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

TANIS CLARK, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

NOW OPTICS, LLC, a Florida limited
liability company; and DOES 1 through
50, inclusive,

Defendants.

Case No.: 37-2020-00044817-CU-OE-CTL

(Assigned to the Hon. Richard S. Whitney, Dept. C-68)

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO APPROVE
PLAINTIFF'S PAGA SETTLEMENT AND
JUDGMENT**

Date: October 28, 2022

Time: 10:30 a.m.

Dept.: C-68

Reservation Number: 2830404

Complaint Filed: December 7, 2020

FAC Filed: August 26, 2021

SAC Filed: March 21, 2022

Trial Date: None Set

On October 28, 2022, a hearing was held on Plaintiff Tanis Clark’s (“Plaintiff”) Motion to Approve Settlement Agreement Pursuant to the Private Attorneys General Act (the “Motion”). The Court, having considered all the papers filed and proceedings herein and otherwise being fully informed, and having made this Judgment which constitutes a final adjudication of this matter on the merits, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. All terms used for purposes of this Order and Judgment, not otherwise defined, shall have the same meaning as given in the Joint Stipulation of Settlement and Release Under the Private Attorneys General Act, California Labor Code § 2698, *et seq.* (“Settlement Agreement”), attached as Exhibit A to the Declaration of Kristen M. Agnew, filed on May 24, 2022.

2. Pursuant to the PAGA, Labor Code §§ 2699(1)(2) and (1)(4), the Labor and Workforce Development Agency (“LWDA”) has been given notice of the settlement. Pursuant to the PAGA, on the date the Parties filed the Motion seeking approval of the settlement with the Court, Plaintiff submitted to the LWDA a notice of the settlement enclosing a copy of the Settlement Agreement. The Court finds and determines that Plaintiff’s notice of the settlement complied with the statutory requirements of the PAGA.

3. The Court confirms approval of the settlement as to the following group of individuals, collectively referred to as the “Aggrieved Employees”:

all current and former California non-exempt employees of Defendant who were paid wages by Defendant at any time during the PAGA Period [the period of January 1, 2020 to March 31, 2022].

4. This Court has jurisdiction over the subject matter of this litigation, over all Aggrieved Employees, and over those persons and entities undertaking affirmative obligations under the settlement.

5. The Court finds that the settlement is, in all respects, fair, reasonable, and adequate. Accordingly, the Court hereby finally and unconditionally approves the settlement.

6. The Court approves the Notice of Settlement to Aggrieved Employees, attached

as Exhibit A to the Settlement Agreement.

7. The Court finds that each Aggrieved Employee, in accordance with the settlement, releases the following “Released Claims” against the Released Parties:

all claims for penalties under the California Private Attorneys’ General Act, including costs and attorneys’ fees that: (1) arose or may be alleged to have arisen or occurred at any time during the PAGA Period, and (2) are based on or arise from alleged violations of the following California Labor Code sections: 201, 202, 203, 226, 226.7, 246, 510 512, 558, 1174, 1194, 1197, and 1197.1 and all applicable IWC Wage Orders, which arise from the facts alleged in the Complaint or Plaintiff’s letters to the LWDA, or otherwise asserted by Plaintiff in the Action; or any other claims that are reasonably related to Plaintiff’s allegations in the Complaint or the letters to the LWDA (the “Released Claims”).

The release only extends to PAGA claims predicated on alleged violations of Labor Code §§ 201, 202, 203, 226, 226.7, 246, 510, 512, 558, 1174, 1194, 1197, and 1197.1 during the PAGA Period.

8. The Court finds that the Maximum Settlement Amount, PAGA Penalties Fund, and the methodology used to calculate and pay each Individual Settlement Payment, in accordance with the settlement, are fair and reasonable.

9. The Court authorizes Phoenix Settlement Administrators to act as the Settlement Administrator.

10. The Court authorizes the Settlement Administrator to calculate and pay the Individual Settlement Payments, in accordance with the terms of the settlement.

11. The Court awards the Settlement Administrator in this Action its fees and costs of Four Thousand Dollars (\$4,000.00) in accordance with the terms of the Settlement Agreement.

12. The Court awards to Representative Plaintiff a payment of Seven Thousand Five Hundred Dollars (\$7,500.00), which shall be paid to Representative Plaintiff as an Enhancement Award. In exchange, Representative Plaintiff has agreed to a general release of all claims that he might have against Defendant, including a Civil Code § 1542 release.

13. The Court awards to Plaintiff’s Counsel in this Action its fees of Fifty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$58,333.33) and actual

costs of Two Thousand Twenty-Two Dollars and Ninety-One Cents (\$2,022.91), in accordance with the terms of the Settlement Agreement.

14. The Court approves the allocations and payment of One Hundred Seventy-Four Thousand Dollars (\$174,000.00) for the compromise of claims brought under the PAGA, to be paid in accordance with the terms of the settlement.

15. Under the terms of the settlement, the PAGA Penalties Fund is One Hundred Two Thousand One Hundred Forty-Three Dollars and Seventy-Six Cents (\$102,143.76). Seventy-five percent (75%) of the PAGA Penalties Fund will be paid to the State of California Labor and Workforce Development Agency ("LWDA Payment"), and the remaining twenty-five percent (25%) of the PAGA Penalties Fund shall be distributed to the Aggrieved Employees in accordance with the terms of the settlement.

16. Checks for Individual Settlement Payments sent to Aggrieved Employees shall be valid for one hundred eighty (180) days after issuance. Funds remaining from any checks for Individual Settlement Payments uncashed after one hundred eighty (180) days will be disbursed to the Unclaimed Property Fund of the California State Controller.

17. The Court retains exclusive and continuing jurisdiction over this Action for purposes of supervising, administering, implementing, interpreting, and enforcing this Judgment and Order, as well as the settlement.

18. Nothing in this Order and Judgment or the settlement shall be construed as an admission or concession by any party. The settlement and this resulting Judgment and Order simply represent a compromise of disputed allegations.

19. Plaintiff is directed to submit a copy of this Order to the LWDA within ten (10) days of the date of this Order.

IT IS SO ORDERED AND ADJUDGED.

DATED: _____

HON. RICHARD S. WHITNEY
SUPERIOR COURT OF CALIFORNIA