and all orders entered in connection herewith, including the  
7 Final Judgment, shall be vacated and rendered null and void.

8 12. Without affecting the finality of the Settlement or Final Judgment, this Court shall retain  
9 exclusive and continuing jurisdiction over the Parties, including all Class Members, relating to the  
10 Action and the administration, consummation, enforcement and interpretation of the Settlement  
11 Agreement, this Final Order, the Final Judgment, and for any other necessary purpose.

12  
13 Dated: August 8, 2011.

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17 Anthony W. Ishii  
18 United States District Judge  
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