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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DELORES HUMES, an individual,
DIANE ABELLA, an individual, on
behalf of themselves and others
similarly situated,

Plaintiffs,

vs.

FIRST STUDENT, INC., an entity;
and Does 1 through 100, inclusive,

Defendants.

CASE NO. 1:15-CV-01861-BAM

Assigned to: Hon. Barbara A. McAuliffe

ORDER:

- (1) GRANTING FINAL APPROVAL TO CLASS ACTION SETTLEMENT; AND**
- (2) ENTERING FINAL JUDGMENT**

1 On April 2, 2020, a hearing was held on the motion of Plaintiffs Delores
2 Humes and Diane Abella (“Plaintiffs”) for final approval of their class settlement
3 (the “Settlement”) with Defendant First Student, Inc. (“Defendant”), and payments
4 to the Plaintiffs, Class Counsel and the Settlement Administrator.

5 The Parties have submitted their Settlement, which this Court
6 preliminarily approved by its December 13, 2019 Order (Docket No. 71) (the
7 “Preliminary Approval Order”). In accordance with the Preliminary Approval
8 Order, Class Members have been given notice of the terms of the Settlement and
9 the opportunity to comment on or object to it or to exclude themselves from its
10 provisions.

11 Having received and considered the Settlement, the supporting papers
12 filed by the Parties, and the evidence and argument received by the Court before
13 entering the Preliminary Approval Order and at the final approval hearing, the
14 Court grants final approval of the Settlement, enters this Final Approval Order, and
15 **HEREBY ORDERS and MAKES DETERMINATIONS** as follows:

16 1. Except as otherwise specified herein, the Court for purposes of this
17 Final Approval Order and Judgment adopts all defined terms set forth in the Class
18 Action Settlement Agreement (“Agreement”).

19 2. The Court has jurisdiction over this action and the Settlement pursuant
20 to 28 U.S.C. sections 1132(a) and 1332(d).

21 3. For settlement purposes, the Court confirms the certification of the
22 Class defined as: “non-exempt employees of Defendant who were employed as
23 drivers at Defendant’s Fresno, California location from October 28, 2014 to
24 November 27, 2016.”

25 4. Pursuant to the Preliminary Approval Order, the Notice of Proposed
26 Settlement of Class Action and Hearing Date for Final Court Approval (“Class
27 Notice”) was sent to each Class Member by first-class mail. The Class Notice
28 informed Class Members of the terms of the Settlement, their right to receive a

1 Settlement Share, their right to comment on or object to the Settlement and/or the
2 attorneys' fees and costs, their right to elect not to participate in the Settlement and
3 pursue their own remedies, and their right to appear in person or by counsel at the
4 final approval hearing and be heard regarding approval of the Settlement. Adequate
5 periods of time were provided by each of these procedures.

6 5. The Court finds and determines that this notice procedure afforded
7 adequate protections to Class Members and provides the basis for the Court to
8 make an informed decision regarding approval of the settlement based on the
9 responses of Class Members. The Court finds and determines that the notice
10 provided in this case was the best notice practicable, which satisfied the
11 requirements of law and due process.

12 6. Pursuant to the Class Action Fairness Act, 28 U.S.C. § 1711 *et seq.*
13 (“CAFA”), not later than ten days after Plaintiffs’ motion seeking preliminary
14 approval of the Settlement was filed in court, Defendant discharged its obligations
15 under CAFA to provide notice to the appropriate federal and state officials. The
16 notice of Settlement also invited comment on the Settlement. This Final Approval
17 Order is not being issued earlier than ninety days after the later of the dates on
18 which the appropriate federal and state officials were served with the notice of the
19 Settlement. Accordingly, the requirements under CAFA to provide notice to the
20 appropriate federal and state officials have been satisfied.

21 7. No Class Members filed written objections to the proposed settlement
22 as part of this notice process.

