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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **FOR THE COUNTY OF SAN BERNARDINO**

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

20 Plaintiffs,

21 vs.

22 ACUITY BRANDS LIGHTING, INC., a  
23 Delaware corporation; and DOES 1 through  
24 50, inclusive,

25 Defendants.

Case No.: CIVDS2015583

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

**[PROPOSED] ORDER GRANTING FINAL  
APPROVAL OF CLASS AND  
REPRESENTATIVE ACTION  
SETTLEMENT AND JUDGMENT**

Date: March 7, 2022

Time: 10:00 a.m.

Dept.: S-26

Complaint Filed: July 29, 2020

Trial Date: None

1 Plaintiff Andy Diaz ("Plaintiff"), and Defendant Acuity Brands Lighting, Inc.  
2 ("Defendant") (together, the "Parties") have entered into the Joint Stipulation of Class and  
3 Representative Action Settlement ("Settlement Agreement") to settle the above-captioned class  
4 action subject to the Court's approval (the "Settlement").

5 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class  
6 Action Settlement, including approval of the Enhancement Payment for Plaintiff and Plaintiff's  
7 Counsel's application for a fee and expense award. The Court has read, heard, and considered all  
8 the pleadings and documents submitted, and the presentations made in connection with the  
9 Motion which came on for hearing on March 7, 2022.

10 **I. BACKGROUND**

11 On July 29, 2020, Plaintiff filed a complaint on behalf of himself and all similarly  
12 situated employees against Defendant in the Superior Court of the State of California for the  
13 County of San Bernardino. The lawsuit alleged a class claim for violation of Labor Code section  
14 226(a) and a derivative claim for PAGA penalties predicated on Labor Code section 226(a),  
15 asserting that whenever shift differential wages were paid, the corresponding wage statements  
16 provided to employees identified the incorrect total hours worked.

17 **A. Class Members**

18 The "Class" is defined as: "All current and former California non-exempt employees of  
19 Defendant who received the payment of shift differential wages at any time during the Covered  
20 Period (April 6, 2019 through May 31, 2021)."

21 **B. Operation of the Settlement**

22 Pursuant to the Preliminary Approval Order dated September 24, 2021, this Court  
23 conditionally certified the Class and granted preliminary approval to the Settlement Agreement.  
24 The Preliminary Approval Order also approved of the proposed forms of notice and notice plan.  
25 The Court entered the Preliminary Approval Order after review and consideration of all of the  
26 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

27 In compliance with the Preliminary Approval Order, the Notice of Class Action  
28 Settlement ("Notice Packet") was sent to all Class Members via first class mail. Follow-up

1 mailings were sent to 17 individuals and 2 Notice Packets remain undeliverable. The notice  
2 process was timely completed.

3 This Court finds that the Settlement appears to be the product of serious, informed, non-  
4 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential  
5 treatment to any individuals. The Court finds that the Settlement was entered into in good faith  
6 pursuant to California Code of Civil Procedure section 877.6. The Court further finds that the  
7 Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards for final  
8 approval of a class action settlement under California law. Under the provisions of California  
9 Code of Civil Procedure section 382 and Federal Rule of Civil Procedure 23, as approved for use  
10 by the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial  
11 court has discretion to certify a class where:

12 [Q]uestions of law or fact common to the members of the class  
13 predominate over any questions affecting only individual  
14 members, and that a class action is superior to the available  
... Fed. R. Civ. Proc. 23.

15 Certification of a settlement class is the appropriate judicial device under these circumstances.

16 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS  
17 FOLLOWS:

18 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the  
19 Settlement Agreement filed in this case.

20 2. The Court has jurisdiction over the subject matter of the litigation, the Class  
21 Representative, the other members of the Settlement Class, and Defendant.

