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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 ESTELLA SCHILLER, individually and on
7 behalf of other members of the general
8 public similarly situated, and as an
9 aggrieved employee pursuant to the Private
10 Attorneys General Act,

11 Plaintiffs,

12 v.

13 DAVID'S BRIDAL, INC.,

14 Defendant.

CASE NO. 1:10-cv-00616-AWI-SKO

ORDER:

- 15 (1) **PRELIMINARILY APPROVING
16 CLASS SETTLEMENT;**
- 17 (2) **CONDITIONALLY CERTIFYING
18 SETTLEMENT CLASSES;**
- 19 (3) **APPOINTING CLASS
20 REPRESENTATIVE AND CLASS
21 COUNSEL;**
- 22 (4) **APPROVING CLASS NOTICE AND
23 RELATED MATERIALS;**
- 24 (5) **APPOINTING SETTLEMENT
25 ADMINISTRATOR; AND**
- 26 (6) **SCHEDULING FINAL APPROVAL
27 HEARING.**

28 / (Doc. 39)

On October 7, 2011, Plaintiff filed a motion for preliminary approval of a class action settlement. On October 21, 2011, Defendant David's Bridal, Inc. filed a statement of non-opposition. (Doc. 41.)

Plaintiff's motion came on regularly for hearing on November 9, 2011. Arthur Meneses, Esq., of Initiative Legal Group APC appeared on behalf of Plaintiff and Cary Palmer, Esq. of Jackson Lewis LLP appeared on behalf of Defendant. The essential terms of the parties' "Joint Stipulation of Settlement and Release Between Plaintiff and Defendant" (Doc. 39-1, Exhibit 1 to Williams' Decl.) ("Joint Stipulation") were set forth on the record, and the parties submitted the motion to the Court.

1 The Court has considered the moving papers in support of the motion for preliminary
2 approval of the class settlement and HEREBY FINDS and ORDERS the following:

3 1. The Court has jurisdiction over this action and the parties' proposed settlement
4 pursuant to 28 U.S.C. § 1332(d);

5 2. The Court hereby PRELIMINARILY APPROVES the Settlement based upon the
6 terms set forth in the Joint Stipulation;

7 (a) The Settlement appears to be fair, adequate, and reasonable to the Class;

8 (b) The Settlement appears to be the product of arm's-length and informed
9 negotiations and appears to treat all Class Members fairly; and

10 (c) The Settlement falls within the range of reasonableness and appears to be
11 presumptively valid, subject only to any objections that may be raised at the
12 final fairness hearing and final approval by this Court;

13 3. Each proposed class set forth in the Joint Stipulation satisfies the requirements of a
14 settlement class because the class members are readily ascertainable and a well-
15 defined community of interests exists in the questions of law and fact affecting the
16 parties. It is ORDERED that the Settlement Classes are Preliminarily certified for
17 settlement purposes only. The two settlement classes preliminarily certified are as
18 follows:

19 (a) **Store Manager Class:** All salaried store employees of Defendant in
20 California between January 1, 2007, and preliminary approval of the
21 Settlement; and

22 (b) **Hourly Associate Class:** All hourly store employees of Defendant in
23 California between January 1, 2007, and preliminary approval of the
24 Settlement;

25 4. The Court APPROVES, as to form and content, the Notice of Pendency of Class
26 Action, Proposed Class Action Settlement, and Hearing Date for Court Approval
27 ("Notice of Pendency of Class Action") (Doc. 39-1, Exhibit A to Exhibit 1 to
28

1 Williams' Decl.) in substantially the form attached to the Joint Stipulation,¹ and the
2 Claims Form in substantially the form attached thereto as Exhibit B (Doc. 39-1,
3 Exhibit B to Exhibit 1 to Williams' Decl.) and C (Doc. 39-1, Exhibit C to Exhibit 1
4 to Williams' Decl.) and finds as follows:

5 (a) The parties' proposed notice plan is constitutionally sound because individual
6 notices will be mailed to all class members whose identities are known to the
7 parties, and such notice is the best notice practicable;

8 (b) The Court APPROVES the procedure for Class Members to participate in,
9 to opt out of, and to object to, the Settlement as set forth in the Notice of
10 Pendency of Class Action;

11 5. The Court DIRECTS the mailing of the Notice of Pendency of Class Action and
12 Proposed Settlement and the Claim Forms by first class mail to the Class Members
13 in accordance with the Implementation Schedule set forth below. The Court finds
14 the dates selected for the mailing and distribution of the Notice and the Claim Form,
15 as set forth in the Implementation Schedule, meet the requirements of due process
16 and provide the best notice practicable under the circumstances and shall constitute
17 due and sufficient notice to all persons entitled thereto;

18 6. The named Plaintiff Estella Schiller is a suitable class representative and is
19 APPOINTED Class Representative for the Settlement Class;

20 7. Initiative Legal Group APC ("Initiative") is experienced in matters of this nature and
21 the Court hereby finds Initiative is adequate and is APPOINTED as Class Counsel;

22 8. The Court CONFIRMS Simpluris, Inc. as the Class Administrator;

23 9. To facilitate administration of the Settlement pending final approval, the Court
24 hereby ENJOINS Plaintiff and all Class Members from filing or prosecuting any
25 claims, suits, or administrative proceedings (including filing claims with the Division
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27 ¹ The Notice of Pendency of Class Action shall be modified to indicate that the final fairness hearing will be
28 held in Courtroom 7, rather than Courtroom 8. (*See* Doc. 39-1, Exhibit A to Exhibit 1 to Williams' Decl., p. 6, 7.) The
Notice of Pendency of Class Action shall also be modified to remove reference to "By Order of the Superior Court."
(*See* Doc. 39-1, Exhibit A to Exhibit 1 to Williams' Decl., p. 7.)

1 of Labor Standards Enforcement of the California Department of Industrial
2 Relations) regarding claims released by the Settlement unless and until such Class
3 Members have filed valid Requests for Exclusion with the Claims Administrator and
4 the time for filing claims with the Claims Administrator has elapsed;

5 10. A final fairness hearing on the question of whether the proposed Settlement,
6 attorneys' fees to Class Counsel, and the Class Representative's Service Payment
7 should be finally approved as fair, reasonable, and adequate as to the members of the
8 Class is scheduled in Courtroom 7 on the date and time set forth in the
9 implementation schedule in Paragraph 11 below; and

10 11. The **Implementation Schedule** for further proceedings shall be as follows:

Timing	Event
November 30, 2011	Last Day for Defendant to Submit Class Member Information to Claims Administrator
December 23, 2011	Last Day for Claims Administrator to mail the Notice and Claim Forms to Class Members
February 21, 2012	Last Day for Class Members to sign and postmark Claim Forms, Request for Exclusions, or file and serve objections to the Settlement
March 9, 2012	Last Day for Plaintiff to file Motion for Final Approval of Class Action Settlement and Motion for an Award of Attorneys' Fees and Costs, and Declaration from Claims Administrator of Due Diligence and Proof of Mailing
March 29, 2012	Last Day for Class Members to Object to Plaintiff's Motion for an Award of Attorneys' Fees and Costs
April 11, 2012	Final Approval Hearing

24
25 IT IS SO ORDERED.

26 **Dated:** November 9, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE