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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

11 SHIRLEY GOEMAAT and REHANA
BALUCH, individually, and on behalf of all
12 others similarly situated and aggrieved,

13 Plaintiffs,

14 vs.

15 ORANGE COUNTY ASSOCIATION FOR
MENTAL HEALTH, a California Corporation;
16 and DOES 1 through 50, inclusive,

17 Defendants.
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Case No.: 30-2019-01106371-CU-BT-CXC

*[Assigned for all purposes to the Hon. Peter
Wilson, Dept. CX101]*

CLASS ACTION

**PLAINTIFFS' SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT
(RELATED TO ROA #125)**

Date: January 26, 2023

Time: 2:00 PM

Dept: CX101

*[Filed concurrently with Declaration of Greg
Taylor, Amended Declaration of Stephen Gomez,
Declarations of Plaintiffs Shirley Goemaat and
Rehana Baluch; and [Proposed] Order and
Judgment]*

Complaint filed: October 21, 2019

FAC filed: June 12, 2021

Trial date: None set

25 On December 22, 2022, the Court continued the hearing on Plaintiffs' Unopposed Motion for
26 Final Approval of Class Action Settlement to January 26, 2023, and requested for the parties to
27 address issues listed in the Tentative Ruling and Minute Order ("December 22 Minute Order").
28 //

1 This supplemental brief addresses the issues raised by the Court in its December 22 Minute
2 Order, which is attached as Exhibit 1 to the concurrently filed Declaration of Greg Taylor [“Taylor
3 Decl.”]. The following bold numbered paragraphs correspond to the Court’s numbering in the
4 December 22 Minute Order, with Plaintiff’s responses below each.

5 **I. ADDRESSING ISSUES RAISED IN THE COURT’S ORDER**

6 **1. The Settlement Administrator should provide the names of the individuals who**
7 **opted out. The names of those individuals should also be included in the proposed Order.**

8 As requested, the Settlement Administrator has provided the names of the four individuals
9 who opted out of the Settlement. The names of these individuals are now included in the concurrently
10 filed Amended Declaration of Stephen Gomez Regarding Notice and Settlement Administration
11 (“Amended Simpluris Decl.”) at paragraph 14. A redlined copy of the Amended Simpluris Decl.,
12 showing these changes, is also attached to the concurrently filed Taylor Decl. as Exhibit 2. (See Taylor
13 Decl., Ex. 2 [Amended Simpluris Decl.], ¶ 14.)

14 As requested, the names of these individuals are also now included in the concurrently filed
15 revised Proposed Order Granting Final Approval of Class and PAGA Action Settlement and
16 Judgment Thereon at paragraph 9. A redlined copy of the revised Proposed Order, showing these
17 changes, is also attached to the concurrently filed Taylor Decl. as Exhibit 3. (See Taylor Decl., Ex. 3
18 [Proposed Order], ¶ 9.)

19 **2. In calculating the Net Settlement Amount, the Settlement Administrator**
20 **subtracted \$3,072.27 from the gross settlement for “Employers Taxes”. However, Defendant is**
21 **required to pay for its own taxes in addition to the gross settlement amount. See Settlement,**
22 **¶¶18 and 23. Additionally, the Settlement Administrator only deducted \$5,000 from the gross**
23 **settlement for Plaintiffs’ Service Awards. But Plaintiffs have requested \$10,000 each for a total**
24 **of \$20,000. Plaintiffs’ counsel should ensure that the Settlement Administrator is aware what**
25 **disbursements may properly be deducted from the gross settlement and the correct amount.**

26 The Settlement Administrator has revised its calculation of the Net Settlement Amount to
27 properly exclude Employers Taxes and properly state the Plaintiffs’ Service Awards, as reflected in
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1 the concurrently filed Amended Simpluris Decl. at paragraph 10. (*See* Taylor Decl., Ex. 2 [Amended
2 Simpluris Decl.], ¶ 10.)

3 **3. The Settlement Administrator should provide the estimated lowest individual**
4 **settlement payment and individual PAGA payment.**

5 As requested, the estimated lowest individual settlement payment and lowest individual
6 PAGA payment are now stated in the concurrently filed Amended Simpluris Decl. at paragraphs 15
7 and 16, along with the estimated average award and estimated highest award. (*See* Taylor Decl., Ex. 2
8 [Amended Simpluris Decl.], ¶¶ 15-16.)