22 3. The Court finds that the dissemination of the Notice Packet, as disseminated by  
23 the appointed Settlement Administrator Phoenix Class Action Administration Solutions to the  
24 Class Members, constituted the best notice practicable under the circumstances to all persons  
25 within the definition of the Class, and fully met the requirements of California law and due  
26 process under the United States Constitution.

27 4. The Court approves the settlement of the above-captioned action, as set forth in  
28 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are

1 directed to perform in accordance with the terms set forth in the Settlement Agreement.

2 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear  
3 their own costs and attorneys' fees.

4 6. The Court hereby certifies the following Class for settlement purposes only: All  
5 current and former California non-exempt employees of Defendant who received the payment of  
6 shift differential wages at any time during the Covered Period (April 6, 2019 through May 31,  
7 2021).

8 7. With respect to the Class and for purposes of approving the settlement only and  
9 for no other purpose, this Court finds and concludes that: (a) the members of the Class are  
10 ascertainable and so numerous that joinder of all members is impracticable; (b) there are  
11 questions of law or fact common to the Class, and there is a well-defined community of interest  
12 among members of the Class with respect to the subject matter of the non-exempt claims in the  
13 Action; (c) the claims of Class Representative is typical of the claims of the members of the  
14 Class; (d) the Class Representative has fairly and adequately protected the interests of the  
15 members of the Class; (e) a class action is superior to other available methods for an efficient  
16 adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e.,  
17 Class Counsel, are qualified to serve as counsel for the Plaintiff in his individual and  
18 representative capacity and for the Class.

19 8. On the Effective Date of this Order, as defined by the Settlement Agreement,  
20 Defendant shall remit to a Qualified Settlement Fund established by the Settlement  
21 Administrator the Maximum Settlement Amount of Three Hundred Twenty-One Thousand Six  
22 Hundred Eighty Dollars (\$321,680.00), pursuant to the terms of the Settlement Agreement.

23 9. From the Maximum Settlement Amount, the Settlement Administrator shall pay:

24 (a) to Class Counsel attorneys' fees in the amount of One Hundred Eleven  
25 Thousand Seven Hundred Seventy-One Dollars and Four Cents (\$111,771.04) and  
26 reimbursement of litigation costs in the amount of Nine Thousand Nine Hundred Fifty Dollars  
27 and ~~Thirty-One~~ <sup>thirty-one</sup> Cents (~~\$9,950.31~~ <sup>9,918.33</sup>); *eighteen dollar*

28 (b) a service award to the Class Representative Andy Diaz to reimburse him

1 for his unique services, and as consideration for the execution of a general release, in the amount  
2 of Seven Thousand Five Hundred Dollars (\$7,500.00);

3 (c) the sum of Fifteen Thousand Dollars (\$15,000.00) to the California Labor  
4 and Workforce Development Agency for its seventy-five percent (75%) share of PAGA  
5 Penalties; and

6 (d) the sum of Six Thousand Dollars (\$6,000.00) to the Settlement  
7 Administrator, Phoenix Class Action Administration Solutions, for its fees and costs relating to  
8 the settlement administration process.

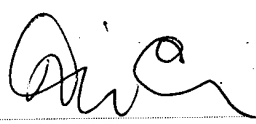
9 10. The Court finds that these amounts are fair and reasonable. The Settlement  
10 Administrator is directed to make such payments in accordance with the terms of the Settlement  
11 Agreement.

12 11. The Court approves the Individual Settlement Payment amounts, which shall be  
13 distributed by the Settlement Administrator pursuant to the terms of the Settlement Agreement  
14 from the Net Settlement Amount, after payment of those amounts set forth in Paragraph 9.

15 12. The Court hereby enters final judgment in this case in accordance with the terms  
16 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of  
17 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction  
18 over the action and the Parties, including all Settlement Class Members, for purposes of  
19 enforcing and interpreting this Order and the Settlement.

20 IT IS SO ORDERED.

21  
22 DATED: 3/14/21

  
23 HON. DAVID COHN  
24 SUPERIOR COURT OF CALIFORNIA  
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