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11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 TRACEY DEAL, an individual, on behalf
14 of herself and on behalf of all persons
15 similarly situated,

16 Plaintiffs,

17 v.

18 GENEX SERVICES, LLC, a Limited
19 Liability Company; and DOES 1 through
20 50, Inclusive,

21 Defendants.

Case No. **37-2021-00010974-CU-OE-CTL**

[Consolidated with Case No. 37-2021-
00010977-CU-OE-CTL]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: April 28, 2023

Hearing Time: 9:00 a.m.

Judge: Hon. Joel R. Wohlfeil

Dept.: C-73

Class Action Complaint Filed: March 11, 2021

Trial Date: Not Set

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25 This matter, having come before the Honorable Joel R. Wohlfeil of the Superior Court of the
26 State of California, in and for the County San Diego, on April 28, 2023, for the motion by Plaintiff
27 Tracey Deal (“Plaintiff”) for preliminary approval of the class settlement with Defendant Genex
28 Services, LLC (“Defendant”). The Court, having considered the briefs, argument of counsel and all

1 matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff's Motion for
2 Preliminary Approval of Class Action Settlement.

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4 **IT IS HEREBY ORDERED:**

5 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
6 ("Agreement") attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in Support of
7 Plaintiff's Motion for Preliminary Approval of Class Action Settlement. This is based on the
8 Court's determination that the Settlement set forth in the Agreement is within the range of possible
9 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure
10 and California Rules of Court, rule 3.769.

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

13 3. The Gross Settlement Amount is One Million Two Hundred Thousand Dollars
14 (\$1,200,000). It appears to the Court on a preliminary basis that the settlement amount and terms are
15 fair, adequate and reasonable as to all potential Class Members when balanced against the probable
16 outcome of further litigation and the significant risks relating to certification, liability and damages
17 issues. It further appears that investigation and research have been conducted such that counsel for
18 the Parties are able to reasonably evaluate their respective positions. It further appears to the Court
19 that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the
20 delay and risks that would be presented by the further prosecution of the Action. It further appears
21 that the Settlement has been reached as the result of serious and non-collusive, arms-length
22 negotiations. The Court therefore preliminarily finds that the Settlement is fair, adequate, and
23 reasonable when balanced against the probable outcome of further litigation and the significant risks
24 relating to certification, liability, and damages issues.

25 4. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
26 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$25,000, and
27 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed \$10,000.
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1 The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service
2 award, until the Final Approval Hearing.

3 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification
4 of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any
5 other proceeding should this Settlement not become final. For settlement purposes only, the Court
6 conditionally certifies the following Class: "all individuals employed in an exempt telephonic or
7 field case manager position at any point starting March 11, 2020 and ending July 1, 2022."

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

18 7. The Court provisionally appoints Plaintiff as the representatives of the Class. The
19 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of
20 Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

21 8. The Court hereby approves, as to form and content, the Court Approved Notice of
22 Class Action Settlement and Hearing Date for Final Court Approval ("Class Notice") attached to the
23 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
24 inform the Class of all material elements of the proposed Settlement, of the Class Members' right to
25 be excluded from the Class by submitting a written opt-out request, and of each Class Member's
26 right and opportunity to object to the Settlement. The Court further finds that the distribution of the
27 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
28 the requirements of due process, is the best notice practicable under the circumstances, and shall

1 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
2 the Class Notice by first class mail, pursuant to the terms set forth in the Agreement.

3 9. The Court hereby appoints ILYM Group as Administrator. No later than 45 calendar
4 days after preliminary approval of the Settlement by the Court, Defendant shall provide to the
5 Administrator an electronic spreadsheet with the Class Data. The Administrator will perform
6 address updates and verifications as necessary prior to the mailing of the Class Notice. Using best
7 efforts to mail it as soon as possible, and in no event later than 14 days after receiving the Class
8 Data, the Administrator will mail the Class Notice Packets to all Class Members via first-class U.S.
9 Mail. Before mailing Class Notices, the Administrator shall update Class Member addresses using
10 the National Change of Address database.

