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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

DIANA SMYTH, LISA VAUGHAN and
TAMMI PALFREYMAN, individually, on
behalf of themselves and on behalf of all
persons similarly situated,

Plaintiffs,

v.

EVEREVE INCORPORATED, a corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 23CV425684

**~~[PROPOSED]~~ FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: September 24, 2025
Hearing Time: 1:30 p.m.

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: July 7, 2023
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Diana Smyth, Lisa Vaughan and Tammi Palfreyman
2 (“Plaintiffs”) for an order finally approving the class action settlement of this action between
3 Plaintiffs and Defendant Evereve Incorporated (“Defendant”) came on for hearing on September
4 24, 2025 before the Honorable Theodore C. Zayner.

5 The Court issued a tentative ruling for September 24, 2025, which was not contested. The
6 Court, having considered the briefs, argument of counsel and all matters presented to the Court
7 and good cause appearing, hereby confirms the tentative as the final ruling of the Court which is
8 now incorporated herein, and therefore the Court orders that the foregoing motion is GRANTED
9 and Judgment is entered, as set forth below

10 It is further ORDERED, ADJUDGED, and DECREED as follows:

11 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and
12 incorporated herein by reference, this Court finds that the requirements of California Code of Civil
13 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

14 2. The Court hereby adopts and incorporates by reference the terms and conditions
15 defined in the Class Action and PAGA Settlement Agreement (the “Agreement” or “Settlement”),
16 and all terms not otherwise defined in this Order and Judgment shall have the same meaning as set
17 forth in the Agreement.

18 3. This Court finds that it has jurisdiction over the subject matter of this litigation
19 pending before the California Superior Court for the County of Santa Clara, and over all Parties to
20 this litigation, including the Class.

21 4. Plaintiffs submitted notice of the Settlement to the California Labor and Workforce
22 Development Agency (“LWDA”), and the LWDA has not indicated any opposition to the
23 Settlement.

24 5. Pursuant to Labor Code § 2698, *et seq.*, the Court also finds that the Settlement’s
25 resolution of the alleged PAGA claims furthers PAGA’s objectives. The PAGA Penalties amount
26 of \$10,000 is approved and shall be paid out of the Gross Settlement Amount, 75% of which shall
27 be allocated and paid to the LWDA and 25% of which shall be distributed to the Aggrieved
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1 Employees as Individual PAGA Payments. The Administrator will calculate each Individual
2 PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA
3 Penalties (\$2,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees
4 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
5 Periods. The Aggrieved Employees are all individuals who were employed by Defendant in
6 California and classified as a non-exempt employee at any time during the PAGA Period, which is
7 September 5, 2022, through December 18, 2024. All Aggrieved Employees will be sent their
8 share of the PAGA Penalties and will be subject to the release of the Released PAGA Claims as
9 set forth below, whether or not they opt out of the Class Settlement.

10 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
11 by first class mail to members of the Class at their last known addresses on or about June 2, 2025.
12 Mailing of the Class Notice to members' last known addresses was the best notice practicable
13 under the circumstances and was reasonably calculated to communicate actual notice of the
14 litigation and the proposed settlement to the Class.

15 7. The Class Notice fully and accurately informed the Class Members of all material
16 elements of the proposed Settlement and the Class Members' options including, *inter alia*, their
17 options (i) to be excluded from the Class by submitting a written opt-out request, (ii) to be
18 represented by counsel of their choosing, and (iii) to object to the terms of the Settlement. The
19 Class Notice was valid, due, and sufficient notice to all Class Members, and complied fully with
20 the laws of the State of California, the United States Constitution, due process and other applicable
21 law. The Class Notice fairly and adequately described the Settlement and provided Class
22 Members with adequate instructions and means to obtain additional information.

