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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF ALAMEDA**

19 CHARLES RHYU, as an individual and on
20 behalf of all others similarly situated,

21 Plaintiffs,

22 v.

23 ATIEVA USA, INC., an unknown entity;
24 ATIEVA, INC., a California corporation;
25 Lucid USA, Inc. a Corporation, and DOES
26 1 through 50, inclusive,

27 Defendants.

Case No. RG20084138

[Assigned for all purposes to the Hon. Evelio
Grillo, Dept. 21]

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

Date: January 24, 2023

Time: 10:00 a.m.

Dept.: 21

Reservation ID. 602949033645

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Attorneys for Plaintiff and the Class

1 **ORDER**

2 The Court has considered the Stipulation and Settlement of Class Action and PAGA
3 Claims (“Settlement Agreement”) and all other papers filed in this action.

4 NOW THEREFORE, IT IS HEREBY ORDERED:

5 1. All defined terms contained herein shall have the same meanings as set forth in the
6 Settlement Agreement;

7 2. The Class Representative and Defendants, through their counsel of record in the
8 Action, have reached an agreement to settle all claims in the Action (hereinafter “Action”) on
9 behalf of the Class as a whole;

10 3. The Court hereby conditionally certifies the following Class for settlement
11 purposes only:

12 “Any and all current and former non-exempt employees of any Defendant
13 in the State of California that received overtime and/or double time wages
14 during the Stipulated Settlement Class Period (July 5, 2019 through
15 November 13, 2020)”.

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

20 4. The Court appoints and designates: (a) Plaintiff CHARLES RHYU as the Class
21 Representative and (b) Larry W. Lee of Diversity Law Group, P.C., Edward W. Choi of Law
22 Offices of Choi & Associates, Dennis S. Hyun of Hyun Legal, APC, and William L. Marder of
23 Polaris Law Group as Class Counsel for the Class. Class Counsel is authorized to act on behalf of
24 the Class with respect to all acts or consents required by, or which may be given, pursuant to the
25 Settlement Agreement, and such other acts reasonably necessary to finalize the Settlement
26 Agreement and its terms. Any Class Member may enter an appearance through his or her own
27 counsel at such Class Member’s own expense. Any Class Member who does not enter an
28 appearance or appear on his or her own behalf and who does not opt-out of the Settlement

1 Agreement will be represented by Class Counsel.

2 5. The Court hereby approves the terms and conditions provided for in the Settlement
3 Agreement.

4 6. The Court hereby preliminarily approves the Settlement Agreement and the
5 Maximum Settlement Amount of \$90,000.00, which is to be distributed as follows: (a) up to
6 \$2,500.00 is to be paid to the Class Representative for his service payment including a waiver of
7 Civil Code §1542, (b) up to \$30,000.00 shall be paid to Class Counsel for attorneys' fees, plus
8 actual costs incurred, (c) up to \$10,000.00 shall be allocated as PAGA penalties of which 75% will
9 be paid to the LWDA and 25% distributed to the class, and (d) the Claim Administrator shall be
10 paid for its fees and costs relating to the claims administration process which is expected to not
11 exceed \$5,990.00. The Court further hereby preliminarily approves the formulas provided in the
12 Settlement Agreement regarding Individual Settlement Payments.

13 7. The Court finds that on a preliminary basis the Settlement Agreement appears to be
14 within the range of reasonableness of a settlement, including the amount of the PAGA penalties,
15 Class Representative Payment, Class Counsel's fees and costs, the claims administration fees, and
16 the allocation of payments to Class Members, that could ultimately be given final approval by this
17 Court. It appears to the Court on a preliminary basis that the settlement is fair, adequate, and
18 reasonable as to all potential Class Members when balanced against the probable outcome of
19 further litigation relating to liability and damages issues. It also appears that extensive and costly
20 investigation, research, and court proceedings have been conducted so that counsel for the settling
21 parties are able to reasonably evaluate their respective positions. It appears to the Court that
22 settlement at this time will avoid substantial additional costs by all settling parties, as well as avoid
23 the delay and risks that would be presented by the further prosecution of the Action. It also
24 appears that settlement has been reached as a result of intensive, serious, and non-collusive arms-
25 length negotiations.