9 **4. The Settlement Administrator should provide the estimated individual settlement**
10 **payment and/or individual PAGA payment for each Plaintiff.**

11 As requested, the estimated individual settlement payment and/or individual PAGA payment
12 for Plaintiffs Goemaat and Baluch are now stated in the concurrently filed Amended Simpluris Decl.
13 at paragraphs 18 and 19. (*See* Taylor Decl., Ex. 2 [Amended Simpluris Decl.], ¶¶ 18, 19.)

14 **5. The actual class size increased by 16 from the estimated class size. Do the parties**
15 **anticipate that the increase in class size will trigger the escalator clause?**

16 The parties do not anticipate that the escalator clause will be triggered. Pursuant to the
17 Settlement, the escalator clause will only be triggered if the actual number of workweeks worked by
18 Class members exceeds 25,124 by 5% or if the actual number of pay periods worked by PAGA
19 Members exceeds 11,780 by 5%. (*See* Declaration of Taras Kick in Support of Motion for Final
20 Approval [“Kick Decl.”], Ex. 1 [Settlement], ¶ II.24.) Here, Defendant’s data indicates that Class
21 members worked a total of 25,290 workweeks—a slight increase of only 0.66%. (*See* Taylor Decl.,
22 Ex. 2 [Amended Simpluris Decl.], ¶ 6.) Defendant’s data further indicates the number of PAGA
23 members does not exceed the 11,780 estimate. (*Id.*) Accordingly, the escalator clause will not be
24 triggered.

25 **6. How will notice of the judgment be provided to the class? The method for**
26 **providing notice should be included in the proposed Order.**

27 Per the terms of the Settlement, the Settlement Administrator shall post copies of the Final
28 Approval Order and Final Judgment for two hundred forty (240) calendar days on its website and

1 Plaintiffs shall cause copies of the Final Approval Order and Final Judgment to be submitted to the
2 LWDA. (*See* Settlement, ¶ 85(b).) The concurrently filed revised Proposed Order now contains an
3 explanation of the method of providing notice of the judgment at paragraph 25. (*See* Taylor Decl.,
4 Ex. 3 [Proposed Order], ¶ 25.)

5 **7. Should the Settlement be approved, the Court will hold a status conference for a**
6 **final accounting. Counsel shall submit a final report at least 10 days prior to that conference**
7 **regarding the status of the settlement administration. Counsel should include a date for the**
8 **final accounting in the proposed order. The Court holds final accounting hearings on Fridays**
9 **at 9:00 am. The final accounting should occur after the deadline for class members to cash their**
10 **checks. The final report must include all information necessary for the Court to determine the**
11 **total amount actually paid to class members and any amounts tendered to the cy pres recipient,**
12 **Public Counsel.**

13 The Proposed Order has been revised to include a proposed date for the final accounting status
14 conference. Per the Court's request, the proposed date and time is on a Friday at 9:00 a.m., after the
15 deadline for class members to cash their checks. (*See* Taylor Decl., Ex. 3 [Proposed Order], ¶ 22.)

16 Per the revised Proposed Order, Class Counsel will submit a final report regarding the status
17 of the settlement administration at least 10 days prior to the status conference on the final accounting,
18 as stated on the revised Proposed Order. (*See* Taylor Decl., Ex. 3 [Proposed Order], ¶ 22.) The final
19 report will include all information necessary for the Court to determine the total amount actually paid
20 to class members and any amounts tendered to the cy pres recipient, Public Counsel. (*Id.*)

21 **8. Plaintiff should identify all compensation they have or are anticipated to receive**
22 **from this lawsuit and submit a declaration addressing the factors set forth in *Golba v. Dick's***
23 ***Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272 and *Clark v. Am. Residential Servs. LLC***
24 **(2009) 175Cal.App.4th 785, 804, including an estimate of the hours spent on this litigation.**

25 Plaintiffs Goemaat and Baluch have concurrently filed declarations in support of the Motion
26 for Final Approval, detailing their active involvement in the case and addressing the factors set forth
27 in *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251, 1272 and *Clark v. Am.*
28 *Residential Servs. LLC* (2009) 175Cal.App.4th 785, 804, including all compensation they are

1 anticipated to receive and an estimate of the hours spent on this litigation. (*See* Declaration of Shirley
2 Goemaat, ¶¶ 7-12; Declaration of Rehana Baluch, ¶¶ 7-13.)