23 8. A full opportunity has been afforded to the Class Members to participate in this
24 hearing, and all Class Members and other persons wishing to be heard have been heard. Class
25 Members also have had a full and fair opportunity to exclude themselves from the proposed
26 Settlement and Class. There was an adequate interval between notice and the deadline to permit
27 Class Members to choose what to do and act on their decision. Accordingly, the Court determines
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1 that all Class Members who did not timely and properly submit a request for exclusion in
2 accordance with the Agreement are bound by the Settlement and this Final Approval Order and
3 Judgment.

4 9. The Court has considered all relevant factors for determining the fairness of the
5 Settlement and has concluded that all such factors weigh in favor of granting final approval. In
6 particular, the Court finds that the Gross Settlement Amount of Four Hundred Twenty-Five
7 Thousand Dollars and Zero Cents (\$425,000.00) and the other terms set forth in the Agreement are
8 fair, reasonable, and adequate.

9 10. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
10 48 Cal.App.4th 1794, 1801 (1996). The Court finds that the Settlement was the result of arm's-
11 length bargaining between the Parties during an all-day mediation before Steve Rottman, a
12 respected and experienced mediator of wage and hour class actions. There has been no collusion
13 between the Parties in reaching the proposed settlement. Plaintiffs' investigation and discovery
14 have been sufficient to allow the Court and counsel to act intelligently and to become familiar with
15 the strengths and weaknesses of the claims. Counsel for both Parties are experienced in similar
16 employment class action litigation. All counsel recommended approval of the Agreement. There
17 were no objectors and no requests for exclusion were received.

18 11. The consideration to be given to the Class Members, the Aggrieved Employees,
19 and the LWDA under the terms of the Agreement, is fair, reasonable and adequate consideration
20 for the release of claims, given the uncertainties and significant risks of the litigation related to
21 certification, liability, and damages issues; the strengths and weaknesses of the claims; and the
22 delays which would ensue from continued prosecution of the action. In so finding, the Court has
23 considered all evidence presented, and the Parties have provided the Court with sufficient
24 information about the nature and magnitude of the claims being settled, as well as the
25 impediments to recovery, to permit the Court to make an independent assessment of the
26 reasonableness of the terms to which the Parties have agreed.

1 12. The Court hereby grants final approval of the class settlement with respect to: All
2 individuals who were employed by Defendant in California and classified as a non-exempt
3 employee at any time during the Class Period. The “Class Period” is October 31, 2019 through
4 December 18, 2024. All persons who meet the foregoing definition are members of the Class,
5 except for those individuals who timely submitted a valid request for exclusion (“opt out”) from
6 the Class. There were no Class Members who opted out of the Settlement.

7 13. Plaintiffs are suitable Class Representatives and are hereby confirmed as the Class
8 Representatives for the Class. The Court finds that Plaintiffs’ investment and commitment to the
9 litigation and its outcome ensured adequate and zealous advocacy for the Class, and that their
10 interests are aligned with those of the Class.

11 14. The Agreement provides for Class Representative Service Payments of not more
12 than \$10,000 each to the Plaintiffs, subject to the Court’s approval. The Court hereby awards the
13 Class Representative Service Payments in the amount of \$10,000 each to the Plaintiffs and finds
14 that such Class Representative Service Payments are reasonable in light of the risks and burdens
15 undertaken by the Plaintiffs in the litigation, for their time and effort in bringing and prosecuting
16 this matter on behalf of the Class and the Aggrieved Employees, and for their execution of general
17 releases.

18 15. The Court finds that Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit
19 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP (“Class Counsel”) have the
20 requisite qualifications, experience, and skill to protect and advance the interests of the Class. The
21 Court therefore confirms its Preliminary Approval Order appointing Class Counsel as counsel for
22 the Class.

23 16. The Court hereby awards Class Counsel a Class Counsel Fees Payment in the
24 amount of \$141,666 and a Class Counsel Litigation Expenses Payment in the amount of
25 \$ _____. These amounts are reasonable, in light of the contingent nature of Class Counsel’s
26 fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested
27 award has been supported by Class Counsel’s lodestar and billing statement. Class Counsel shall
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1 not seek or obtain any other compensation or reimbursement from Defendant, Plaintiffs, or
2 members of the Class.

