1 2 3 4 5 6 7 8	JAMES KAWAHITO (SBN 234851) KAWAHITO LAW GROUP APC 222 N. Sepulveda Blvd., Suite 2222 El Segundo, California 90245 Telephone: (310) 746-5300 Facsimile: (310) 593-2520 SAHAG MAJARAIN II (SBN 146621) LAW OFFICES OF SAHAG MAJARIAN II 18250 Ventura Blvd. Tarzana, CA 91356 Telephone: (818) 609-0807 Fax No.: (818) 609-0892 Attorneys for Plaintiff Clinton Simril and Class I	Members
9		
10	UNITED STATES DISTRICT COURT	
	NORTHERN DISTRICT OF CALIFORNIA	
11		
12 13	CLINTON SIMRIL, individually, and on behalf of other members of the general public	CASE NO.: 16-CV-00817-SI
14	similarly situated,	[Honorable Judge Susan Illston, Courtroom 1, 17 <sup>th</sup> Floor]
	Plaintiff,	ORDER GRANTING PRELIMINARY
15 16	vs.	APPROVAL OF CLASS ACTION SETTLEMENT
17	TVI, Inc., and DOES 1 through 10, inclusive,	
18	Defendants.	
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	Simril v. TVI, Inc.	Notice of Motion
	Simil V. 1 VI, Inc. 16-CV-00817-SI	notice of would

## 1 2

## **ORDER GRANTING PRELIMINARY APPROVAL OF**

## **CLASS ACTION SETTLEMENT**

On April 14, 2017 the Court heard Plaintiff's Motion for Preliminary Approval of Class
Action Settlement by Plaintiff Clinton Simril ("Plaintiff" or "Class Representative"), on behalf of
himself and all others similarly situated. The Motion is not opposed by Defendant TVI, Inc.
("TVI"). The Court has considered the Joint Stipulation of Class Action Settlement and Release
("Settlement Agreement"), the proposed Notice of Class Action Settlement ("Class Notice") and
the Motion for Preliminary Approval and its attached forms, the submissions of counsel, and
hereby finds and Orders as follows:

10 1. Unless otherwise defined herein, all terms used in this Order (the "Preliminary
11 Approval Order") will have the same meaning as defined in the Settlement Agreement.

12 2. The Court finds on a preliminary basis that the settlement memorialized in the
13 Settlement Agreement, filed with the Court, falls within the range of reasonableness and,
14 therefore, meets the requirements for preliminary approval.

3. Based on a review of the papers submitted by the parties, the Court finds that the
settlement is the result of arms-length negotiations conducted after Class Counsel adequately
investigated the claims and became familiar with the strengths and weaknesses of those claims.
The assistance of an experienced mediator in the settlement process supports the Court's
conclusion that the settlement is non-collusive.

204. The Court conditionally finds that, for the purposes of approving this settlement 21 only, the proposed Class meets the requirements for certification of a settlement class under Rule 22 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure: (a) the proposed Class is ascertainable 23 and so numerous that joinder of all members of the Class is impracticable; (b) there are questions 24 of law or fact common to the proposed Class; (c) certain claims of Plaintiff are typical of the 25 claims of the members of the proposed Class; (d) Plaintiff and their counsel will fairly and 26adequately protect the interests of the proposed Class; and (e) a class action is superior to the other 27 available methods for an efficient resolution of this controversy. Accordingly, pursuant to Rule 23 28 of the Federal Rules of Civil Procedure, the Court conditionally certifies, for settlement purposes

only (and for no other purpose and with no other effect upon this or any other action, including no
 effect upon this action should the settlement not ultimately be approved), the following class: All
 persons who worked for Defendant in California as a non-exempt employee from December 21,
 2011 to the date of Preliminary Approval

5 5. For purposes of this Preliminary Approval Order, "Class Period" means the period
6 from December 21, 2011 through the date of preliminary approval.

6. If the settlement does not become final for any reason, the fact that the parties were
willing to stipulate to class certification as part of the Settlement shall have no bearing on, and will
not be admissible in connection with the issue of whether a class in this action should be certified
in a non-settlement context.

The Court's conditional findings are limited solely to the claims brought on behalf
of the proposed Class. The Court's findings are for purposes of conditionally certifying a Class
and will not have any claim or issue preclusion or estoppel effect in any other action against
Defendant or in this action if the settlement is not finally approved.

15 8. The Court appoints, for settlement purposes only, Plaintiff Clinton Simril as
16 representative for the claims against TVI.

17 9. The Court appoints, for settlement purposes only, Kawahito Law Group APC and
18 the Law Offices of Sahag Majarian II as "Class Counsel."

19 10. The Court approves CPT Group, Inc. as the Claims Administrator to perform duties
20 in accordance with the Settlement Agreement.

11. The Court finds that the procedures for notifying the Class about the settlement as
described in the Settlement Agreement and Class Notice provide the best notice practicable under
the circumstances and therefore meet the requirements of due process, and directs the mailing of
the Class Notice and the attachments thereto in accordance with the Settlement Agreement.

12. The Court approves, as to form and content, the proposed Class Notice and
associated forms. The Claims Administrator is authorized to mail those documents, after they are
updated with the appropriate dates and deadlines consistent with the Settlement Agreement, to the
Class Action members as provided in the Settlement Agreement.

-2-

1 13. The Court approves the requirements for submitting objections to the Settlement 2 Agreement set forth in the Class Notice. Class Members who wish to object to the Settlement 3 must send or file a written objection with the Court, not later than sixty calendar days from the 4 date the Claims Administrator mails the Class Notice to the Class Members. Class Members who 5 does not submit an objection in the manner and by the deadline specified above will be deemed to 6 have waived all objections and will be foreclosed from making any objections to the Settlement, 7 whether by appeal or otherwise. In the event any objections are asserted, Plaintiff and Defendant 8 may address those objections in their briefing for Final Approval of the Settlement.

9 14. The Court approves the procedures for Class Members to request exclusion from 10 the Settlement Agreement as set forth in the Class Notice. In particular, Class Members may elect 11 to opt out of the Settlement by sending a written request for exclusion to the Claims Administrator 12 at the address that is set forth in the Class Notice. To be timely, all such Requests for Exclusion 13 must be postmarked no later than sixty calendar days after the date the Claims Administrator mails 14 the Class Notice to the Class Members. Class Members who fail to comply with the opt-out 15 procedure shall not be excluded and shall instead be bound by all provisions of the Settlement 16 Agreement and all orders issued pursuant thereto.

17 15. The parties are ordered to carry out the Settlement according to the terms of the 18 Settlement Agreement. 19 2021 22 23 24 25 26 27 28 -3-Simril v. TVI. Inc. 16-CV-00817-SI

1	16. Plaintiff shall file the motion for fees and costs by June 23, 2017. Plaintiff shall	
2	file the motion for final approval of the settlement by July 28, 2017. The Court will conduct a	
3	Fairness and Good Faith Determination Hearing on August 21, 2017 at 4:00 p.m. for the purposes	
4	of: (i) determining the fairness, adequacy, and reasonableness of the Settlement Agreement terms	
5	and associated settlement pursuant to class action procedures and requirements; (ii) determining	
6	the good faith of the Settlement Agreement and associated settlement; and (iii) entering Judgment.	
7	The Fairness and Good Faith Determination Hearing may be continued without further notice to	
8	Class Members.	
9		
10	IT IS SO ORDERED	
11	Suren Delston	
12	Dated: April 17, 2017 SUSAN ILLSTON	
13	United States District Judge	
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25 26		
26 27		
27		
20	-4-	
	Simril v. TVI, Inc. 16-CV-00817-SI	

l