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8
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

12
13 COREY JONES, EDDIE FAIRLEY,
14 DEMETREIA GRAY, individually, and on
behalf of other members of the general
15 public similarly situated and all "aggrieved
employees" pursuant to Labor Code § 2698
16 *et seq.*,

17 Plaintiffs,

18 v.

19 DAA DRAEXLMAIER AUTOMOTIVE
OF AMERICA LLC, a South Carolina
limited liability corporation; DAN
20 DRAEXLMAIER AUTOMOTIVE OF
NORTH AMERICA LLC, a South
21 Carolina limited liability corporation; and
DOES 1 through 10, inclusive,

22 Defendants.
23

CASE NO: HG20062125

Assigned to the Hon. Evelio Grillo, Dept. 21

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND GRANTING
LEAVE TO FILE FIRST AMENDED**

Date: October 5, 2022

Time: 10:00 a.m.

Dept.: 21

Complaint Filed: May 11, 2020

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1 Plaintiffs Corey Jones, Eddie Fairley, and Demetreia Gray's motion for preliminary
2 approval of class and representative action settlement came on for hearing before this Court in
3 Department 21, Judge Evelio Grillo presiding, on October 5, 2022. The Court, having considered
4 the papers submitted in support of the motion and having heard oral argument of the parties,
5 **HEREBY ORDERS THE FOLLOWING:**

6 1. The Court grants preliminary approval of the settlement based upon the terms set
7 forth in the Settlement Agreement of Class Action and Private Attorneys General Act Claims (the
8 "Settlement Agreement") filed with the Court. The settlement appears to be fair, adequate, and
9 reasonable to the class;

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

13 3. It appears to the Court on a preliminary basis that the Settlement falls within the
14 range of reasonableness and appears to be presumptively valid, subject only to any objections that
15 may be raised at the final hearing;

16 4. The Court concludes that, for settlement purposes only, the proposed Class meets
17 the requirements for certification under section 382 of the California Code of Civil Procedure in
18 that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
19 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
20 community of interest amongst the members of the Class with respect to the subject matter of the
21 litigation; (c) Plaintiffs' claims are typical of the claims of the members of the Class; (d) Plaintiff
22 swill fairly and adequately protect the interests of the members of the Class; (e) a class action is
23 superior to other available methods for the efficient adjudication of the controversy; and (f) Class
24 Counsel is qualified to act as counsel for Plaintiffs in their individual capacity and as the
25 representatives of the Class.

26 5. It is ordered that the Class is preliminarily certified for settlement purposes only,
27 defined as follows: All current and/or former direct employees of Defendants employed in
28 California in non-exempt or hourly-paid positions from May 11, 2016 through June 26, 2021;

1 6. The Court approves, as to form and content, the Notice of Proposed Settlement of
2 Class Action ("Class Notice"), attached as **Exhibit 2** to the Settlement Agreement. The Court finds
3 that the Notice appears to fully and accurately inform the Class Members of all material elements
4 of the Settlement, of Class Members' right to be excluded from the Class Settlement by submitting
5 a Request for Exclusion, of Class Members' right to dispute the Workweeks and/or Pay Periods
6 credited to each of them, and of each Settlement Class Member's right and opportunity to object to
7 the Class Settlement by submitting a written objection;

8 7. The Court directs the mailing of the Notice by first class mail to Class Members in
9 the manner set forth in the Settlement Agreement and in accordance with the schedule set forth
10 below. The Court finds that the dates selected for the mailing and distribution of the Class Notice,
11 as set forth herein, and that distribution of the Class Notice substantially in the manner and form
12 set forth in the Settlement Agreement and this Order, meet the requirements of due process and
13 provide the best notice practicable under the circumstances and shall constitute due and sufficient
14 notice to all persons entitled thereto;

15 8. The Court confirms and provisionally appoints Daniel F. Gaines and Alex P.
16 Katofsky, of Gaines & Gaines, APLC; Edwin Aiwarzian, Arby Aiwarzian, and Joanna Ghosh, of
17 Lawyers *for* Justice, PC; and Matthew Matern, Launa Adolph, and Kayvon Sabourian, of Matern
18 Law Group, PC as Class Counsel, and grants preliminary approval of an award of attorneys' fees
19 of not more than 35% of the Gross Settlement Amount (i.e. projected at \$516,250) and documented
20 litigation costs of up to \$60,000 to Class Counsel, subject to final approval by the Court following
21 a further motion by Class Counsel;

22 9. The Court confirms and provisionally appoints Plaintiffs Corey Jones, Demetreia
23 Gray, and Eddie Fairley as the Class Representatives and grants preliminary approval to Named
24 Plaintiff Enhancement Payments not to exceed \$10,000 each for their service in the Action;

25 10. The Court grants preliminary approval of the allocation of \$120,000 for the PAGA
26 Amount, of which 75% will be allocated to the Labor and Workforce Development Agency and
27 25% will be allocated to affected employees;

1 11. The Court hereby approves ILYM Group, Inc. as the Settlement Administrator and
2 grants preliminary approval of the payment of fees and other charges of the Settlement
3 Administrator in an amount not to exceed \$12,050;

4 12. Within twenty-one (21) days of entry of the Court's Order granting preliminary
5 approval of the Settlement Agreement, Defendants shall provide the Settlement Administrator with
6 an "Employee List" showing the Employees' full names, including their last known addresses,
7 telephone numbers, Social Security numbers, and their total Workweeks and Pay Periods.