11 10. The Court hereby preliminarily approves the proposed procedure for exclusion from
12 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
13 Class as provided in the Class Notice by following the instructions for requesting exclusion from the
14 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked by no
15 later than the Response Deadline, which is forty-five (45) calendar days after the date of the mailing
16 of the Class Notice and received by the Administrator. If the Class Notice Packet is re-mailed, the
17 Response Deadline for requests for exclusion will be extended an additional 14 days. Any such
18 person who chooses to opt out of and be excluded from the Class will not be entitled to any recovery
19 under the Settlement and will not be bound by the Settlement or have any right to object, appeal or
20 comment thereon. Class Members who have not requested exclusion shall be bound by all
21 determinations of the Court, the Agreement and the Judgment. A request for exclusion may only opt
22 out that particular individual, and any attempt to affect an opt out of a group, class, or subclass of
23 individuals is not permitted and will be deemed invalid. Subject to the Court's final approval of the
24 Settlement, the Aggrieved Employees will be paid their allocation of the PAGA Penalties and will
25 remain bound by the release of the Released PAGA Claims in the Agreement regardless of their
26 request for exclusion.

27 11. Any Class Member who has not opted out ("Participating Class Member") may
28 appear at the final approval hearing and may object or express the Member's views regarding the

1 Settlement, and may present evidence and file briefs or other papers that may be proper and relevant
2 to the issues to be heard and determined by the Court as provided in the Notice. Participating Class
3 Members will have until the Response Deadline to submit their written objections to the
4 Administrator in accordance with the instructions in the Class Notice. If the Class Notice Packet is
5 re-mailed, the Response Deadline for written objections will be extended an additional 14 days.
6 Alternatively, Participating Class Members may appear at the Final Approval Hearing to make an
7 oral objection.

8 12. A Final Approval Hearing shall be held before this Court on September 8, 2023 at
9 9:00 a.m. in Department 73 at the San Diego County Superior Court to hear both the motion for final
10 approval and the motion for attorneys' fees, and to determine all necessary matters concerning the
11 Settlement, including: whether the proposed settlement of the Action on the terms and conditions
12 provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the
13 Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan
14 of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the
15 Class Members; and to finally approve attorneys' fees and costs, the service award, and the expenses
16 of the Administrator. All papers in support of the motion for final approval and the motion for
17 attorneys' fees, costs and service award, both to be heard at the Final Approval Hearing, shall be
18 filed with the Court and served on all counsel no later than sixteen (16) court days before the
19 hearing.

20 13. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
21 shall be construed as a concession or admission by Defendant in any way that the claims asserted
22 have any merit or that this Action was properly brought as a class or representative action, and shall
23 not be used as evidence of, or used against Defendant as, an admission or indication in any way,
24 including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or
25 with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is
26 finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or
27 conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed
28 as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse

1 to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or
2 admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

3 14. In the event the Settlement does not become effective in accordance with the terms of
4 the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
5 become effective for any reason, this Order shall be rendered null and void and shall be vacated, and
6 the Parties shall revert to their respective positions as of before entering into the Agreement, and
7 expressly reserve their respective rights regarding the prosecution and defense of this Action,
8 including all available defenses and affirmative defenses, and arguments that any claim in the Action
9 could not be certified as a class action and/or managed as a representative action. In such an event,
10 the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in
11 litigation for any purpose.

12 15. The Court reserves the right to adjourn or continue the date of the final approval
13 hearing and all dates provided for in the Agreement without further notice to Class Members, and
14 retains jurisdiction to consider all further applications arising out of or connected with the proposed
15 Settlement.

16 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
17 further orders of the Court at the Final Approval Hearing.

18 **IT IS SO ORDERED.**

19
20 Dated: _____

HON. JOEL R. WOHLFEIL
JUDGE, SUPERIOR COURT OF CALIFORNIA