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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 LAVERNA SHANNON, *individually and*
12 *on behalf of other employees similarly*
13 *situated and in a representative capacity,*

14 Plaintiff,

15 v.

16 SHERWOOD MANAGEMENT CO.,
17 INC., and DOES 1–10,

18 Defendants.

Case No. 19-cv-01101-BAS-JLB

**ORDER GRANTING MOTION FOR
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT (ECF
No. 21)**

19 Plaintiff Laverna Shannon filed this employment class action against Defendants
20 Sherwood Management Co., Inc. and Does 1–10. Now before the Court is Plaintiff's
21 unopposed motion for final approval of the parties' class action settlement. (ECF No. 21.)
22 The matter came on for hearing on October 5, 2020. The Court has considered the parties'
23 Joint Stipulation of Class Action Settlement and Release ("Settlement" or "Settlement
24 Agreement," ECF No. 13-3), the record in this action, and the arguments and authorities of
25 counsel. For the following reasons, the Court **GRANTS** Plaintiff's motion for final
26 approval of the Settlement.

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1 **I. PROPOSED SETTLEMENT**

2 Settlement Class. The Settlement applies to all Class Members, defined as “all
3 exempt and non-exempt current and former employees of Sherwood Management Co., Inc.
4 who worked in California at any point during the period of February 8, 2015 to August 23,
5 2019.” (Settlement Agreement § 1.) A Settlement Class is the group of people comprised
6 of the Class Members. (*Id.* § 2.)

7 The deadline to opt-out or object to the Settlement fell on July 31, 2020. (“Garrido
8 Decl.,” ECF No. 21-4 at ¶ 11.) There are 2,030 Class Members, out of which just three
9 have opted out from the Settlement. (*Id.* ¶ 14.) There has been no objection or dispute to
10 the Settlement.¹ (*Id.* ¶¶ 12–13.) A total of 2,027 participating Settlement Members
11 represent a 99.85% participation rate in the Settlement. (*Id.* ¶ 15.)

12 Settlement Fund. Under the Settlement, Sherwood agrees to deposit \$450,000 into
13 a non-reversionary, common fund (“Settlement Fund”). (Settlement Agreement § 8.) The
14 Settlement Fund will be distributed as follows:

- 15 (a) a minimum of \$250,000 for payment to Settlement Members, of which 20%
16 shall be for tax purposes be deemed wages subject to Form W-2 reporting,
17 and 80% shall be for tax purposes be deemed non-wages;
 - 18 (b) a maximum of \$135,000 (30% of the Settlement Amount) for the payment of
19 Class Counsel’s Attorney Fees;
 - 20 (c) a maximum of \$20,000 for the payment of Class Counsel’s Costs;
 - 21 (d) \$22,500 to the State of California for its share of the Settlement Amount
22 allocated for settlement of the PAGA claims;
 - 23 (e) a maximum of \$2,500 for the payment of a Class Representative Service
24 Payment to the named Plaintiff; and
 - 25 (f) a maximum of \$20,000 for Settlement Administration Costs.
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¹ The parties have confirmed the fact at the hearing that took place on October 5, 2020.

1 (*Id.* § 8.) If the Court approves less than the maximum amounts specified in items (b)–(f),
2 “the unapproved and awarded sums shall be added to the Class Recovery” and shall not
3 “revert to Defendant.” (*Id.*) The Settlement also obligates Sherwood pay the employer-
4 side “payroll taxes due upon payment of the 20% allocated to wages payable to Settlement
5 Class Members,” in addition to the Settlement Amount. (*Id.*)

6 The Class Recovery will be apportioned among the Settlement Members based on
7 the number of pay periods each person worked during the Class Period. (Settlement
8 Agreement § 32.) The average payment to a Class Member is \$129.17, with the highest
9 payment being \$404.12. (Garrido Decl. ¶ 16.) Class Members are not required to submit
10 a claim to participate in the Settlement. (Settlement Agreement § 34(d).)

11 Class Notice. According to the Settlement Agreement, Sherwood provided to the
12 court-approved class action settlement administrator (“Settlement Administrator”) a list of
13 2,030 Class Members and the number of pay periods each member worked. (Garrido Decl.
14 ¶ 5; Settlement Agreement § 4.) The Settlement Administrator updated 269 addresses and
15 mailed the Notice Packet to all Class Members using First-Class U.S. Mail. (*Id.* ¶¶ 6, 8.)
16 67 Notice Packets were returned, and all but 13 Notice Packets were re-mailed. (*Id.* ¶¶ 9–
17 10.)

18 Opt Out or Object and Release. Under the Settlement Agreement, Class Members
19 had forty-five days after the mailing of the Notice Packets to opt out of the Settlement.
20 (Settlement Agreement §§ 6, 24.) Three Class Members have requested to opt out, and no
21 objections were filed as of the July 31, 2020 deadline to submit objections, disputes, or
22 requests for exclusion. (Garrido Decl. ¶¶ 11–14.) Counsel for the parties confirmed that
23 no objections were filed as of the fairness hearing that took place on October 7, 2020. (*See*
24 ECF No. 27.)

