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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV - 7 2023

BY Jessica Garcez
JESSICA GARCEZ, DEPUTY

8 Attorneys for Plaintiff Jehu Jimenez

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 JEHU JIMENEZ, individually, and on behalf of
12 other members of the general public similarly
13 situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),
on behalf of the State of California and other
aggrieved employees,

14 Plaintiff,

15 vs.

16 APPLE CORE ENTERPRISES, INC., a North
17 Dakota corporation; APPLEVALLEY, INC., a
North Dakota corporation; APPLE BMONT,
18 INC., a North Dakota corporation;
APPLECENTRO, INC., a North Dakota
19 corporation; APPLE CITY, INC., a North
Dakota corporation; APPLE PALM, INC., a
20 North Dakota corporation; APPLE QUINTA,
INC., a North Dakota corporation;
21 APPEXICO, INC., a North Dakota
corporation; and DOES 1 through 10, inclusive,

22 Defendants.
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Case No.: CIVSB2134762

Assigned to the Hon. Joseph T. Ortiz

**[PROPOSED] ORDER AND JUDGMENT
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND A CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

Date: November 2, 2023
Time: 1:30 p.m.
Place: Department S17

Complained Filed: December 21, 2021
Trial Date: None

1 **ORDER**

2 This matter came before the Court for a hearing on the Motion for Final Approval of the Class
3 Action and PAGA Settlement and Motion for Attorneys’ Fees, Costs and Expenses, and a Class
4 Representative Enhancement Payment (collectively, the “Motions”). Due and adequate notice having
5 been given to Class Members as required by the Court’s Preliminary Approval Order, and the Court
6 having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and
7 otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS**
8 **FOLLOWS:**

9 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and
10 incorporated herein by reference, this Court finds that the requirements of California Code of Civil
11 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

12 2. This Order hereby adopts and incorporates by reference the terms and conditions of the
13 Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement Agreement” or
14 “Settlement”), together with the definitions and terms used and contained therein.

15 3. The Court finds that it has jurisdiction over the subject matter of the action and over all
16 parties to the action, including all members of the Settlement Class.

17 4. The Class Notice fully and accurately informed Class Members of all material elements
18 of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable
19 under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully
20 with the laws of the State of California and due process. The Class Notice fairly and adequately
21 described the settlement and provided Class Members with adequate instructions and a variety of means
22 to obtain additional information.

23 5. Class Members were given a full opportunity to participate in the Final Approval
24 hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the
25 Court determines that all Class Members who did not timely and properly opt out of the settlement are
26 bound by this Order.

27 6. The Court has considered all relevant factors for determining the fairness of the
28 settlement and has concluded that all such factors weigh in favor of granting final approval. In particular,

1 the Court finds that the settlement was reached following meaningful discovery and investigation
2 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
3 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
4 adequate, and reasonable.

5 7. In so finding, the Court has considered all evidence presented, including evidence
6 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
7 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
8 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
9 sufficient information about the nature and magnitude of the claims being settled, as well as the
10 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
11 which the Parties have agreed.

12 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
13 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
14 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
15 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
18 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
19 provides Class Members with fair and adequate relief.

20 9. The Settlement Agreement is not an admission by Defendants or by any other Released
21 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants
22 or any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
23 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
24 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
25 whatsoever by or against Defendants or any of the other Released Parties.

26 10. Final approval shall be with respect to: All persons who worked for Defendants in
27 California as non-exempt, hourly paid employees at any time during the period from December 12, 2017
28 through May 1, 2023.

1 11. Plaintiff Jehu Jimenez is an adequate and suitable representative and is hereby appointed
2 the Class Representative for the Settlement Class. The Court finds that Plaintiff's investment and
3 commitment to the litigation and its outcome ensured adequate and zealous advocacy for the Settlement
4 Class, and that his interests are aligned with those of the Settlement Class.

5 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
6 \$5,000 for his service on behalf of the Settlement Class.

7 13. The Court finds that the attorneys at Capstone Law APC have the requisite
8 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
9 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
10 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

11 14. The settlement of civil penalties under PAGA in the amount of \$80,000 is hereby
12 approved. Seventy-Five Percent (75%), or \$60,000, shall be paid to the California Labor and Workforce
13 Development Agency. The remaining Twenty-Five Percent (25%), or \$20,000, will be paid to PAGA
14 Members.

15 15. The Court hereby awards \$323,333 in attorneys' fees and 16,107.46 in costs and
16 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is
17 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created
18 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
19 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
20 fair and reasonable.

21 16. The Court approves settlement administration costs and expenses in the amount of
22 \$16,500 to CPT Group, Inc.

23 17. All Class Members were given a full and fair opportunity to participate in the Approval
24 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
25 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
26 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
27 and Judgment shall be forever binding on all Participating Class Members. These Participating Class
28 Members have released and forever discharged the Released Parties for any and all Released Class

1 Claims during the Class Period:

2 All claims under state, federal or local law, whether statutory, common law or
3 administrative, arising out of or reasonably related to allegations set forth in the
4 Complaint and arising during the Class Period during employment in a non-
5 exempt position in California including, but not limited to, claims for failure to pay
6 earned wages, failure to pay minimum wages, failure to pay overtime
7 compensation, failure to provide meal breaks, failure to authorize and permit rest
8 breaks, failure to reimburse business expenses, failure to provide accurate wage
9 statements, failure to timely pay wages during employment, failure to timely pay
final wages, unfair competition, all other alleged violations of the California
Business and Professions Code section 17200, *et seq.*, failure to provide reporting
time pay, as well as claims for injunctive relief, liquidated damages, penalties of
any nature, interest, fees, including fees under California Code of Civil Procedure
section 1021.5, costs, and all other claims and allegations made or which could
have been made in the Action based on the facts and allegations pled in Plaintiff's
PAGA notice and the Complaint.

10 18. Additionally, all PAGA Members and the LWDA have released and forever discharged
11 the Released Parties for any and all Released PAGA Claims during the PAGA Period: All claims for
12 PAGA civil penalties based on the claims that have been pled or could reasonably have been pled, from
13 the factual allegations set forth in Plaintiff's PAGA notice and the operative Complaint.

14 19. Judgment in this matter is entered in accordance with the above findings.

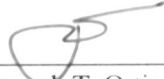
15 20. Without affecting the finality of the Judgment, the Court shall retain exclusive and
16 continuing jurisdiction over the above-captioned action and the parties, including all Participating
17 Settlement Members and PAGA Members, for purposes of enforcing the terms of the Judgment entered
18 herein.

19 21. This document shall constitute a judgment (and separate document constituting said
20 judgment) for purposes of California Rules of Court, Rule 3.769(h).

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IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: 11/2/13



Hon. Joseph T. Ortiz
San Bernardino County Superior Court Judge