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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN LUIS OBISPO

ANNA LEVINE, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

ASSOCIATED STUDENTS
INCORPORATED OF CALIFORNIA
POLYTECHNIC STATE UNIVERSITY AT
SAN LUIS OBISPO, a California Corporation;
ASSOCIATED STUDENTS, INC., a
California Corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **20CV-0664**

**(Assigned For Purposes To Judge Rita
Federman, Dept. 2)**

[Consolidated with Case No. 20CV-0672]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: February 2, 2023

Hearing Time: 9:00 a.m.

Dept.: 2

Judge: Hon. Rita Federman

This matter came before the Honorable Rita Federman of the Superior Court of the State of California, in and for the County San Luis Obispo, on February 2, 2023, for hearing on the unopposed Motion by Plaintiff Ana Levine ("Plaintiff") for Preliminary Approval of the Class and Representative Action Settlement ("Agreement" or "Settlement") with Defendant Associated

PRELIMINARY APPROVAL ORDER

1 Students Incorporated of California Polytechnic State University at San Luis Obispo
2 (“Defendant”). The Court, having considered the briefs, oral argument of counsel and all matters
3 presented to the Court and for good cause appearing, hereby GRANTS Plaintiff’s Motion.

4 **IT IS HEREBY ORDERED AS FOLLOWS:**

5 1. The Court preliminarily approves the Agreement attached as Exhibit #1 to the
6 Declaration of Kyle Nordrehaug in Support of Plaintiff’s Motion. This is based on the Court’s
7 determination that the Settlement set forth in the Agreement is within the range of possible final
8 approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and
9 California Rules of Court, Rule 3.769.

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

12 3. If the Settlement is finally approved, the Gross Settlement Amount that Defendant
13 shall pay is One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00). It appears to the
14 Court on a preliminary basis that the settlement amount and terms are fair, adequate and
15 reasonable as to all potential Class Members when balanced against the probable outcome of
16 further litigation and the significant risks relating to certification, liability and damages issues. It
17 further appears that investigation and research have been conducted such that counsel for the
18 Parties are able to reasonably evaluate their respective positions. It further appears to the Court
19 that the Settlement shall avoid substantial additional costs by all Parties, as well as avoid the delay
20 and risks that would be presented by the further prosecution of the Action. It further appears that
21 the Settlement has been reached as the result of serious and non-collusive, arms-length
22 negotiations utilizing an experienced third party neutral.

23 4. The Agreement provides for a Class Counsel Fees Payment not to exceed one-third
24 of the Gross Settlement Amount, a Class Counsel Litigation Expenses Payment not to exceed
25 \$20,000, and a proposed Class Representative Service Payment to Plaintiff in an amount not to
26 exceed \$10,000. The Court shall not approve the amount of attorneys’ fees and costs, nor the
27 amount of any service award to Plaintiff, until the Final Approval Hearing. Plaintiff shall be
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1 required to present evidence supporting these requests, including her counsel's lodestar, in
2 connection with the Final Approval Hearing.

3 5. The Court recognizes that Plaintiff and Defendant stipulate and agree certification
4 of a class for settlement purposes only. This stipulation to class certification shall not be deemed
5 admissible in this or any other proceeding should the Settlement not become final. For settlement
6 purposes only, the Court conditionally certifies the Class which consists of both the California
7 Class and the FCRA Class. The California Class is defined as "all individuals who are or were
8 employed by Defendant in California and who are or were classified as non-exempt employees
9 during the California Class Period." The "California Class Period" is December 21, 2016 to
10 August 15, 2022. The FCRA Class is defined "all employees and prospective employees of
11 Defendant in the United States on whom Defendant conducted a background check during the
12 FCRA Class Period." The "FCRA Class Period" is December 21, 2015 to August 15, 2022.

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

23 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
24 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
25 Jeffrey S. Herman, Piya Mukherjee, and Charlotte James of Blumenthal Nordrehaug Bhowmik De
26 Blouw LLP as Class Counsel for the Class.

1 8. The Court hereby approves, as to form and content, the Notice of Proposed
2 Settlement of Class and Representative Action and Hearing Date for Final Court Approval (“Class
3 Notice”) attached to the Agreement as Exhibit A. The Court finds that the Class Notice appears to
4 fully and accurately inform the Class of all material elements of the proposed Settlement, of the
5 Class Members’ right to be excluded from the Class by submitting a written opt-out request, and
6 of each member’s right and opportunity to object to the Settlement. The Court further finds that
7 the distribution of the Class Notice substantially in the manner and form set forth in the
8 Agreement and this Order meets the requirements of due process, is the best notice practicable
9 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
10 thereto. The Court orders the mailing of the Class Notice by first class mail, pursuant to the terms
11 set forth in the Agreement. If a Class Notice is returned as non-deliverable, the Settlement
12 Administrator shall promptly forward the Class Notice to the forwarding address affixed thereto or
13 search for a more current address for the Class Member and re-mail the Class Notice to the Class
14 Member no later than ten days after the receipt of the undelivered Class Notice.

