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18 similarly-situated employees

19 **SUPERIOR COURT OF CALIFORNIA**

20 **COUNTY OF SAN DIEGO**

21 GAIL WILKERSON, on behalf of herself
22 and all other similarly-situated employees,

23 Plaintiff,

24 v.

25 INTUIT, INC., a Delaware corporation; and
26 DOES 1 through 100, inclusive,

27 Defendants.

Case No. 37-2020-00030371-CU-OE-CTL

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Gregory W. Pollack

Department C-71

**[PROPOSED] PRELIMINARY APPROVAL
ORDER OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: September 30, 2022

Time: 9:30 a.m.

Dept: C-71

Judge: Honorable Gregory W. Pollack

Reservation: 2501884

[IMAGED FILE]

Complaint filed: August 28, 2020

Trial date: Not set

1 WHEREAS, Plaintiff Gail Wilkerson (“Plaintiff”) has applied to this Court for an order
2 preliminarily approving the settlement of this Action in accordance with a Joint Stipulation of Class
3 and PAGA Representative Action Settlement and Release (the “Settlement” or “Settlement
4 Agreement”), which, together with the exhibits thereto, sets forth the terms and conditions for a
5 proposed settlement and dismissal of the pending Action with prejudice upon the terms and conditions
6 set forth therein; and

7 WHEREAS, the Court has read and considered the Plaintiff’s Motion for Preliminary
8 Approval, the Parties’ Settlement Agreement and the exhibits and declarations thereto;

9 NOW, THEREFORE, IT IS HEREBY ORDERED:

10 1. This Order incorporates by reference the definitions in the Settlement Agreement, and
11 all terms defined therein shall have the same meaning in this Order as set forth in the Settlement
12 Agreement.

13 2. The Court has jurisdiction over the Action and all acts within the Action, and over all
14 the Parties to the Action, including Plaintiff, Class Members, Defendant, and the State of California.

15 3. It appears to the Court on a preliminary basis that the Settlement is fair, adequate and
16 reasonable. Indeed, the Court recognizes the value of the monetary recovery provided to all Class
17 Members and finds that such recovery is fair, adequate and reasonable when balanced against further
18 litigation related to liability and damages issues. It appears that the Parties have conducted significant
19 investigation, formal and informal discovery, research and litigation such that Class Counsel and
20 Defense Counsel are able to reasonably evaluate their respective positions at this time. It further
21 appears to the Court that the proposed Settlement, at this time, will avoid substantial additional costs
22 by all Parties, as well as avoid the risks and delay inherent to further prosecution of the Action. It also
23 appears that the Parties reached the Settlement as the result of intensive, serious and non-collusive,
24 arms-length negotiations facilitated by an experienced and neutral mediator. Thus, the Court finds on
25 a preliminary basis that the Settlement Agreement appears to be within the range of reasonableness of
26 a settlement that could ultimately be given final approval by this Court. Accordingly, the Motion for
27 Preliminary Approval of Class Action Settlement is hereby **GRANTED**.

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1.1 For purposes of this Settlement only, the Court hereby conditionally certifies a class of Class Members, consisting of all non-exempt employees employed by Intuit Inc. in the State of California in the role of “Tax Support” (job code CTS11) from August 28, 2016, to August 7, 2020 (i.e., the “Class Period”). Should for whatever reason the Settlement not become final, the fact that the Parties were willing to stipulate to certification of the Class as part of the Settlement shall have no bearing on, nor be admissible in connection with, the issue of whether a class should be certified in a non-settlement context.

4. The rights of any potential dissenters to the proposed Settlement are adequately protected in that they may exclude themselves from the Settlement of the Class Member Released Claims, or they may object to the Settlement of the Claims and appear before this Court. However, to do so they must follow the procedures outlined in the Settlement Agreement and Notice of Settlement.

5. The Court finds that the notice of settlement that Plaintiff provided to the California Labor and Workforce Development Agency (“LWDA”) satisfies the notice requirements of the California Private Attorneys General Act (“PAGA”).

6. The Court approves, as to form and content, the proposed Notice of Settlement to Class Members and finds that the method selected for communicating the preliminary approval of the Settlement to Class Members is the best notice practicable under the circumstances, constitutes due and sufficient notice to all persons entitled to notice, and therefore satisfies due process.

7. For Settlement purposes only, the Court hereby appoints Plaintiff Gail Wilkerson as the class representative in this Action. Further, the Court preliminarily approves a Service Award to Plaintiff not to exceed Ten Thousand Dollars (\$10,000).

8. For Settlement purposes only, the Court hereby appoints Isam C. Khoury, Michael D. Singer, and J. Jason Hill of Cohelan Khoury & Singer and Emil Davtyan of the Davtyan Law Firm, Inc. as Class Counsel for Class Members. Further, the Court preliminarily approves a Class Counsel Fees Award not to exceed Fifty Thousand Dollars (\$50,000). As well, the Court preliminarily approves a Class Counsel Costs Award not to exceed Eight Thousand Dollars (\$8,000). The Class Counsel Fees Award and Class Counsel Costs Award will be subject to final approval of the Court.

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1 9. The Court hereby appoints Phoenix Settlement Administrators as the Settlement
2 Administrator to administer the Notice of Settlement pursuant to the terms in the Settlement
3 Agreement.