3 17. The payment of \$7,250 to the Administrator as the Administration Expenses
4 Payment is approved because this amount is reasonable in light of the work performed by the
5 Administrator. The Administrator shall calculate and administer the payments to be made to the
6 Participating Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
7 transmit the Class Representative Service Payments to the Plaintiffs, distribute the PAGA
8 Penalties, issue any required tax reporting forms, calculate withholdings, and perform the other
9 remaining duties set forth in the Agreement.

10 18. Notice of entry of this Final Approval Order and Judgment shall be given to all
11 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. This Final Approval
12 Order and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice. It
13 shall not be necessary to send notice of entry of this Final Approval Order and Judgment to
14 individual Class Members. Class Counsel shall serve this Final Approval Order and Judgment on
15 the LWDA.

16 19. Defendant shall fully fund the Gross Settlement Amount, and also fund the
17 amounts necessary to fully pay Defendant's share of payroll taxes in accordance with the
18 Agreement, by transmitting the funds to the Administrator no later than 14 days after the Effective
19 Date.

20 20. Within 14 days after Defendant funds the Gross Settlement Amount, the
21 Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments,
22 the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
23 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service
24 Payments.

25 21. Participating Class Members and Aggrieved Employees must cash their Individual
26 Class Payment checks within 180 days after issuance. If such checks are not cashed within 120
27 days after the initial mailing of the checks, the Administrator will send the affected Participating
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1 Class Member and/or Aggrieved Employee a reminder notice stating that unless the check is
2 cashed in the next 60 days, it will expire and become non-negotiable and offer to replace the check
3 if it was lost or misplaced. All funds associated with check that remain uncashed by the expiration
4 of the 180 day period, and therefore become void, shall be paid to Casa Cornelia Law Center as
5 the Cy Pres Recipient of this Settlement in accordance with California Code of Civil Procedure
6 section 384(b).

7 22. The Agreement and this Settlement are not an admission by Defendant, nor is this
8 Final Approval Order and Judgment a finding of the validity of any claims in the Action or of any
9 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
10 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
11 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
12 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
13 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
14 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
15 admission or concession with regard to the denials or defenses by Defendant.

16 23. Neither this Judgment, Approval Motion, the Settlement, any document referred to
17 herein, any exhibit to any document referred to herein, any action taken to carry out the
18 Settlement, nor any negotiations or proceedings related to the Settlement shall have any collateral
19 estoppel or other preclusive effect against Defendant; provided, however, that Defendant and any
20 of the Released Parties can use the Agreement and this Final Approval Order and Judgment to
21 enforce the release and extinguishment of the Released Class Claims and Released PAGA Claims,
22 including without limitation by way of defense to any claims that have been or may hereafter be
23 asserted in any lawsuit or other judicial, administrative, or arbitral proceeding. Neither this Final
24 Approval Order and Judgment, the Agreement, nor any document referred to herein, nor any
25 action taken to carry out the Agreement may be deemed a waiver of Defendant's rights to enforce
26 arbitration agreements entered into by Class Members or Aggrieved Employees.

1 24. Except as set forth in the Agreement and this Final Approval Order and Judgment,
2 Plaintiffs, and all members of the Class, shall take nothing in the Action. Each party shall bear its
3 own attorneys' fees and costs, except as otherwise provided in the Agreement and in this Final
4 Approval Order and Judgment.