15 9. The Court hereby appoints CPT Group as the Settlement Administrator. No later
16 than twenty (20) days after this Order, Defendant shall provide to the Settlement Administrator
17 with the Class Data. The Settlement Administrator shall perform address updates and
18 verifications as necessary prior to the first mailing, as specified in the Agreement. Using best
19 efforts to mail it as soon as possible, and in no event later than fifteen (15) days after receiving the
20 Class Data, the Settlement Administrator shall mail the Class Notices to all Class Members via
21 first-class regular U.S. Mail to their last known address.

22 10. The Court hereby preliminarily approves the proposed procedure for exclusion
23 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
24 from the Class as provided in the Class Notice by following the instructions for requesting
25 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
26 postmarked or received no later than forty (45) calendar days after the date of the mailing or re-
27 mailing of the Class Notices. Any Class Member who chooses to opt out of and be excluded from
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1 the Class shall not be entitled to any recovery under the Settlement and shall not be bound by the
2 Settlement or have any right to object, appeal or comment thereon. Class Members who have not
3 requested exclusion shall be bound by all determinations of the Court, the Agreement and the
4 Final Approval Order and Judgment. No Class Member shall attempt to effect an opt-out of a
5 group, class, or subclass of individuals and any such attempt shall be deemed invalid.

6 11. Any Class Member who has not opted out may appear at the Final Approval
7 Hearing and may object to or express the Class Member's views regarding the Settlement, and
8 may present evidence and file briefs or other papers that may be proper and relevant to the issues
9 to be heard and determined by the Court as provided in the Class Notice. Class Members shall
10 have until forty (45) calendar days after the date of mailing or re-mailing of the Class Notices to
11 submit their written objections to the Settlement Administrator. Class Members also may appear
12 at the Final Approval Hearing to make any objection to the Settlement.

13 12. A Final Approval Hearing shall be held Court on _____
14 _____, at _____, in Department 2 at the Civil Courthouse of the San Luis Obispo
15 County Superior Court to hear the motion for final approval and the motion for attorneys' fees and
16 costs, and to determine all necessary matters concerning the Settlement, including: whether the
17 proposed settlement of the Action on the terms and conditions provided for in the Agreement is
18 fair, adequate and reasonable and should be finally approved by the Court; whether the Final
19 Approval Order and Judgment should be entered herein; whether the plan of allocation contained
20 in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and
21 to finally approve attorneys' fees and costs, service award, and the fees and expenses of the
22 Settlement Administrator. All papers in support of the motion for final approval and the motion
23 for attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel
24 no later than sixteen (16) court days before the hearing and both motions shall be heard at the
25 Final Approval Hearing.

26 13. Neither the Settlement nor any exhibit, document, or instrument delivered
27 thereunder shall be construed as a concession or admission by Defendant in any way that the
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1 claims asserted by Plaintiff have any merit or that this Action was properly brought as a class or
2 representative action, and shall not be used as evidence of or used against Defendant as an
3 admission or indication in any way, including with respect to any claim of any liability,
4 wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted
5 by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any
6 exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or
7 accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received
8 as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited
9 to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
10 fault, wrongdoing, omission, concession or damage or the propriety of class certification.

11 14. In the event: (i) the Settlement does not become effective in accordance with the
12 terms of the Agreement; (ii) or the Settlement is not finally approved; or (iii) the Settlement is
13 terminated, canceled or fails to become effective for any reason, this Order shall be rendered null
14 and void and shall be vacated. In such a case, the Parties and any funds to be awarded under this
15 Settlement shall be returned to their respective statuses as of the date and time immediately prior
16 to the execution of the Settlement, and the Parties expressly reserve their respective rights
17 regarding the prosecution and defense of this Action, including all available defenses and
18 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
19 action and/or managed as a representative action. In such an event, the Court's orders regarding
20 the Settlement, including this Order, shall not be used or referred to in litigation for any purpose.

21 15. The Court reserves the right to adjourn or continue the date of the Final Approval
22 Hearing and all dates provided for in the Agreement without further notice to Class Members, and
23 retains jurisdiction to consider all further motions and applications arising out of or connected
24 with the proposed Settlement.

25 **IT IS SO ORDERED.**

26 Dated: _____

27 _____
HON. RITA FEDERMAN
JUDGE OF THE SUPERIOR COURT

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PRELIMINARY APPROVAL ORDER