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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF CONTRA COSTA**
10

11 STACY SMITH; KEYONA TURNER, on)
behalf of themselves and all others similarly)
12 situated,)
13 Plaintiffs,)
vs.)
14 SHIFTMED, LLC; and DOES 1-20, inclusive,)
15 Defendants.)
16

Case No. C24-00180

Assigned for All Purposes To:
Judge: Hon. Edward G. Weil
Dept: 39

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA SETTLEMENT**

Action Filed: January 23, 2024

Electronically Filed by
Superior Court of California,
Contra Costa County
6/17/2025
By: N. McCallister-Villa, Deputy

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 Plaintiffs Stacey Smith and Keyona Turner’s (“Plaintiffs”) Motion for Preliminary
3 Approval of Class and PAGA Settlement (“Motion for Preliminary Approval”) came before this
4 Court in Department 39 before the Honorable Edward G. Weil. The Court having reviewed the
5 Joint Stipulation of Class and PAGA Settlement (“Agreement” or “Settlement”) and considered
6 the papers, the arguments of counsel, and all other evidence and matters presented, and good cause
7 appearing:

8 **IT IS ORDERED** that the Motion for Preliminary Approval of Class and PAGA
9 Settlement is **GRANTED**, subject to the following findings and orders:

10 **1. Background and Settlement Terms**

11 The original complaint was filed on January 23, 2024, raising class action claims and PAGA
12 claims on behalf of non-exempt employees, alleging that defendant violated the Labor Code in
13 various ways, including failure to pay minimum and overtime wages, failure to provide meal breaks,
14 failure to provide proper wage statements, failure to reimburse necessary business expenses, and
15 failure to pay all wages due on separation. The operative complaint is a First Amended Complaint
16 filed on February 7, 2025, after a tentative settlement had been reached.

17 The settlement would create a gross settlement fund of \$676,300. The class representative
18 payment to each plaintiff would be \$10,000. Attorney’s fees would be \$225,433.33 (one-third of the
19 settlement). Litigation costs would not exceed \$25,000. The settlement administrator’s costs would
20 not exceed \$11,950. PAGA penalties would be \$50,000, resulting in a payment of \$37,500 to the
21 LWDA and \$12,500 to plaintiffs. The net amount paid directly to the class members would be about
22 \$343.913. The fund is non-reversionary. Based on the estimated class size of 1,117, the average net
23 payment for each class member is approximately \$308.

24 The proposed settlement would certify a class of all current and former non-exempt
25 employees employed by Defendants in California during the class period.

26 The class members will not be required to file a claim. Class members may object or opt out
27 of the settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.)
28 Funds would be apportioned to class members based on the number of pay periods worked during

1 the class period.

2 Various prescribed follow-up steps will be taken with respect to mail that is returned as
3 undeliverable. Checks undelivered or uncashed 180 days after mailing will be voided, and will be
4 transmitted to the State Controller’s Office Unclaimed Property fund.

5 The settlement contains release language covering all claims and damages “that were alleged
6 in the Action and that reasonably could have been alleged in the Action based on the allegations
7 asserted in the Action... or that could have been alleged in the Action based on the facts alleged in
8 the Action.” Under recent appellate authority, the limitation to those claims with the “same factual
9 predicate” as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021)
10 69 Cal.App.5th 521, 537 [“A court cannot release claims that are outside the scope of the allegations
11 of the complaint.” “Put another way, a release of claims that goes beyond the scope of the allegations
12 in the operative complaint’ is impermissible.” (*Id.*, quoting *Marshall v. Northrop Grumman Corp.*
13 (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

14 Informal written discovery was undertaken. An analyst was retained to analyze the
15 information. The matter settled after arms-length negotiations, which included a session with an
16 experienced mediator.

17 Counsel attest that they have analyzed the value of the case, and that the result achieved in
18 this litigation is fair, adequate, and reasonable. The moving papers include an estimate of the potential
19 value of the case, broken down by the type of claim.

20 The potential liability needs to be adjusted for various evidence and risk-based contingencies,
21 including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they
22 derive from other violations, they include “stacking” of violations, the law may only allow
23 application of the “initial violation” penalty amount, and the total amount may be reduced in the
24 discretion of the court. (See Labor Code, § 2699(e)(2) [PAGA penalties may be reduced where
25 “based on the facts and circumstances of the particular case, to do otherwise would result in an award
26 that is unjust arbitrary and oppressive, or confiscatory.”])

27 Counsel attest that notice of the proposed settlement was transmitted to the LWDA
28 concurrently with the filing of the motion.

2. Legal Standards

The primary determination to be made is whether the proposed settlement is “fair, reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction ... to the proposed settlement.” (See also *Amaro v. Anaheim Arena Mgmt., LLC, supra*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal’s decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the “fair, reasonable, and adequate” standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess “the fairness of the settlement’s allocation of civil penalties between the affected aggrieved employees[.]” (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because “[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

3. Attorney fees

Plaintiff seeks one-third of the total settlement amount as fees, relying on the “common fund” theory. Even a proper common fund-based fee award, however, should be reviewed through a

1 lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme
2 Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage
3 allocated is reasonable. It stated: “If the multiplier calculated by means of a lodestar cross-check is
4 extraordinarily high or low, the trial court should consider whether the percentage used should be
5 adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not
6 necessarily required to make such an adjustment.” (*Id.*, at 505.) Following typical practice, however,
7 the fee award will not be considered at this time, but only as part of final approval.

8 Similarly, litigation costs and the requested representative payment of \$10,000 for each
9 plaintiff will be reviewed at time of final approval. Criteria for evaluation of representative payment
10 requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785,
11 804-807.

12 **4. Conclusion**

13 The Court finds that there is sufficient evidence that the settlement is fair, reasonable, and
14 adequate to warrant preliminary approval. The motion is granted.

