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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN BERNARDINO**

ANDY DIAZ, as an individual and on  
behalf of all others similarly situated,

Plaintiffs,

vs.

ACUITY BRANDS LIGHTING, INC., a  
Delaware corporation; and DOES 1 through  
50, inclusive,

Defendants.

Case No.: CIVDS2015583

[Assigned for all purposes to the Hon. David  
Cohn, Dept. S-26]

**~~[PROPOSED]~~ ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
AND REPRESENTATIVE ACTION  
SETTLEMENT**

Date: September 17, 2021  
Time: 10:00 a.m.  
Dept.: S-26

Complaint Filed: July 29, 2020  
Trial Date: None

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

SEP 24 2021

BY   
JESSICA MORALES, DEPUTY

1 Plaintiff Andy Diaz's ("Plaintiff") unopposed Motion for an Order Granting Preliminary  
2 Approval of Class and Representative Action Settlement was filed with the Court on August 23,  
3 2021 and a hearing was held before this Court on September 17, 2021.

4 The Court has considered the Joint Stipulation of Class and Representative Action  
5 Settlement ("Stipulation" or "Settlement Agreement") and all other papers filed in this action.

6 NOW THEREFORE, IT IS HEREBY ORDERED:

7 1. This Court grants preliminary approval of the Settlement Agreement between  
8 Plaintiff and Defendant Acuity Brands Lighting, Inc. ("Defendant") filed herewith. The  
9 Settlement Agreement appears to be fair, adequate, and reasonable to the Class.

10 2. The Class Representative and Defendant (the "Parties"), through their counsel of  
11 record in the Action, have reached an agreement to settle the class and PAGA claims in the  
12 Action as set forth in the Settlement Agreement, on behalf of the Class (as defined below and in  
13 the Settlement Agreement).

14 3. The Court hereby conditionally certifies the following Class for settlement  
15 purposes only:

16 All current and former California non-exempt employees of Defendant who  
17 received shift differential wages at any time during the Covered Period (April 6,  
18 2019 through May 31, 2021).

19 Should for whatever reason the Settlement Agreement not become Final, the fact that the  
20 Parties were willing to stipulate to certification of a class as part of the Settlement Agreement  
21 shall have no bearing on, or be admissible in connection with, the Action or the issue of whether  
22 a class should be certified in a non-settlement context.

23 4. The Court appoints and designates: (a) Plaintiff Andy Diaz as the Class  
24 Representative and (b) Larry W. Lee, Kristen M. Agnew, and Nicholas Rosenthal of Diversity  
25 Law Group, P.C. and William L. Marder of Polaris Law Group as Class Counsel for the Class.  
26 Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents  
27 required by, or which may be given, pursuant to the Settlement Agreement, and such other acts  
28 reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member  
may enter an appearance through his or her own counsel at such Class Member's own expense.

Any Class Member who does not enter an appearance or appear on his or her own behalf will be represented by Class Counsel.

5. The Court hereby approves the terms and conditions provided for in the Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement falls within the range of reasonableness of a settlement, including the amount of the PAGA penalties, and appears to be presumptively valid, subject only to any objections that may be raised at the final fairness hearing and final approval by the Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as to all potential Class Members when balanced against the probable outcome of further Action relating to liability and damages issues. It also appears that investigation, research, and court proceedings have been conducted so that counsel for the Parties are able to reasonably evaluate their respective positions. It appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the Action. It also appears that settlement has been reached as a result of intensive, serious, and non-collusive arm's length negotiations.

6. A final fairness hearing on the question of whether the proposed Settlement Agreement, the allocation of payments to Class Members and/or Settlement Class Members, attorneys' fees and costs to Class Counsel, the payment to the Settlement Administrator, the payment to the Labor Workforce & Development Agency, and the Class Representative Service Award should be finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set for January 6, 2022 at 10:00 a.m. in this Court.

7. The Court hereby approves, as to form and content, the Notice of Class Action Settlement ("Notice Packet") to be sent to Class Members, which is attached as **Exhibit A** to the Settlement Agreement. The Court finds that distribution of the Notice Packet to Class Members substantially in the manner and form set forth in the Settlement Agreement and this Order meets the requirements of due process and shall constitute due and sufficient notice to all parties entitled thereto.

8. The Court appoints and designates Phoenix Settlement Administrators as the

1 Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the  
2 approved Notice Packet to Class Members using the procedures set forth in the Settlement  
3 Agreement.

4 9. Any Class Member may choose to opt out of and be excluded from the settlement  
5 of the class claims as provided in the Settlement Agreement and Notice Packet, and by following  
6 the instructions for requesting exclusion. Any person who timely and properly opts out of the  
7 Settlement will not be bound by the Released Class Claims or have any right to object, appeal, or  
8 comment thereon. Any requests for exclusion must be in writing and signed by each such Class  
9 Member opting out and must otherwise comply with the requirements delineated in the Notice  
10 Packet. Class Members who have not requested exclusion by submitting a valid and timely  
11 request by the deadline shall be bound by all determinations of the Court, the Settlement  
12 Agreement, and Judgment. Class Members, however, may not opt out of participating in the  
13 settlement of the Released PAGA Claims and will receive an Individual PAGA Payment, even if  
14 he or she opts out of the Settlement Class

15 10. Any Class Member may object to the Settlement Agreement or express his or her  
16 views regarding the Settlement Agreement, and may present evidence and file briefs or other  
17 papers that may be proper and relevant to the issues to be heard and determined by the Court as  
18 provided in the Notice.

19 11. The Motion for Final Approval shall be filed by the Class Representative no later  
20 than sixteen (16) court days before the Settlement Fairness Hearing.

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

25 IT IS SO ORDERED.

26 DATED: 9/24/21

  
27 HON. DAVID COHN  
28 SUPERIOR COURT OF CALIFORNIA