4 10. To the extent permitted by law, pending a determination as to whether this Settlement
5 should be finally approved, Class Members, whether directly, representatively, or in any other
6 capacity, whether or not such persons have appeared in this Action, shall not institute or prosecute any
7 of the Class Member Released Claims against the Released Parties.

8 11. No later than 21 calendar days after the entry of the Preliminary Approval Order, Intuit
9 shall provide the Settlement Administrator with the Class Information (as defined in the Settlement
10 Agreement). No later than 14 calendar days after receipt of the Class Information, the Settlement
11 Administrator shall use the Class Information to mail the Notice of Settlement to Class Members after
12 conducting a national change of address search and a skip trace for the most current address of all
13 former employee Class Members and will update such addresses as necessary.

14 12. No later than 45 calendar days after the date the Settlement Administrator mails the
15 Notice of Settlement to Class Members (*i.e.*, the Response Deadline), any Class Member requesting
16 exclusion from the Settlement must submit his/her Request for Exclusion by mail to the Settlement
17 Administrator as instructed in the Notice of Settlement. If the Court finally approves this Settlement,
18 Class Members who fail to submit a timely and valid Request for Exclusion on or before the Response
19 Deadline shall be Participating Class Members bound by all terms of the Settlement and the Final
20 Approval Order entered in this Action. To be valid, the Request for Exclusion: (1) must contain the
21 full name, address and last four digits of the social security number of the person requesting exclusion;
22 (2) must be signed by the person requesting exclusion; and (3) must state in substance: "I wish to
23 exclude myself from the Settlement in the action titled *Gail Wilkerson v. Intuit Inc.*, Case No. 37-
24 2020-00030371-CU-OE-CTL, pending in San Diego Superior Court. I understand that by requesting
25 to be excluded, I will receive no money from the Settlement." Any Class Members who submits a
26 timely and valid Request for Exclusion from the Class will not be entitled to any monetary recovery
27 under the Settlement (except for their prorated portion of the PAGA Award, if applicable) and will not
28 be bound by the terms of the Settlement as it relates to the Class Member Released Claims (except for

1 the release of the PAGA claims, which will bind all PAGA Employees regardless of whether they
2 submit a Request for Exclusion). Any Class Members who submits a timely and valid Request for
3 Exclusion from the Class will not have any right to object, appeal or comment on the Settlement.

4 13. No later than 45 calendar days after the Response Deadline, any Class Member wishing
5 to object or comment upon the Settlement must submit her/his Notice of Objection by filing it with
6 the Court or mailing it to the Court as instructed in the Notice of Settlement. Class Members who fail
7 to submit a timely and valid Notice of Objection shall be deemed to have waived any objections and
8 shall be foreclosed from making any objections to the Settlement.

9 14. The proposed Second Amended Complaint attached as Exhibit D to the Settlement
10 Agreement is approved. Plaintiff is to file the Second Amended Complaint within five (5) court days
11 of entry of this Order.

12 15. The Final Approval Hearing shall be held at _____, 2022 at ____m., in the San
13 Diego County Superior Court, Department C-71, located at 330 W. Broadway, San Diego, CA 92101,
14 to consider the fairness, adequacy and reasonableness of the proposed Settlement, including without
15 limitation the: Class Counsel Fees Award, Class Counsel Costs Award, Plaintiff's Service Award,
16 PAGA Award, Settlement Administration Costs, and Individual Settlement Payments to Participating
17 Class Members.

18 16. This Settlement is not a concession or admission and shall not be used against Intuit or
19 any of the Released Parties as an admission or indication with respect to any claim of any fault or
20 omission by Intuit or any of the Released Parties. Whether the Settlement is finally approved, neither
21 the Settlement, nor any document, statement, proceeding or conduct related to the Settlement, nor any
22 reports or accounts thereof, shall in any event be: (a) construed as, offered or admitted in evidence as,
23 received as or deemed to be evidence for any purpose adverse to the Released Parties, including, but
24 not limited to, evidence of a presumption, concession, indication or admission by Intuit or any of the
25 Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (b) disclosed,
26 referred to, or offered or received in evidence against any of the Released Parties in any further
27 proceeding in the Action, or in any other civil, criminal or administrative action or proceeding, except
28 for purposes of enforcing the Settlement. The Court's findings are for purposes of conditionally

1 certifying the class of Class Members in the context of this Settlement and will not have any claim or
2 issue or evidentiary preclusion or estoppel effect in any other action against Intuit or any of the
3 Released Parties or in this litigation if the Settlement is not finally approved. If for any reason the
4 Court does not execute and file a Final Approval Order, or if the Effective Date, as defined in the
5 Settlement Agreement, does not occur for any reason whatsoever, the Settlement Agreement and all
6 evidence and proceedings had in connection therewith shall be without prejudice to the *status quo ante*
7 rights of the Parties to the Action, as more specifically set forth in the Settlement Agreement, and this
8 Preliminary Approval Order shall be rendered null and void and shall be vacated.

9 17. Pending further orders of this Court, all proceedings in this matter except those
10 contemplated in this Preliminary Approval Order and in the Settlement Agreement are stayed.

11 18. The Court expressly reserves the right to adjourn or continue the Final Approval
12 Hearing from time to time without further notice to Class Members.

13 **IT IS SO ORDERED.**

14
15 Dated: _____

16 _____
17 HONORABLE GREGORY POLLACK
18 JUDGE OF THE SUPERIOR COURT
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