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9 behalf of all others similarly situated and aggrieved

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES- SPRING STREET COURTHOUSE**

13 RUBEN RAMIREZ, as an individual and on
14 behalf of all others similarly situated and
aggrieved,

15 Plaintiff,

16 v.

17 SEA WIN, INC., a California corporation;
18 BEST INTERNATIONAL TRADING, INC., a
California corporation; ALL GOOD FOODS,
19 INC., a California corporation; and DOES 1
through 100, inclusive,

20 Defendants.
21

CASE NO.: 21STCV22026

*[Assigned for all purposes to the Hon.
Lawrence P. Riff in Dept. 7]*

~~PROPOSED~~ **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
CERTIFYING CLASS FOR
SETTLEMENT PURPOSES ONLY**

FILED
Superior Court of California
County of Los Angeles

04/27/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. Morales Deputy

1 This Court, having considered the Motion of plaintiff Ruben Ramirez (“Plaintiff”) for
2 Preliminary Approval of the Class Action Settlement and Provisional Class Certification for
3 Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations of Jasmin K. Gill,
4 David D. Bibiyan, Plaintiff, and Jodey Lawrence, the Stipulation for Class Action and
5 Representative Action Settlement (the “Settlement Agreement”), the Notice of Proposed Class
6 Action Settlement (“Class Notice”), and the other documents submitted in support of the Motion for
7 Preliminary Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

8 1. The definitions set out in the settlement Agreement are incorporated by reference
9 into this Order; all terms defined therein shall have the same meaning in this Order.

10 2. The Court certifies the following settlement class for the purpose of settlement only:
11 all current and former non-exempt, hourly-paid employees who worked for defendant SeaWin, Inc.
12 (“Defendant” or “SeaWin”) at any time during period between June 11, 2017 through October 29,
13 2022 (“Class Period”) in California (“Class Members”).

14 3. The Court preliminarily appoints named plaintiff Ruben Ramirez. as Class
15 Representative and David D. Bibiyan and Diego Aviles of Bibiyan Law Group, P.C., as well as
16 Jasmin K. Gill of J. Gill Law Group, P.C. as Class Counsel.

17 4. The Court preliminarily approves the proposed class settlement upon the terms and
18 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
19 settlement appears to be within the range of reasonableness of settlement that could ultimately be
20 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
21 amount is fair, adequate and reasonable as to all potential settlement class members when balanced
22 against the probable outcome of further litigation relating to liability and damages issues. It further
23 appears that extensive and costly investigation and research has been conducted such that counsel
24 for the parties at this time are reasonably able to evaluate their respective positions. It further
25 appears to the Court that the settlement at this time will avoid substantial additional costs by all
26 parties, as well as the delay and risks that would be presented by the further prosecution of the
27 Action. It further appears that the settlement has been reached as the result of intensive, non-
28 collusive, arms-length negotiations utilizing an experienced third-party neutral.

1 5. The Court, approves, as to form and content, the Class Notice that has been submitted
2 herewith.

3 6. The Court directs the mailing of the Class Notice by first-class mail to the Class
4 Members in accordance with the procedures set forth in the Settlement Agreement. The Court finds
5 that dissemination of the Class Notice set forth in the Settlement Agreement complies with the
6 requirements of law and appears to be the best notice practicable under the circumstances.

7 7. The Court hereby preliminarily approves the definition and disposition of the Gross
8 Settlement Amount \$475,000.00, which is inclusive of: attorneys' fees not to exceed thirty-five
9 percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement
10 Agreement, amounts to \$166,250.00, in addition to actual costs incurred not to exceed \$25,000.00;
11 an incentive award of \$7,500.00 to Plaintiff; costs of settlement administration of no more than
12 \$7,950.00; and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of
13 \$20,000.00, of which \$15,000.00 (75%) will be paid to the Labor and Workforce Development
14 Agency ("LWDA") and \$5,000.00 to "Aggrieved Employees", defined Class Members working for
15 Defendant during the period between May 3, 2020 through October 29, 2022 as non-exempt, hourly-
16 paid employees.

