

Electronically Received 03/24/2023 01:39 PM

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11  
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF LOS ANGELES– SPRING STREET COURTHOUSE**

14 JOSE MARIO CASTRO and BRETH  
15 ALEXANDER PONCE, as individuals, on  
behalf of themselves and proposed class  
16 members

17 **PLAINTIFFS,**

18 v.

19 SOLA RENTALS, INC.; MARTIN MUOTO;  
and DOES 1 thru 50, inclusive,

20 **DEFENDANTS.**

CASE NO. 19STCV02041

[Case Assigned for All Purposes to Hon. Elihu  
M. Berle in Dept. SS-6]

21 ~~**PROPOSED**~~ **ORDER RE COMPLIANCE**  
22 **WITH TERMS OF THE SETTLEMENT**  
23 **AGREEMENT AND DISCHARGING OSC**

24 Date: June 1, 2021  
25 Time: 9:00 a.m.  
26 Dept.: SS-6

27 Complaint Filed: January 25, 2020  
28 FAC Filed: April 5, 2019  
Trial Date: None Set

**FILED**  
Superior Court of California  
County of Los Angeles

03/27/2023

David W. Slayton, Executive Officer / Clerk of Court

By:           P. Herrera           Deputy

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiffs JOSE MARIO  
3 CASTRO and BRETH ALEXANDER PONCE (“Named Plaintiffs” or “Plaintiffs”) against  
4 Defendants SOLA RENTALS, INC. and MARTIN MUOTO (“Defendants”).

5 The Motion for Final Approval of Class Action Settlement came before this Court, on June  
6 1, 2021. The Court granted final approval of the Joint Stipulation of Settlement and Release  
7 (“Stipulation of Settlement” or “Settlement”) and entered a final judgment thereon on June 7, 2021.

8 The Court set an Order to Show Cause re Compliance with Terms of the Settlement  
9 Agreement on March 16, 2022. The Parties appeared at the OSC and the Court has subsequently  
10 continued the OSC multiple times to monitor compliance with the terms of the Settlement  
11 Agreement. The continued OSC re Compliance is now set for May 30, 2023 at 8:30 am.

12 The remaining issue relates to the re-distribution of the uncashed settlement funds in a  
13 “waterfall distribution.” Of the Gross Fund Value of \$520,000.00, there remains \$80,862.30 in  
14 the QSF. The Parties would like to redistribute this amount to Settlement Class Members who  
15 negotiated their first Settlement checks.

16 There are 239 eligible Participating Class Members who have negotiated checks from the  
17 first mailing for whom the Settlement Administrator (JND) does not have Social Security  
18 Numbers. As a result, JND cannot prepare W-2 tax reporting documents for the wage portion of  
19 the Settlement for those individuals. The reality is that this opens the QSF up to potential liability  
20 for penalties to be assessed by the IRS in the amount of \$280 per person. JND estimates the  
21 potential penalty exposure is \$59,750.00. As of March 2023, JND has not been contacted by the  
22 IRS in relation to the SSN issue or potential penalties, interest, or tax return filing corrections  
23 needed. Based on JND’s experience, JND estimates that it will receive notice from the IRS  
24 regarding the QSF SSN issue by May 2024.

25 The Parties request that the Court therefore discharge the OSC currently set for May 30,  
26 2023 at 8:30 am and set a compliance hearing in May 2024 to determine if redistribution is  
27 appropriate at that point.

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1 The Court hereby discharges the OSC currently set for May 30, 2023 at 8:30 am and sets  
2 a compliance hearing on May HF, 2024 at 8:30 am in Dept. SS-6.

3 T & O' B  
4 **DATED:** \_\_\_\_\_



**Elihu M. Berle**

Elihu M. Berle / Judge

\_\_\_\_\_  
**The Honorable Elihu M. Berle**  
**Judge of the Superior Court**