25 Upon final approval of the Settlement, all Settlement Class Members shall be
26 deemed to have released and discharged Sherwood from any and all claims that are known
27 or unknown to the class members and relate to this action. (Settlement Agreement § 16.)

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II. ANALYSIS

The Ninth Circuit maintains a “strong judicial policy” that favors the settlement of class actions. *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992). However, Federal Rule of Civil Procedure 23(e) first “require[s] the district court to determine whether a proposed settlement is fundamentally fair, adequate, and reasonable.” *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000) (citing *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998)). Where, as here, the “parties reach a settlement agreement prior to class certification, courts must peruse the proposed compromise to ratify both the propriety of the certification and the fairness of the settlement.” *Stanton v. Boeing Co.*, 327 F.3d 938, 952 (9th Cir. 2003). In these situations, settlement approval “requires a higher standard of fairness and a more probing inquiry than may normally be required under Rule 23(e).” *Dennis v. Kellogg Co.*, 697 F.3d 858, 864 (9th Cir. 2012).

Here, for the reasons outlined in the Court’s Order Granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Preliminary Approval Order”) (ECF No. 18), the Court concludes that class certification under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure is appropriate.

The Court further finds that the Settlement is “fair, reasonable, and adequate” under Rule 23(e) of the Federal Rules of Civil Procedure. “It is the settlement taken as a whole, rather than the individual component parts, that must be examined for overall fairness.” *Hanlon*, 150 F.3d at 1026. A court may not “delete, modify or substitute certain provisions” of the settlement; rather, “[t]he settlement must stand or fall in its entirety.” *Id.*

As mentioned, “settlement approval that takes place prior to formal class certification requires a higher standard of fairness.” *Hanlon*, 150 F.3d at 1026. Consequently, a district court “must be particularly vigilant not only for explicit collusion, but also for more subtle signs that class counsel have allowed pursuit of their own self-interests and that of certain class members to infect the negotiations.” *In re Bluetooth*

1 *Headset Prods. Liab. Litig.*, 654 F.3d 935, 947 (9th Cir. 2011). Other relevant factors to
2 this determination include, among others, “the strength of the plaintiffs’ case; the risk,
3 expense, complexity, and likely duration of further litigation; the risk of maintaining
4 class-action status throughout the trial; the amount offered in settlement; the extent of
5 discovery completed and the stage of the proceedings; the experience and views of
6 counsel; the presence of a governmental participant; and the reaction of the class members
7 to the proposed settlement.” *Hanlon*, 150 F.3d at 1026; *see also Churchill Vill., L.L.C. v.*
8 *Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004).

9 Here, the Court made a preliminary fairness determination in its Preliminary
10 Approval Order. In doing so, the Court addressed a series of fairness factors but reserved
11 judgment on the issue of “the reaction of the class members to the proposed settlement.”
12 *See Hanlon*, 150 F.3d at 1026; ECF No. 18 at 19 n.4. Now, after Settlement Class Members
13 have been notified of the Settlement and have had an opportunity to express their reactions,
14 the Court notes that no objections have been filed to the Settlement. Thus, in addition to
15 those factors considered by the Court in its Preliminary Approval Order, the Court finds
16 this remaining factor supports approving the Settlement. Accordingly, the Court concludes
17 the parties’ Settlement is “fair, reasonable, and adequate.” *See Fed. R. Civ. P. 23(e)(2)*.

18 Further, the Court previously approved the form and manner of notice to the
19 Settlement Class Members. The Court now finds the method for distributing class notice
20 was executed as previously detailed in its Preliminary Approval Order. (*See Garrido*
21 *Decl.* ¶¶ 3–10.) The Settlement Administrator distributed notice by mail to 2,030 Class
22 Members, using the most current, known mailing address identified by the method
23 specified in the Settlement Agreement. (*Id.* ¶¶ 5–8; Settlement Agreement § 4, 23.) The
24 Settlement Administrator also performed a skip trace on all returned mail and re-mailed
25 them in compliance with the Settlement Agreement. (Garrido Decl. ¶ 9–10; Settlement
26 Agreement § 23.) Just thirteen Notice Packets, which is less than 1% of the Class,
27 remained undeliverable after the Settlement Administrator completed all the steps
28 outlined in the Settlement Agreement. (Garrido Decl. ¶ 10.) The Court finds the notice

1 to class members satisfies due process, and the notice is the best notice practicable under
2 the circumstances. *See* Fed. R. Civ. P. 23(e)(1); *Silber v. Mabon*, 18 F.3d 1449, 1454 (9th
3 Cir. 1994) (holding that Rule 23’s “best notice practicable” requirement is satisfied by
4 “what notice is reasonably certain to inform the absent members of the plaintiff class”).

