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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PETER WRIGHT and MICHELLE TRAME,
individually, on behalf of all others similarly
situated, and on behalf of the general public,

Case No. CV 12-00982 EMC

Plaintiffs,

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL
OF CLASS ACTION SETTLEMENT**

v.

ADVENTURES ROLLING CROSS
COUNTRY, Inc., dba ADVENTURES
CROSS COUNTRY (ARCC), a California
Corporation, SCOTT VON ESCHEN, and
DOES 1 through 50 inclusive

Date: January 23, 2014
Time: 1:30 p.m.
Place: Courtroom 5, 17th Floor

Hon. Edward M. Chen

Defendants.

_____ /

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

Plaintiffs' unopposed Motion for Final Approval of Class Action Settlement came before this Court on January 23, 2014. The proposed settlement in this case was preliminarily approved by this Court on September 24, 2013. Pursuant to the Court's Preliminary Approval Order and the Notice provided to the Class, the Court conducted a final fairness hearing as required by Federal Rule of Civil Procedure 23(e). The Court has reviewed the materials submitted by the Parties and has heard arguments presented by counsel at the hearing.

1 For the reasons cited herein, the Court hereby grants final approval of the Class Settlement
2 based upon the terms set forth in the Preliminary Approval Order and the Settlement Agreement
3 filed by the parties. The Settlement appears to be fair, adequate, and reasonable to the Class.

4 1. Except as otherwise specified herein, for purposes of this Order, the Court adopts and
5 incorporates by reference all defined terms set forth in the Settlement Agreement.

6 2. The Court finds that this action satisfies the requirements for class action settlement under
7 Rule 23 and further finds that the Class has at all times been adequately represented by the
8 Named Plaintiffs and Class Counsel.

9 3. The Notice approved by the Court was provided by First Class direct mail to the last-
10 known address of each of the individuals identified as Class Members. In addition, follow-up
11 efforts were made to send the Notice to those individuals whose original notices were returned as
12 undeliverable. Efforts were also made to contact Class Members by telephone and e-mail. The
13 Notice adequately described all of the relevant and necessary parts of the proposed Settlement
14 Agreement, the request for incentive payments to the Named Plaintiffs, and Class Counsel's
15 request for an award of attorneys' fees and costs.

16 4. The Court finds that the Notice given to the Class fully complied with Rule 23, was the
17 best notice practicable, satisfied all constitutional due process concerns, and provides the Court
18 with jurisdiction over the Class Members.

19 5. The Court has concluded that the Settlement, as set forth in the Settlement Agreement
20 executed by the Parties, is fair, reasonable, and adequate under state and federal laws, including
21 the Fair Labor Standards Act 29 U.S.C. § 200 *et seq.* The Court finds that the uncertainty and
22 delay of further litigation, as well as the risk of insolvency of the Defendants, strongly supports
23 the reasonableness and adequacy of the \$500,000 Settlement Fund established pursuant to the
24 Settlement Agreement.

25 6. Out of the identified Class Members who were notified, none have objected to any aspect
26 of the proposed settlement. The reaction of the Class to the proposed settlement (with more than
27 85% settlement class members affirmatively opting into the settlement class) strongly supports
28 the conclusion that the proposed Settlement is fair, reasonable, and adequate.

1 7. The Settlement is HEREBY APPROVED in its entirety and the releases encompassed
2 therein are effectuated.

3 8. The Settlement Fund shall be dispersed in accordance with the Settlement Agreement as
4 detailed in the Motion for Preliminary Approval of Class Action Settlement, granted on
5 September 24, 2013.

6 9. Representative Plaintiffs Peter Wright and Michelle Trame are hereby awarded \$15,000
7 each for their time and effort in pursuing this litigation, and in recognition of their broader
8 releases and the hardships they faced in representing the class.

9 10. Plaintiffs' application for Attorneys' fees in the amount of \$166,666.67 and litigation
10 costs in the amount of \$13,314.72 is hereby granted in accordance with *In re Immune Response*
11 *Sec. Litig.*, 497 F. Supp. 2d 1166, 1175 (S.D. Cal. 2007); *Staton v. Boeing Co.*, 327 F.3d 938, 967
12 (9th Cir. 2003); and *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980). Further, the Court
13 approves \$14,000 for the Settlement Administrator, Simpluris, Inc.

14 11. The Court approves the *cy pres* recipients identified in the Settlement: Legal Aid Society-
15 Employment Law Center, and Summer Search, which meet the test under *Dennis v. Kellogg Co.*,
16 697 F.3d 858, 865 (9th Cir. 2013) that "there be a driving nexus between the plaintiff class and
17 the *cy pres* beneficiaries."

18 12. If the Settlement does not become final and effective in accordance with the terms of the
19 Settlement, this Order and Judgment and all orders entered in connection herewith shall be
20 vacated and shall have not further force or effect.

21 13. The Court hereby enters Judgment approving the terms of the Settlement. This document
22 shall constitute a final judgment for purposes of Rule 58 of the Federal Rules of Civil Procedure.

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1 14. This case is hereby DISMISSED WITH PREJUDICE, with each party to bear his, her, or
2 its own costs, except as set forth herein, and with this Court retaining exclusive jurisdiction to
3 enforce the Settlement Agreement, including jurisdiction regarding over the disbursement of the
4 Settlement Fund.

5 Dated: 1/24 2014
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