5 25. As of the Effective Date and upon full finding of the Gross Settlement Amount by
6 Defendant, all Participating Class Members, on behalf of themselves and their respective former
7 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
8 release Released Parties from the Released Class Claims. The "Released Class Claims" are all
9 claims that were alleged, or reasonably could have been alleged, based on the facts stated in the
10 Operative Complaint which occurred during the Class Period during employment in a non-exempt
11 position in California, including claims for (1) unfair competition in violation of Cal. Bus. & Prof.
12 Code §§ 17200, *et seq.*; (2) failure to pay minimum wages in violation of Cal. Lab. Code §§ 1194,
13 1197 & 1197.1; (3) failure to pay overtime wages in violation of Cal. Lab. Code § 510; (4) failure
14 to provide required meal periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable
15 IWC Wage Order; (5) failure to provide required rest periods in violation of Cal. Lab. Code §§
16 226.7 & 512 and the applicable IWC Wage Order; (6) failure to provide accurate itemized
17 statements in violation of Cal. Lab. Code § 226; (7) failure to reimburse employees for required
18 expenses in violation of Cal. Lab. Code § 2802; and (8) failure to pay sick pay wages in violation
19 of Cal. Lab. Code §§ 201-203, 233, 246. Except as expressly set forth in the Agreement,
20 Participating Class Members do not release any other claims, including claims for vested benefits,
21 wrongful termination, violation of the Fair Employment and Housing Act, unemployment
22 insurance, disability, social security, workers' compensation, or claims based on facts occurring
23 outside the Class Period.

24 26. As of the Effective Date and upon full funding of the Gross Settlement Amount by
25 Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of
26 themselves and their respective former and present representatives, agents, attorneys, heirs,
27 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
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1 The “Released PAGA Claims” are all claims for PAGA penalties that were alleged, or reasonably
2 could have been alleged, based on the facts stated in the Operative Complaint and the PAGA
3 Notice, which occurred during the PAGA Period during employment in a non-exempt position in
4 California, including claims for PAGA penalties based on violations of California Labor Code §§
5 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2),
6 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040,
7 subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to
8 Provide Seating), and the applicable Wage Order(s) and expressly excluding all other claims
9 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
10 Housing Act, unemployment insurance, disability, social security, worker’s compensation, and
11 PAGA claims outside of the PAGA Period.

12 27. The Released Parties are: Defendant and each of its past, present, and future
13 parents, affiliated entities, corporations, divisions, managers, partners, members, agents,
14 employees, directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors,
15 assigns, and subsidiaries.

16 28. This Final Approval Order and Judgment shall be binding on Plaintiffs and all
17 Class Members who are hereby barred by the doctrine of res judicata from asserting any and all of
18 the Released Class Claims.

19 29. This Final Approval Order and Judgment shall be binding on Plaintiffs and all
20 Aggrieved Employees, the LWDA, and the State of California who are hereby barred by the
21 doctrine of res judicata from asserting any and all of the Released PAGA Claims. *See Arias v.*
22 *Superior Court*, 46 Cal. 4th 969, 986 (2009).

23 30. This document shall constitute a judgment under California Code of Civil
24 Procedure section 664.6 and California Rules of Court, Rule 7.69(h).

25 31. Pursuant to California Code of Civil Procedure section 664.6, and without affecting
26 the finality of this Judgment in any way, the Court shall retain jurisdiction to construe, interpret,
27 implement and enforce the Agreement and this Judgment.

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1 32. The Court sets a compliance hearing for June 3, 2026, at 2:30 p.m. in Department
2 19. At least ten court days before the hearing, Class Counsel and the Administrator shall submit a
3 summary accounting of the net settlement fund identifying distributions made as ordered herein,
4 the number and value of any uncashed checks, amounts remitted to the *cy pres* recipient; the status
5 of any unresolved issues, and any other matters appropriate to bring to the court's attention.
6 Counsel shall also submit an amended judgment as described in Code of Civil Procedure section
7 384, subdivision (b). Counsel may appear at the compliance hearing remotely.

8 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

9
10 Dated: September 30, 2025



HON. THEODORE C. ZAYNER
JUDGE, SUPERIOR COURT OF CALIFORNIA