17 8. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
18 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

19 9. Defendant shall pay the Gross Settlement Amount and Employer Taxes within
20 fourteen (14) calendar days of the Court's final approval of this Settlement.

21 10. Class Member's "Workweeks" shall mean the number of weeks that a Class Member
22 was employed by Defendant in a non-exempt, hourly-paid position during the Class Period in
23 California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

24 11. The Settlement is based on Defendant's representation that there are no more than
25 6,500 Workweeks worked by Settlement Class Members during the Class Period. In the event the
26 number of Workweeks worked by Class Members during the Class Period increases by more than
27 10%, or 650 Workweeks worked (*i.e.*, more than 7,150 Workweeks), then the Gross Settlement
28 Amount shall be increased proportionally by the Workweeks in excess of 7,150 (6,500 Workweeks

1 + 650 Workweeks) multiplied by the Workweek value. The Workweek Value shall be calculated
2 by dividing the originally agreed-upon Gross Settlement Amount (\$475,000.00) by 6,500, which
3 amounts to a Workweek Value of \$73.08 ($\$475,000.00 / 6,500$ Workweeks). Thus, for example,
4 should there be 8,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be
5 increased by \$62,118.00. ($(8,000 \text{ Workweeks} - 7,150 \text{ Workweeks}) \times \73.08 per Workweek.).

6 12. The Court deems Phoenix Settlement Administrators (“Phoenix”) the Settlement
7 Administrator, and payment of administrative costs, not to exceed \$7,950.00, out of the Gross
8 Settlement Amount for services to be rendered by Phoenix on behalf of the class.

9 13. The Settlement Administrator shall prepare and submit to Class Counsel and
10 Defendant’s Counsel a declaration attesting to the completion of the notice process as set forth in
11 the Settlement Agreement, including the number of attempts to obtain valid mailing addresses for
12 and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all
13 opt-outs and objections received.

14 14. The Court directs Defendant to, within fifteen (15) calendar days of this Order,
15 provide the Settlement Administrator with the “Class List” for Class Members. The Class List will
16 include for each Settlement Class Member, his or her: (1) full name; (2) last known address(es)
17 currently in Defendant’s possession, custody, or control; (3) last known telephone number(s)
18 currently in Defendant’s possession, custody, or control; (4) last known Social Security Number(s)
19 in Defendant’s possession, custody, or control; and (5) the dates of employment (i.e., the hire dates,
20 re-hire dates (if applicable) and termination dates (if applicable) for each Settlement Class Member
21 (“Class List”), which shall be made available to Class Counsel upon request only for the purpose of
22 effectuating the settlement.

23 15. Because Social Security Numbers are included in the Class List, the Settlement
24 Administrator shall maintain the Class List in confidence and shall only access and use the list to
25 administer the settlement in conformity with the Court’s orders.

26 16. Upon receipt of the Class List, the Settlement Administrator shall perform an address
27 search using the United States Postal Service National Change of Address (the “NCOA”) database
28 and update the addresses contained on the Class List with the newly found addresses, if any. To the

1 extent that this process yields an updated address, that updated address shall replace the last known
2 address and be treated as the new last known address for purposes of this Settlement, and for
3 subsequent mailings.

4 17. Using best efforts to perform as soon as possible, and in no event later than fourteen
5 (14) calendar days of receiving the Class List from Defendant, the Settlement Administrator shall
6 mail the Class Notice, in English and Spanish, to the Settlement Class Members, via first-class
7 regular U.S. Mail, using the most current mailing address information available. The Settlement
8 Administrator shall maintain a list with names and all addresses to which notice was given, and
9 digital copies of all the Settlement Administrator's records evidencing the giving of notice to any
10 Settlement Class Member, for at least four (4) years from the Final Approval Date. Such information
11 shall be available to Class Counsel and Defendant's counsel upon request.

12 18. If a Class Notice from the initial notice mailing is returned as undeliverable, the
13 Settlement Administrator will attempt to obtain a current address for the Settlement Class Member
14 to whom the returned Class Notice had been mailed, within three (3) calendar days of receipt of the
15 returned Class Notice, by: (1) contacting the Settlement Class Member by phone, if possible, and
16 (2) undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
17 address, it will promptly re-mail the Class Notice to the Settlement Class Member within three (3)
18 business days. Further, any Class Notices that are returned to the Settlement Administrator with a
19 forwarding address before the Response Deadline shall be promptly re-mailed to the forwarding
20 address affixed thereto within three (3) business days by the Settlement Administrator.

21 19. The deadline by which Class Members may dispute the number of Workweeks worked, and
22 the deadline by which Class Members may opt out or object, shall be forty-five (45) days from the
23 date of the mailing of the Class Notice, unless the Class Member had their Class Notice re-mailed.
24 Class Members who are re-mailed a Class Notice shall have fourteen (14) calendar days beyond the
25 forty-five (45) otherwise provided in the Class Notice in which to postmark a Request for Exclusion,
26 Workweek Dispute or Objection. The date of the postmark shall be the exclusive means for
27 determining whether a Request for Exclusion, Objection, or Workweek Dispute was submitted by
28 the Response Deadline. This shall be known as the "Response Deadline."

1 20. The Class Notice shall instruct Settlement Class Members on how to exclude
2 themselves from the Settlement Class. Any Settlement Class Member may request exclusion from
3 (i.e., “opt out” of) the Settlement by mailing a written request to be excluded from the Settlement
4 (the “Request for Exclusion”) to the Settlement Administrator, postmarked on or before the
5 Response Deadline. To be valid, a Request for Exclusion must include: (1) the Class Member’s
6 name; (2) the Class Member’s Social Security Number; (3) the Class Member’s signature; and (4)
7 the following statement: “Please exclude me from the Settlement Class in the *Ruben Ramirez v.*
8 *SeaWin, Inc., et al.* matter” or any statement of similar meaning standing for the proposition that
9 the Class Member does not wish to participate in the Settlement. The Settlement Administrator
10 shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant’s
11 Counsel and shall report the Requests for Exclusions that it receives, to the Court, in its declaration
12 to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who
13 requests exclusion using this procedure will not be entitled to receive any payment from the
14 Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal,
15 or comment on the Settlement. Any Settlement Class Member who does not opt out of the
16 Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the
17 Settlement, including those pertaining to the Released Claims, as well as any Judgment that may be
18 entered by the Court if Final Approval of the Settlement is granted. A Settlement Class Member
19 cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits
20 an objection and a Request for Exclusion, the Request for Exclusion will control and the objection
21 will be void. Settlement Class Members who worked during the PAGA Period and who submit a
22 valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their
23 Individual PAGA Payment, and will be bound by the release encompassed in the PAGA Released
24 Claims.

25 21. Any Class Member who does not submit a timely and valid Request for Exclusion
26 shall be deemed a “Participating Class Member” and be bound by the terms of the Settlement,
27 including the releases provide therein.

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1 22. Settlement Class Members will have an opportunity to dispute the information
2 provided in their Class Notice. To the extent Class Members dispute the number of Workweeks to
3 which they have been credited, Class Members may produce evidence to the Settlement
4 Administrator showing that such information is inaccurate. Absent evidence rebutting Defendant’s
5 records, Defendant’s records will be presumed determinative. However, if a Class Member produces
6 evidence to the contrary, the Settlement Administrator will evaluate the evidence submitted by the
7 Class Member and will make the final decision as to the number of Workweeks that should be
8 applied. All such disputes are to be resolved not later than ten (10) calendar days after the Response
9 Deadline.

10 23. Only Settlement Class Members who do not opt out of the Settlement (*i.e.*,
11 Participating Class Members) may object or comment regarding the Settlement. In order for any
12 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must do
13 so by mailing a written objection to the Settlement Administrator at the address or phone number
14 provided on the Class Notice no later than the Response Deadline (or the extended Response
15 Deadline if the Class Notice was re-mailed). The Settlement Administrator shall email a copy of the
16 Objection forthwith to Class Counsel and Defendant’s counsel and attach copies of all Objections
17 to the Declaration it provides Class Counsel, which Class Counsel shall file in support of Plaintiff’s
18 Motion for Final Approval. The Objection should set forth in writing: (1) the Objector’s name; (2)
19 the Objector’s address; (3) the last four digits of the Objector’s Social Security Number; (4) the
20 Objector’s signature; (5) a statement of whether the Objector plans to appear at the Final Approval
21 Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority, if any, the
22 Objector asserts in support of the Objection. If a Settlement Class Member objects to the Settlement,
23 the Settlement Class Member will remain a member of the Settlement Class and if the Court
24 approves this Agreement, the Settlement Class Member will be bound by the terms of the Settlement
25 in the same way and to the same extent as a Settlement Class Member who does not object. The
26 date of mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively
27 determined according to the records of the Settlement Administrator. Settlement Class Members
28 need not object in writing to be heard at the Final Approval Hearing; they may object or comment

1 in person at the hearing at their own expense. Class Counsel and Defendant’s Counsel may respond
2 to any objection lodged with the Court up to five (5) court days before the Final Approval Hearing.

3 24. If a Settlement Class Members submits both an Objection and a Request for
4 Exclusion, the Request for Exclusion will control and the Objection will be void.

5 25. All papers filed in support of final approval, including supporting documents for
6 attorneys’ fees and costs, shall be filed by ~~_____~~, ~~2023~~.

7 26. A Final Approval Hearing shall be held with the Court on ~~_____~~, 2023 at
8 ~~_____~~ : ~~æ~~ m. in Department “7” of the above-entitled Court to determine: (1) whether the
9 proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court;
10 (2) the amount of attorneys’ fees and costs to award Class Counsel; (3) the amount of incentive
11 award to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and
12 (5) the amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

13 27. No more than fourteen (14) calendar days after payment by Defendant of the Gross
14 Settlement Amount, as well as payment by Defendant of the Employer Taxes, the Settlement
15 Administrator shall distribute all payments due under the Settlement, including Individual
16 Settlement Payments to Participating Class Members, Individual PAGA Payments to Aggrieved
17 Employees, Court-approved payments for the Service Award to Plaintiff, attorneys’ fees and
18 litigation costs and expenses to Class Counsel, approved settlement administration costs to the
19 Settlement Administrator, and the LWDA Payment to the LWDA.

20 28. Individual Settlement Payment and Individual PAGA Payment checks shall remain
21 valid and negotiable for one hundred and eighty (180) calendar days after the date of their
22 issuance. Within seven (7) calendar days after expiration of the 180-day period, checks for such
23 payments shall be canceled and funds associated with such checks shall be considered unpaid,
24 unclaimed or abandoned cash residue pursuant to Code of Civil Procedure section 384 (“Unpaid
25 Residue”). The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil
26 Procedure section 384, shall be transmitted to Legal Aid at Work, 180 Montgomery Street, Suite
27 600, San Francisco, California 94104, the *cy pres* recipient, for use in Los Angeles County. The
28 Settlement Administrator shall prepare a report regarding the distribution plan pursuant to Code

1 of Civil Procedure section 384 and the report shall be presented to the Court by Class Counsel
2 along with a proposed amended judgment that is consistent with the provisions of Code of Civil
3 Procedure section 384.

4 29. In the event the settlement does not become effective in accordance with the terms
5 of the Settlement, or the settlement is not finally approved, or is terminated, cancelled or fails to
6 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
7 and the parties shall revert to their respective positions as of the entry of the Settlement Agreement.

8
9 **IT IS SO ORDERED.**

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11 Dated: 04/27/2023, ~~2023~~



A handwritten signature in black ink, appearing to read "Lawrence P. Riff".

Lawrence P. Riff / Judge

Judge of the Superior Court

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