3 **9. The proposed order is to be revised consistent with the issues addressed above.**

4 The Proposed Order has been revised consistent with the issues addressed above, as shown on
5 the redlined copy attached as Exhibit 3 to the concurrently filed Taylor Decl. (*See* Taylor Decl., Ex. 3
6 [Proposed Order].)

7 **10. Counsel's contact information should be removed from the caption page of the**
8 **proposed Order.**

9 The Proposed Order has been revised to remove counsel's contact information from the
10 caption page. (*See* Taylor Decl., Ex. 3 [Proposed Order].)

11 **11. In Paragraph 17, line 10, "and" should be replaced with "plus". Additionally,**
12 **paragraph 17 should be simplified and state that the Court has approved the amounts of the**
13 **disbursements as fair and reasonable and then itemize the disbursements and amounts.**

14 The Proposed Order has been revised at paragraph 17, as requested, to clarify that Defendants
15 will pay the Gross Settlement Amount *plus* the employer-side payroll taxes. (*See* Taylor Decl., Ex. 3
16 [Proposed Order], ¶ 17.) Further, paragraph 17 has been simplified and revised to state that the Court
17 has approved the amounts of the disbursements as fair and reasonable and to itemize the
18 disbursements and amounts. (*Id.*)

19 **12. Some of the paragraphs in the proposed order are misnumbered and should be**
20 **corrected.**

21 The Proposed Order has been revised to correct the issue with paragraph numbers. (*See* Taylor
22 Decl., Ex. 3 [Proposed Order], pg. 6.)

23 **Plaintiff is ordered to give notice, including to the LWDA and file a proof of service at**
24 **least 5 court days before the continued hearing.**

25 Plaintiffs have given notice to Defendant and the LWDA of the December 22 Minute Order.
26 (Taylor Decl., ¶ 5, Ex. 4.) Plaintiffs also served Defendant and the LWDA with the revised Proposed
27 Order, Amended Simpluris Declaration, this Supplemental Brief, and the supporting declarations. As
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1 requested, Plaintiffs will file a proof of service at least 5 court days before the January 26, 2023,
2 hearing. (Taylor Decl., ¶ 6, Ex. 5.)

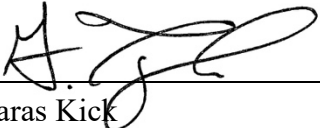
3 **II. CONCLUSION**

4 Plaintiffs respectfully submit that the proposed Settlement Agreement is fair, adequate, and
5 reasonable, and believe they now have made the revisions ordered by the Court, and provided the
6 Court with the additional information instructed. Plaintiffs therefore respectfully request that the
7 Court enter an Order Granting Final Approval of Class and PAGA Action Settlement and Judgment
8 Thereon.

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10 Dated: January 12, 2023

Respectfully submitted,
THE KICK LAW FIRM, APC

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12
13 By: _____


14 Taras Kick
15 Greg Taylor
16 Ryan Tish
17 Attorneys for Plaintiffs Shirley Goemaat
18 and Rehana Baluch
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, State of California, and not a party to the above-entitled cause. My business address is The Kick Law Firm, APC, 815 Moraga Drive, Los Angeles, CA 90049.

On **January 12, 2023**, I served the document(s) described as:

- 1. PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 2. DECLARATION OF GREG TAYLOR IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; EXHIBITS;**
- 3. AMENDED DECLARATION OF STEPHEN GOMEZ REGARDING NOTICE AND SETTLEMENT ADMINISTRATION;**
- 4. DECLARATION OF SHIRLEY GOEMAAT IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 5. DECLARATION OF REHANA BALUCH IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;**
- 6. [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT AND JUDGMENT THEREON.**

on the interested parties in this action by sending a true copy thereof to interested parties as follows:

Steven Amundson Alina Sookasian MANNING & KASS ELLROD, RAMIREZ, TRESTER LLP 801 S Figueroa St 15th Floor, Los Angeles, CA 90017 sca@manningllp.com aws@manningllp.com	Attorneys for Defendant Orange County Association for Mental Health
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[ü] BY E-MAIL: Based on an agreement of the parties to accept electronic service by e-mail or a request by the party or parties who have appeared and are represented by counsel identified above for e-service, I caused the documents to be sent to the person(s) at the e-mail address(es) listed above in keeping with California Code of Civil Procedure § 1010.6. The transmission was either reported as being sent, complete and without error, or I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful, to the addressees as stated above.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 12, 2023, in Los Angeles, California.

/s/ Dariane Rose

Dariane Rose