8 13. Within fifteen (15) days after receipt of the Employee List, the Settlement
9 Administrator shall mail the Class Notice to Employees via first-class regular U.S. mail and follow
10 the procedures set forth in the Settlement Agreement. Class Members who wish to object to the
11 class settlement, but not the PAGA settlement, must submit a written statement objecting to the
12 Settlement to the Settlement Administrator no later than forty-five (45) days from the mailing of
13 the Class Notice to request exclusion of or object to the Settlement ("Opt Out/Objection Period").
14 Class Members who do not timely submit a written objection to the Settlement Administrator may
15 appear (or their representative may appear on their behalf) at the Final Approval Hearing to present
16 to the Court oral objections or concerns with the Settlement, so long as the Settlement Class
17 individual provides written notice, which may be by email, to Class Counsel, Defense Counsel, and
18 the Court no later than two days prior to the date of the Final Approval Hearing of their intent to
19 appear at the Final Approval Hearing. The Parties will be permitted to respond in writing to such
20 objections prior to the Final Approval hearing and also to make oral argument in opposition at the
21 hearing. Settlement Class Members who fail to file and serve timely written objections in the
22 manner specified above shall remain Settlement Class Members and shall be deemed to have
23 waived any objections and shall be foreclosed from making any objection (whether by appeal or
24 otherwise) to the Settlement.

25 14. Class Members who wish to exclude themselves from the Class Settlement must submit
26 a signed, written statement requesting exclusion from the Class Settlement, to the Settlement
27 Administrator by mail, on or before the last day of the Opt Out/Objection Period. The opt-out
28 request must state in substance, words to the effect: "I wish to opt out of the Class Settlement in

1 *Jones, et al. v. DAA Draexlmaier of America LLC, et al.*, Case No. HG20062125. I understand that
2 by requesting to be excluded from the Settlement Class, I will not receive a Class Member Payment.
3 I also understand that I will still receive a PAGA Payment for my share of the PAGA Settlement
4 because I cannot object or exclude myself from the PAGA Settlement.”

5 15. A written request for exclusion must contain the full name, address, telephone
6 number, and last four digits of the Social Security number of the Class Member requesting
7 exclusion; be signed by the Class Member; and be postmarked on or before the last day of the Opt
8 Out/Objection Period. The date of the postmark on the return mailing envelope shall be the
9 exclusive means used to determine whether a request for exclusion has been timely submitted. If
10 the postmark is illegible, then the request for exclusion must arrive within seven (7) calendar days
11 after the last day of the Opt Out/Objection Period to be considered timely. Any Class Member who
12 opts out of the Class Settlement will not be entitled to any recovery under the Settlement from the
13 Class Payout Fund and will not be bound by the Class Settlement or have any right to object, appeal
14 or comment in court on the Class Settlement. Class Members who fail to submit a valid and timely
15 request for exclusion on or before the last day of the Opt Out/Objection Period shall be Settlement
16 Class Members and shall be bound by the Class Settlement. However, PAGA Employee cannot
17 object, opt out, or otherwise be excluded from the PAGA Settlement and release of the PAGA
18 claims set forth in the Settlement Agreement.

19 16. A Final Approval hearing shall be held on _____, 2022
20 [approximately 100 calendar days after entry of this Order] at ____:_____.m. before the
21 Honorable Evelio Grillo in Department 21. At the Final Approval hearing, the Court will determine
22 whether the Settlement should be finally approved as fair, reasonable and adequate, and whether
23 the terms of this Preliminary Approval Order and any other applicable legal prerequisites to Judgment
24 are satisfied. The Court will also determine the amount properly payable for (i) the Fees Award and
25 Costs Award, (ii) Named Plaintiffs Enhancement Payments, (iii) the Settlement Administration
26 Costs, (iv) Class Member Payments; and (v) the PAGA Payments.

27 17. Named Plaintiffs shall file a motion for Final Approval no later than sixteen (16)
28 court days prior to the Final Approval hearing.

1 18. Class Counsel shall file with the Court and serve a declaration by the Settlement
2 Administrator specifying the due diligence undertaken with regard to the mailing of the Notice ten
3 (10) calendar days prior to the final settlement approval hearing date.

4 19. In the event the Settlement does not become effective in accordance with the terms
5 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, cancelled
6 or fails to become effective for any reason, this Order shall be rendered null and void, shall be
7 vacated, and the Parties shall revert back to their respective positions as of before entering into
8 the Settlement Agreement; and

9 20. The Court reserves the right to adjourn or continue the date of the Final Settlement
10 Approval Hearing and any dates provided for in the Settlement Agreement without further notice
11 to the Class Members, and retains jurisdiction to consider all further applications arising out of or
12 connected with the Settlement.

13 Dated: _____, 2022

14 _____
JUDGE OF THE SUPERIOR COURT