23 8. For the reasons stated in the Preliminary Approval Order, the Court
24 finds and determines that the terms of the Settlement are fair, reasonable and
25 adequate to the Class and to each Class Member and that the Participating Class
26 Members will be bound by the Settlement, that the Settlement is ordered finally
27 approved, and that all terms and provisions of the Settlement should be and hereby
28 are ordered to be consummated.

1 9. The Court finds and determines that the Gross Settlement Amount in
2 the amount of \$650,000 and the Settlement Shares to be paid to the Participating
3 Class Members as provided for by the Settlement are fair and reasonable. The
4 Court hereby grants final approval to and orders the payment of those amounts be
5 distributed to the Participating Class Members out of the Net Settlement Amount in
6 accordance with the Agreement.

7 10. The Court finds and determines that the fees and expenses of
8 Simpluris, Inc. in administrating the settlement, in the amount of \$8,999.00, are fair
9 and reasonable. The Court hereby grants final approval to and orders that the
10 payment of that amount be paid out of the Gross Settlement Amount in accordance
11 with the Agreement.

12 11. The Court finds and determines that the request by Plaintiff and Class
13 Counsel to the Class Representative Service Payment and the attorneys' fees and
14 costs pursuant to the Agreement are fair and reasonable. The Court hereby grants
15 final approval to and orders that the payment of \$7,500.00 to Delores Humes and
16 \$5,000.00 to Diane Abella for their Class Representative Service Payments,
17 \$216,666.66 for attorneys' fees to Class Counsel, and \$49,566.73 for
18 reimbursement of costs be paid out of the Gross Settlement Amount in accordance
19 with the Settlement.

20 12. As of the Effective Date as defined in the Agreement, all Participating
21 Class Members hereby fully and finally release the Defendant and the Released
22 Parties (as defined in the Agreement), from any and all state and federal statutory,
23 regulatory and common law claims for failure to issue complete and accurate wage
24 statements, up to November 27, 2016, which were alleged, or could have been
25 alleged, in the original Complaint or any amended Complaint filed in the Action.
26 The Released Class Claims include, but are not limited to, claims for failure to issue
27 complete and accurate wage statements and any and all derivative claims based
28 thereon, including but not limited to, all claims for damages and penalties.

1 13. As of the Effective Date, Plaintiffs hereby fully and finally release the
2 Defendant and the Released Parties (as defined in the Agreement) from the
3 Plaintiffs' Released Claims (as defined in the Agreement).

4 14. Nothing in this order shall preclude any action to enforce the Parties'
5 obligations under the Settlement or under this order, including the requirement that
6 Defendant make payment in accordance with the Agreement.

7 15. If, for any reason, the Settlement ultimately does not become Final (as
8 defined by the Settlement), this Final Approval Order will be vacated; the Parties
9 will return to their respective positions in this action as those positions existed
10 immediately before the Parties executed the Agreement; and nothing stated in the
11 Agreement or any other papers filed with this Court in connection with the
12 Settlement will be deemed an admission of any kind by any of the Parties or used as
13 evidence against, or over the objection of, any of the Parties for any purpose in this
14 action or in any other action

15 16. The Parties entered into the Settlement solely for the purpose of
16 compromising and settling disputed claims. Defendant in no way admits any
17 violation of law or any liability whatsoever to Plaintiffs and the Class, individually
18 or collectively, all such liability being expressly denied by Defendant.

19 17. By means of this Final Approval Order, this Court hereby enters final
20 judgment in this action, as defined in Rule 58(a)(1), Federal Rules of Civil
21 Procedure.

22 18. Without affecting the finality of this Final Approval Order in any way,
23 the Court retains jurisdiction of all matters relating to the interpretation,
24 administration, implementation, effectuation and enforcement of this order and the
25 Settlement.

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19. This action is dismissed with prejudice, each side to bear its own costs and attorneys' fees except as provided by the Settlement and this Order.

IT IS SO ORDERED.

Dated: April 3, 2020

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE