

FILED/ENDORSED
AUG 28 2018
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11 Attorneys for Plaintiff
BENITA TADENA, and all others similarly situated
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SACRAMENTO
15 (UNLIMITED JURISDICTION)

16 BENITA TADENA, on behalf of herself, and
17 all others similarly situated, and as an
18 "aggrieved employee" on behalf of other
19 "aggrieved employees" under the Labor Code
Private Attorneys General Act of 2004,

Case No.: 34-2018-00232323

~~PROPOSED~~ ORDER
PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT

20 *Plaintiff(s).*

Action filed: 05/02/2018
Hearing: 08/22/2018 at 2:00 p.m.
Dept.: 53, Hon. David I. Brown

21 vs.

22 GUARANTEED RATE, INC., a Delaware
23 corporation; and DOES 1 through 50,
24 inclusive,

25 *Defendant(s).*

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1 Plaintiff Benita Tadena's (hereafter referred to as "Plaintiff") Unopposed Motion for
2 Preliminary Approval of a Class Action Settlement (the "Motion") was heard before the Court,
3 the Honorable David I. Brown, Judge presiding. The Court having considered the Motion, the
4 Stipulation of Class Settlement and Release Between Plaintiff and Defendant ("Settlement" or
5 "Settlement Agreement"), and supporting papers, HEREBY ORDERS THE FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Settlement filed in support of the Motion. All capitalized
8 terms used herein shall have the same meaning as defined in the Settlement. The Court has
9 determined there is sufficient evidence to suggest that (a) the terms of the Settlement might be
10 fair, adequate, and reasonable to the Settlement Class and (b) the Settlement falls within the
11 range of reasonableness and appears to be presumptively valid, subject only to any objections
12 that may be raised at the final hearing and final approval by this Court. The Court will make a
13 determination at the hearing on the motion for final approval of class action settlement (the
14 "Final Approval Hearing") of whether the Settlement is fair, adequate and reasonable to the
15 Settlement Class.

16 2. For purposes of this Preliminary Approval Order, the "Settlement Class" means
17 all persons who are currently employed, or formerly have been employed, by GRI in California
18 as divisional managers, regional managers, branch managers (producing and nonproducing),
19 loan officers (senior, junior or otherwise), and in other comparable positions, at any time
20 between March 28, 2013 and the Effective Date, and who do not timely opt out of the
21 Settlement Agreement. Defendant estimates that, as of December 21, 2017, there were 463
22 potential Settlement Class Members. The "Effective Date" means either (a) if no objections are
23 timely filed, the date of Final Approval of this Settlement Agreement by the trial court; (b) if
24 objections are filed but no appeal is filed, the expiration date of the time for filing notice of any
25 appeal from the Order Granting Final Class Action Settlement Approval by the trial court; or (c)
26 if an appeal is filed, the latest of (i) the date of final affirmance of an appeal of that Order, (ii)
27 the expiration of the time for a petition for review or writ of certiorari with respect to the Order
28 and, if review or certiorari is granted, the date of final affirmance of the Order following review
pursuant to that grant; or (iii) the date of final dismissal of any appeal from the Order or the
final dismissal of any proceeding on review or certiorari with respect to the Order that has the
effect of confirming the Order.



1 3. This action is provisionally certified pursuant to section 382 of the California
2 Code of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class
3 action for purposes of settlement only with respect to the proposed Settlement Class.

4 4. The Court hereby preliminarily finds that the Settlement was the product of
5 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In
6 making this preliminary finding, the Court considered the nature of the claims set forth in the
7 pleadings, the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the
8 allocation of Settlement proceeds to the Settlement Class, and the fact that the Settlement
9 represents a compromise of the Parties' respective positions. The Court further preliminarily
10 finds that the terms of the Settlement have no obvious deficiencies and do not improperly grant
11 preferential treatment to any individual Class Member. Accordingly, the Court preliminarily
12 finds that the Settlement was entered into in good faith.

13 5. The essential monetary terms of the Settlement are as follows:

14 a. Defendant GRI shall pay a Gross Settlement Amount ("GSA") of
15 \$690,000;

16 b. Plaintiff shall be awarded an incentive award of \$10,000;

17 c. Class Counsel will apply for attorney's fees of not more than one-third of
18 the GSA, or \$230,000;

19 d. Class Counsel's costs and expenses are not to exceed \$20,000;

20 e. The Claims Administrator's costs are estimated to be \$20,000;

21 f. Plaintiff will apply for civil penalties under the California Private
22 Attorneys General Act ("PAGA") of \$25,000, of which 25% or \$6,250 will be payable to the
23 Settlement Class and 75% or \$18,750 will be payable to the California Labor and Workforce
24 Development Agency ("LWDA");

25 g. The Net Settlement Amount ("NSA") is the funds available for
26 distribution to Settlement Class Members after payments have been made from the GSA for (1)
27 Plaintiff's incentive award; (2) Class Counsel's attorney's fees; (3) Class Counsel's costs and
28 expenses; (4) claims administrator's costs; and (5) the portion of the PAGA payment payable to
the LWDA; and

 h. Defendant GRI will bear its share of payroll taxes on the settlement
awards paid to Settlement Class Members. Payroll taxes will not be deducted from the GSA.



1 6. The Court finds that the dates set forth in the Settlement for mailing and
2 distribution of the Class Notice meet the requirements of due process and provide the best
3 notice practicable under the circumstances, and constitute due and sufficient notice to all
4 persons entitled thereto, and directs the mailing of the Class Notice by first class mail to the
5 Settlement Class as set forth in the Settlement. Accordingly, the Court orders the following
6 implementation schedule for further proceedings:

7 a. Within thirty (30) business days following the date of this order (the
8 "Preliminary Approval Date"), Defendant shall provide KCC LLC, the appointed Claims
9 Administrator, with the first and last names, last-known addresses, telephone numbers, dates of
10 employment, the name(s) of each office worked, and full social security numbers of the
11 Settlement Class Members ("Class List") for purposes of mailing Class Notices to Settlement
12 Class Members. The Claims Administrator will keep the list confidential, use it only for the
13 purposes described herein and take adequate safeguards to protect confidential or private
14 information.

15 b. Within forty (40) business days following the Preliminary Approval Date,
16 the Claims Administrator shall send a copy of the Class Notice, a Request for Exclusion Form,
17 and a pre-paid self-addressed return envelope (collectively referred to as the "Notice Packets")
18 to all Settlement Class Members via first-class mail, postage prepaid, using the most current
19 mailing address information available contained in the Class List. Any Notice Packets returned
20 to the Claims Administrator as non-delivered before the deadline set forth in the Implementation
21 Schedule for Settlement Class Members to mail Exclusion Forms shall be sent to the forwarding
22 addresses affixed thereto. If no forwarding address is provided for a Notice Packet that is
23 returned as non-delivered, then such Notice Packet will be re-sent by the Claims Administrator
24 after the address is updated using the following skip-trace procedures: (1) run this Class List
25 through the United States Postal Service's National Change of Address database; and (2)
26 perform address searches using public and proprietary electronic resources which collect their
27 data from various sources such as utility records, property tax records, motor vehicle
28 registration records, and credit bureaus. Undelivered Notice Packets will be re-sent within five
(5) business days after the Claims Administrator receives notice that the Notice Packet was
undeliverable. The objection deadline shall not be extended *pro-rata* for members of the
Settlement Class whose original notices are re-mailed.



1 c. Within sixty (60) calendar days after the Claims Administrator mails the
2 Notice Packet to Settlement Class Members, Settlement Class Members who wish to exclude
3 themselves from the Settlement Agreement must postmark a Request for Exclusion From the
4 Proposed Class Action Settlement Form ("Opt-Out Form"). Such written request for exclusion
5 must contain all of the information requested on the form.

6 d. Within sixty (60) calendar days after the Claims Administrator mails the
7 Notice Packet to Settlement Class Members, Settlement Class Members who wish to object to
8 the Settlement Agreement must mail a written statement of objection to the Claims
9 Administrator.

10 e. The Court will consider any written or oral objections or comments from
11 Settlement Class Members at the time of the Final Approval Hearing.

12 7. The Court approves, as to form and content, the Class Notice and Opt-Out Form
13 (in substantially the form attached as Exhibits A and B to the Settlement).

14 8. The Court approves, for settlement purposes only, David Spivak of The Spivak
15 Law Firm and Walter Haines of the United Employees Law Group as Class Counsel.

16 9. The Court approves, for settlement purposes only, Benita Tadena as the Class
17 Representative.

18 10. The Court approves KCC LLC as the Claims Administrator.

19 11. The Court preliminarily approves Class Counsel's request for attorneys' fees and
20 costs subject to final review by the Court.

21 12. The Court preliminarily approves the estimated Claims Administrator costs
22 payable to the Claims Administrator subject to final review by the Court.

23 13. The Court preliminarily approves Plaintiff's incentive award subject to final
24 review by the Court.

25 14. A Final Approval Hearing shall be held on Friday, January 4, 2019 at 2:00 p.m.
26 in Department 53 of the Superior Court for the State of California, County of San Bernardino,
27 located at the Hall of Justice Building, 813 6th Street, Second Floor, Sacramento, CA 95814, to
28 consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily
approved by this Preliminary Approval Order, and to consider the application of Class Counsel
for attorneys' fees and costs and the incentive award to the Class Representative. The notice of
motion and all briefs and materials in support of the motion for final approval of class action



1 settlement and motion for attorneys' fees and litigation costs shall be served and filed with this
2 Court on or before 16 court days before the Final Approval Hearing.

3 15. If for any reason the Court does not execute and file a final approval order and
4 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason,
5 the proposed Settlement that is the subject of this order, and all evidence and proceedings had in
6 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
7 litigation, as more specifically set forth in the Settlement.

8 16. The Court expressly reserves the right to adjourn or continue the Final Approval
9 Hearing from time to time without further notice to members of the Class. The Plaintiff shall
10 give prompt notice of any continuance to Settlement Class Members who object to the
11 Settlement.

12 **IT IS SO ORDERED.**

13 *8-28-18*

14 **DAVID I. BROWN**

15 **DATE**

16 **THE HONORABLE DAVID I. BROWN,**
17 **JUDGE OF THE SUPERIOR COURT**



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PROOF OF SERVICE

State of California,
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 16530 Ventura Blvd., Suite 312, Encino, California 91436.

2. I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Wednesday, August 22, 2018, I served the foregoing document described as [PROPOSED] ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT on interested parties by placing a true and correct copy thereof enclosed in a sealed envelope, with postage fully prepaid, addressed as follows:

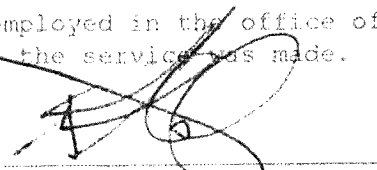
John Nadolenco, Esq.
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XXXX (BY MAIL) I caused such an envelope to be mailed by placing it for collection and mailing, in the course of ordinary business practice, with other correspondence of The Spivak Law Firm, 16530 Ventura Blvd., Suite 312, Encino, California 91436.

EXECUTED on Wednesday, August 22, 2018, at Encino, California.

XXXX (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


SONYA BRYANT