5 Accordingly, because the Settlement is fair and the Settlement Administrator
6 executed the notice program previously approved by the Court, the Court finds final
7 approval of the Settlement is warranted.

8 **III. CONCLUSION**

9 For the reasons stated both in this Order as well as the Court’s Preliminary Approval
10 Order, the Court **GRANTS** Plaintiff’s motion for final approval of the parties’ class action
11 settlement (ECF No. 21). Accordingly, the Court **ORDERS** as follows:

12 (1) Pursuant to Fed. R. Civ. P. 23(b)(3), the above-titled action (“Action”) is hereby
13 finally certified, for settlement purposes only, as a nationwide class action on behalf of
14 the following Settlement Class Members:

15 All exempt and non-exempt current and former employees of Sherwood
16 Management Co., Inc. who worked in California at any point during the
17 period of February 8, 2015, to August 23, 2019.

18 (2) Pursuant to Fed. R. Civ. P. 23, Plaintiff Laverna Shannon is appointed as the
19 Class Representative, and Diane Elizabeth Richard of Richard Law, P.C. is appointed as
20 Class Counsel.

21 (3) Pursuant to the Court’s Preliminary Approval Order, the Settlement
22 Administrator has complied with the approved notice process as confirmed in its
23 declaration filed with the Court. The form and method for notifying the Settlement Class
24 Members of the Settlement and its terms and conditions was in conformity with this
25 Court’s Preliminary Approval Order and satisfied the requirements of Fed. R. Civ. P.
26 23(c)(2)(B) and due process and constituted the best notice practicable under the
27 circumstances. The Court finds that the notice process was designed to advise the
28 Settlement Class Members of their rights. Further, the Court approves the Settlement

1 Fund. It also finds that the claim process set forth in the Settlement Agreement was
2 followed and that the process was the best practicable procedure under the circumstances.

3 (4) The Court finds that the Action satisfies the applicable prerequisites for class
4 action treatment under Fed. R. Civ. P. 23, for settlement purposes. The Court finds that
5 the Settlement of the Action, on the terms and conditions set forth in the Settlement
6 Agreement, is fair, reasonable, adequate, and in the best interests of the Settlement Class
7 Members, especially in light of the benefits to the Settlement Class Members; the strength
8 of the Settlement Class Members' case; the complexity, expense, and probable duration
9 of further litigation; and the risk inherent at trial and of collecting any judgment obtained
10 on behalf of the class.

11 (5) The Settlement Agreement, which has been filed with the Court and is deemed
12 incorporated herein, as well as the proposed Settlement, are finally approved and shall be
13 consummated in accordance with the terms and provisions thereof, except as amended by
14 any order issued by this Court. The Settlement Administrator shall pay each of the Class
15 Member who did not opt out from the Settlement by July 31, 2020 (i.e., 2,027 participants)
16 their share of the Settlement Fund.

17 (6) The Court awards attorneys' fees, costs, and a service award to Plaintiff Laverna
18 Shannon as set forth in the Court's Order submitted simultaneously with this Order.
19 Further, the Settlement Administrator's expenses of up to \$20,000 shall be deducted from
20 the Settlement Fund.

21 (7) A total of three requests for exclusion were received: Yesenia Vencebi of South
22 Gate, California; Albert Stanislaus of Inglewood, California; and Olivia J. Simpson of
23 Modesto, California. The Court hereby excludes the three individuals from the Settlement
24 Class as not bound by the final judgment in this Action.

25 (8) The Settlement Class Members were given an opportunity to object to the
26 Settlement. There are no objections to the Settlement.
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1 (9) This Order is binding on all Settlement Class Members, except those individuals
2 named in item (7) above, who validly and timely excluded themselves from the Settlement
3 Class in this Action.

4 (10) The Class Representative, Settlement Class Members, and their successors and
5 assigns are permanently barred and enjoined from instituting or prosecuting, either
6 individually or as a class, or in any other capacity, any of the Released Claims against any
7 of the Released Parties, as set forth in the Settlement Agreement. Pursuant to the Release
8 contained in the Settlement Agreement, the Released Claims are compromised,
9 discharged, and dismissed with prejudice by virtue of these proceedings and this Order.

10 (11) The Action is hereby dismissed with prejudice in all respects.


11 (12) This Order is not, and shall not be construed as, an admission by Defendant of
12 any liability or wrongdoing in this or in any other proceeding.

13 (13) Without affecting the finality of this Order, the Court retains continuing and
14 exclusive jurisdiction over the Parties and all matters relating to the Action and/or the
15 Settlement Agreement, including the administration, interpretation, construction,
16 effectuation, enforcement, and consummation of the Settlement and this Order.

17 (14) The Clerk of the Court shall enter judgment accordingly and close this case.

18 **IT IS SO ORDERED.**

19
20 **DATED: October 8, 2020**


Hon. Cynthia Bashant
United States District Judge