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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CLAUDIA NUNEZ PORCAYO, individually
and on behalf of all persons similarly situated

Plaintiffs,

vs.

THE WHOLE CHILD – MENTAL HEALTH
& HOUSING SERVICES, a California
Corporation; and Does 1 through 50, Inclusive,

Defendants.

Case No. 21STCV25160

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: January 9, 2023
Time: 9:00 a.m.

Judge: Hon. Maren Nelson
Dept.: 17

1 Plaintiff's motion for an order finally approving the Stipulation of Class and PAGA
2 Action Claims and Release of Claims ("Agreement") and Motion for Class Counsel Award and
3 Class Representative Service Award duly came on for hearing on January 9, 2022, before the
4 above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf
5 of Plaintiff CLAUDIA NUNEZ PORCAYO ("Plaintiff"). Gordon Rees Scully Mansukhani, LLP
6 appeared on behalf of Defendant THE WHOLE CHILD – MENTAL HEALTH & HOUSING
7 SERVICES, a California Corporation (hereinafter "Defendant").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of Los Angeles ("Court"), Case No.
16 21STCV25160, entitled *Porcayo v. The Whole Child* and over all Parties to this litigation,
17 including the Class.

18 **Preliminary Approval of the Settlement**

19 3. On October 18, 2022, the Court granted preliminary approval of a class-
20 wide settlement. At this same time the court approved certification of a provisional settlement
21 class for settlement purposes only. The Court confirms this Order and finally approves the
22 settlement and the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Notice Packet was
25 mailed by first class mail to the Class Members at their last known addresses on November 2,
26 2022. Mailing of the Notice Packet to their last known addresses was the best notice practicable
27 under the circumstances and was reasonably calculated to communicate actual notice of the
28 litigation and the proposed settlement to the members of the Class Members. The Court finds that

1 the Notice Packet provided fully satisfies the requirements of California Rules of Court, rule
2 3.769.

3 5. The Response Deadline for opting out or objecting was December 17, 2022.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. No Class Members requested
6 exclusion.

7 **Fairness Of The Settlement**

8 6. The Agreement provides for a Gross Settlement Amount of \$206,115.00.
9 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
10 Cal.App.4th 1794, 1801.)

11 a. The settlement was reached through arms-length bargaining between
12 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
13 settlement.

14 b. The Parties' investigation and discovery have been sufficient to
15 allow the Court and counsel to act intelligently.

16 c. Counsel for all parties are experienced in similar employment class
17 action litigation and have previously settled similar class claims on behalf of employees claiming
18 compensation. All counsel recommended approval of the Settlement.

19 d. The percentage of objectors and requests for exclusion is small. No
20 objections were received. No requests for exclusion were received.

21 e. The participation rate is high. All Class Members will be
22 participating in the Settlement and will be sent settlement payments.

23 7. The consideration to be given to the Class Members under the terms of the
24 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the
25 claims asserted in this Action and is fair, reasonable, and adequate compensation for the release of
26 the Released Class Claims and Released PAGA Claims, given the uncertainties and risks of the
27 litigation and the delays which would ensue from continued prosecution of the Action.

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Settlement Class Members.

3 **Attorneys' Fees and Litigation Expenses**

4 9. The Agreement provides for a Class Counsel Award in the amount of up to
5 Eighty-Three Thousand, Six Hundred Thirty-Six Dollars and Zero Cents (\$83,636.00). Subject to
6 Court approval, the Class Counsel Award consists of attorneys' fees equal to one-third (1/3) of the
7 Gross Settlement Amount, or Sixty-Eight Thousand, Six Hundred Thirty-Six Dollars and Zero
8 Cents (\$68,636.00) and reimbursement of costs and expenses in the amount of Fifteen Thousand
9 Dollars and Zero Cents (\$15,000.00).

10 10. A Class Counsel Award of Eighty-Three Thousand, Six Hundred Thirty-Six
11 Dollars and Zero Cents (\$83,636.00) comprised of attorneys' fees in the amount of Sixty-Eight
12 Thousand, Six Hundred Thirty-Six Dollars and Zero Cents (\$68,636.00) and reimbursement of
13 actually incurred costs and expenses in the amount of Fifteen Thousand Dollars and Zero Cents
14 (\$15,000.00) is reasonable in light of the contingent nature of Class Counsel's fee, the hours
15 worked by Class Counsel, and the results achieved by Class Counsel. The requested attorneys' fee
16 award represents 1/3 of the common fund, which is reasonable and at the low end of the range for
17 fee awards in common fund cases and is supported by Class Counsel's lodestar.

18 **Class Representative Service Award**

19 11. The Agreement provides for a Class Representative Service Award of up to
20 Ten Thousand Dollars and Zero Cents (\$10,000.00) for Plaintiff, Claudia Nunez Porcayo, subject
21 to the Court's approval. The Court finds that the amount of Ten Thousand Dollars and Zero Cents
22 (\$10,000.00) is reasonable in light of the risks and burdens undertaken by the Plaintiff in this class
23 action litigation.