15 5. The Court grants preliminary approval of the Parties’ settlement based upon the
16 terms set forth in the Agreement. All terms used herein have the same meaning as defined in the
17 Agreement. The settlement terms set forth in the Agreement appears to be fair, adequate and
18 reasonable to the Class and PAGA Members.

19 6. It appears to the Court on a preliminary basis that (a) the Settlement is fair, adequate
20 and reasonable; (b) the Maximum Settlement Amount and Net Settlement Amount are fair,
21 adequate and reasonable when balanced against the probable outcome of further litigation relating
22 to liability and damages issues; (c) sufficient investigation and research have been conducted such
23 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
24 (d) settlement at this time will avoid additional costs by all Parties, as well as avoid the delay and
25 risks that would be presented by the further prosecution of the Action; and (e) the Settlement has
26 been reached as the result of non-collusive, arms-length negotiations.

27 7. A final fairness hearing on the question of whether the Settlement, Attorneys’ Fees
28 and Costs to Class Counsel, Plaintiffs’ Enhancement Payment, PAGA Allocation, and

Administration Expenses should be finally approved as fair, reasonable and adequate as to the members of the Class is scheduled in Department 39 on the date and time set forth below.

8. This Court approves, as to form and content, the Class Notice, in substantially the form attached hereto and to the Agreement as **Exhibit B**. The Court approves the procedure for Class Members to participate in, to opt out of, and/or to object to, the Settlement as set forth in the Agreement and the Class Notice.

9. The Court directs the mailing of the Class Notice by first class mail to the Class and PAGA Members in accordance with the Implementation Schedule set forth below. The Court finds the dates selected for the mailing and distribution of the Class Notice, as set forth in the Implementation Schedule, meet the requirements of due process and provide the best notice practicable under the circumstances and will constitute due and sufficient notice to Class and PAGA members.

10. The Court concludes that, for settlement purposes only, the Class is preliminarily and conditionally certified and meets the requirements for certification under section 382 of California Code of Civil Procedure in that: (1) the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the members of the Class with respect to the subject matter of the litigation; (c) Plaintiffs' claims are typical of the claims of the members of the Class; (d) Plaintiffs will fairly and adequately protect the interest of the members of the Class; (e) a class action is superior to other available methods for the efficient adjudication of the controversy; and (f) Class Counsel is qualified to act as counsel for Plaintiffs in their individual capacity and as the representatives of the Class. The Class is defined as all current and former non-exempt employees of Defendant who were assigned to work at a healthcare facility inside California from January 23, 2020 through preliminary court approval of the settlement.

11. The Court confirms Plaintiffs Stacy Smith and Keyona Turner as the Class Representatives, and Ashkan Shakouri, Esq. and Sharon W. Lim, Esq. of Shakouri Law Firm as Class Counsel.

12. The Court confirms ILYM Group, Inc. as the Administrator.

13. The Court approves the proposed procedures, as set forth in the Agreement for: seeking exclusion from the Settlement by submitting to the Administrator a valid and timely Request for Exclusion; objecting to the Settlement by filing with the Court and submitting to the Administrator a written objection; and disputing credited workweeks by submitting to the Administrator a valid and timely Workweek Dispute.

14. A Final Approval Hearing will be held before this Court on the date and time indicated in the Implementation Schedule below in Department 39 of the Superior Court of California for the County of Contra Costa located at 725 Court Street, Martinez, California 94553 to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate, and reasonable and should be finally approved by the Court; whether a judgment, as provided in the Agreement, should be entered; whether the plan of allocation contained in the Settlement should be approved as fair, adequate, and reasonable to the Class Members; and determine whether to finally approve the allocations and requests for Class Counsel's Fees and Costs, Plaintiffs' Enhancement Payment, Administration Expenses, and PAGA Allocation. Class Counsel will file a motion for final approval of the Settlement and for Class Counsel's Fees and Costs, Plaintiffs' Enhancement Payment, and Administration Expenses, along with the appropriate declarations and supporting evidence, including the Administrator's declaration in accordance with California Code of Civil Procedure section 1005(b) (i.e., 16 court days prior to the Final Approval Hearing).

The Court orders the following **Implementation Schedule** for further proceedings:

	Event	Date
a.	Deadline for Defendant to Submit Class Data to Administrator	[21 calendar days after Order granting preliminary Approval]
b.	Deadline for Administrator to Mail Class Notice to Class and PAGA Members	[35 calendar days after Order granting preliminary Approval]

c.	Deadline for Class Members to Postmark Workweek Dispute	[45 calendar days after mailing of the Class Notice]
d.	Deadline for Class Members to Postmark Requests for Exclusion	[45 calendar days after mailing of the Class Notice]
e.	Deadline for Receipt by Court and Administrator of any objections to Settlement	[45 calendar days after mailing of the Class Notice]
f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Class Counsel's Attorneys' Fees and Costs and Plaintiffs' Enhancement Payment	[16 Court days before Final Approval Hearing]
g.	Deadline for filing of Declaration by Administrator of Due Diligence and Proof of Mailing	[16 Court days before Final Approval Hearing]
h.	Deadline for Defendant to provide written Notice of Rescission of Settlement to Class Counsel (if applicable)	[10 calendar days after Administrator provides Defendant with the number and percentage of opt outs following expiration of the Response Deadline.]
i.	Final Approval Hearing	<div>Date: October 16, 2025</div> <div>Time: 9:00 a.m.</div>

15. Pending the Final Approval Hearing, all proceedings in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement and this Order, are hereby stayed.

IT IS SO ORDERED.

Dated: 6/16/2025 _____



Hon. Edward Weil

HONORABLE EDWARD G. WEIL
JUDGE OF THE SUPERIOR COURT