24 **Settlement Administration Costs**

25 12. The Agreement provides for Settlement Administration Costs to be paid in
26 an amount not to exceed \$8,000.00. The Declaration of the Settlement Administrator provides
27 that the actual claims administration expenses were \$8,000.00. The amount of this payment is
28 reasonable in light of the work performed by the Settlement Administrator.

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1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include:

2. Every person in the Class who did not opt out is a Settlement Class Member. The Court finds, based on the declaration of the Settlement Administrator, that zero Class Members opted-out of the Settlement.

4. Class Counsel are awarded attorneys' fees in the amount \$83,636.00 for the Class Counsel Award comprised of one-third of the Gross Settlement Amount, or Sixty-Eight Thousand, Six Hundred Thirty-Six Dollars and Zero Cents (\$68,636.00) and reimbursement of actually incurred costs and expenses in the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00). Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendants, Plaintiff, or members of the Class.

6. The payment of \$8,000.00 to the Settlement Administrator for Settlement Administration Costs is approved.

7. The PAGA Settlement of \$10,000.00 is hereby approved as fair, reasonable, adequate and adequately protects the interests of the public and the LWDA. Further, the Court finds that Plaintiff and Class Counsel negotiated the PAGA Settlement at arms-length, absent of any fraud or collusion.

1 8. Final Judgment is hereby entered in this action. The Final Judgment shall
2 bind each Settlement Class Member. The Final Judgment shall operate as a full release and
3 discharge of Defendant all class claims alleged in the operative complaint or that could have been
4 stated based on the facts alleged in the Action, including but not limited to federal and state wage
5 and hour claims (including all claims under the California Labor Code and/or Fair Labor
6 Standards Act) for unpaid wages, minimum wage, overtime, wages for off-the-clock work, meal
7 periods, rest periods, wage statement violations, waiting time penalties, failure to maintain
8 records, interest, penalties, and attorneys' fees, unfair competition and the related provisions of the
9 Business & Professions Code including sections 17200 and 17203, Labor Code sections 201, 202,
10 203, 204, 206.5, 210, 226, 226.2, 226.7, 246 510, 512, 515, 558, 1194, 1197, 1197.1, 1198, and
11 2802 and all claims under the governing Wage Order(s), which occurred during the Class Period,
12 and expressly excluding all other claims, including claims for vested benefits, wrongful
13 termination, unemployment insurance, disability, social security, workers' compensation, and class
14 claims outside of the Class Period. To the extent employees are required to "opt-in" to have this
15 release be deemed effective under federal law, the acceptance and negotiation of any settlement
16 check shall be deemed effective for that purpose.

17 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
18 California and all Aggrieved Employees, pursuant to the California Labor Code Private Attorneys'
19 General Act ("PAGA") and shall release Defendant all PAGA claims for penalties and any other
20 available relief pursuant to the PAGA alleged in the operative complaint and/or Plaintiff's PAGA
21 notice to the LWDA which occurred during the PAGA Period including for violations of
22 California Labor Code sections , 201, 202, 203, 204, 210, 226, 226.7, 510, 512, 558, 1194, 1197,
23 1197.1, 1198, 2802 and expressly excluding all other claims, including claims for vested benefits,
24 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
25 and PAGA claims outside of the PAGA Period.

26 10. The term "Aggrieved Employees" is hereby defined to include all
27 individuals who are or previously were employed by Defendant in California and classified as
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1 non-exempt employees at any time during the PAGA Period. The PAGA Period means the period
2 between April 30, 2020 to May 1, 2022.

3 11. In addition to the release given by each Settlement Class Member, Plaintiff
4 also generally releases Defendant from any and all claims as set forth in the General Release by
5 Plaintiff in the Agreement.

6 12. The Agreement is not an admission by Defendant, nor is this Final
7 Approval Order and Judgment, a finding of the validity of any claims in the Action or of any
8 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
9 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
10 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
11 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
12 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
13 concession with regard to the denials or defenses by Defendant and shall not be offered in
14 evidence in any action or proceeding against Defendant in any court, administrative agency or
15 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
16 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
17 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
18 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
19 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
20 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
21 claims being released by the Settlement.

22 13. Notice of entry of this Final Approval Order and Judgment shall be given to
23 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
24 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
25 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
26 indicated in the Notice Packet.

27 14. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
28 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a

1 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
2 connection with the distribution of settlement benefits.

3 15. If the Settlement does not become final and effective in accordance with the
4 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
5 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
6 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
7 be vacated.

8
9 **IT IS SO ORDERED.**

10 DATED: _____, 2022
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14 Hon. Maren Nelson
15 Judge, Superior Court for the State of California,
16 County of Los Angeles
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