26 8. A hearing (the "Final Fairness Hearing") shall be held before this Court on
27 _____ at _____ at the Superior Court of the State of California, County of Alameda
28 to determine all necessary matters concerning the Settlement Agreement, including whether the

1 proposed settlement of the action on the terms and conditions provided for in the Settlement
2 Agreement is fair, adequate and reasonable and should be finally approved by the Court and
3 whether a Judgment, as provided in the Settlement Agreement, should be entered herein. At this
4 same time, a hearing on Class Counsel's motion for attorneys' fees and reimbursement of
5 litigation costs and the Class Representative's service award shall also be held.

6 9. The Court hereby approves, as to form and content, the Class Notice to be sent to
7 Class Members, which attached hereto as Exhibit A. The Court finds that distribution of the Class
8 Notice to Class Members substantially in the manner and form set forth in the Settlement
9 Agreement and this Order meets the requirements of due process and shall constitute due and
10 sufficient notice to all parties entitled thereto.

11 10. The Court appoints and designates ILYM Group as the Settlement Administrator.
12 The Court hereby directs the Settlement Administrator to provide the approved Class Notice to
13 Class Members pursuant to the procedures set forth in the Settlement Agreement.

14 11. Any Class Member may choose to opt out of and be excluded from the settlement
15 as provided in the Settlement Agreement and Class Notice and by following the instructions for
16 requesting exclusion. Any person who timely and properly opts out of the settlement will not be
17 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon. Any
18 exclusion request must be in writing and signed by each such Class Member opting-out and must
19 otherwise comply with the requirements delineated in the Class Notice. Class Members who have
20 not requested exclusion by submitting a valid and timely exclusion request, by the Response
21 Deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
22 Judgment.

23 12. Any Class Member may object to the Settlement Agreement or express his or her
24 views regarding the Settlement Agreement, and may present evidence and file briefs or other
25 papers that may be proper and relevant to the issues to be heard and determined by the Court as
26 provided in the Class Notice. Settlement Class Members will also have the right to appear and be
27 heard orally at the Final Approval hearing, without submitting a written objection. Any Class
28 Member who does not make his or her objection in the manner provided for in the Settlement

1 Agreement and Class Notice, including by the Response Deadline, shall be deemed to have
2 waived such objection and shall forever be foreclosed from making any objection to the
3 Settlement Agreement.

4 13. The Motion for Final Approval shall be filed by the Class Representative no later
5 than sixteen (16) court days before the Final Fairness Hearing.

6 14. In the event that the Effective Date occurs, all Settlement Class Members and Class
7 Representative will be deemed to have forever released and discharged the Released Claims
8 applicable to them.

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

13
14 IT IS SO ORDERED.

15
16 DATED: _____

Honorable Evelio Grillo
Judge of the Superior Court

EXHIBIT A

*SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA
Charles Rhyu v. Atieva USA, Inc., Atieva, Inc., and Lucid USA, Inc., Case No. RG20084138*

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
FAIRNESS HEARING**

Read this notice carefully. If you worked in California as a non-exempt employee for Atieva, Inc. or Lucid USA, Inc. and were paid overtime and/or double time wages between July 5, 2019 through November 13, 2020, your legal rights may be affected.

A court authorized this notice. This is not a solicitation from a lawyer.

- Records indicate that you are a settlement class member.
- The parties have reached a settlement of all issues in the above-noted lawsuit in order to avoid the cost of litigation. As a Class Member, you now have a choice to make.

YOUR LEGAL RIGHTS AND OPTIONS:

Do Nothing You will receive settlement funds in exchange for giving up certain rights.

If you do nothing and if the settlement is granted final approval by the Court, you will automatically receive a share of the settlement proceeds and you will have released the class claims set forth in the release.

Opt Out You will not receive any portion of the settlement proceeds.

If you opt out, you will no longer be a member of the Class and will be barred from participating in or objecting to the settlement. You will not release the class claims as set forth in this Notice, but your claims under the Private Attorneys General Act (“PAGA”) will be released and you will still receive your share of the PAGA Payment.

Object If you do nothing, you also have the right to object to the settlement.

Your options are more fully explained in this notice. The deadline to submit an objection or to opt-out is **[60 days after mailing date]**.

1. Why did I receive this notice?

You have received this Notice because records indicate that you are a Class Member. You are not being sued. This Notice informs you of your right to share in the settlement and your ability to object to the settlement.

The Parties to the lawsuit signed a Stipulation and Settlement of Class Action and PAGA Claims (the “Agreement”) that fully sets forth the details of the settlement. You may obtain a copy of the Agreement from Class Counsel (identified below). The proposed Agreement has been submitted to the Court and has received preliminary approval. The Court must give final approval of the terms of the settlement described below as fair and reasonable to the class. The settlement will affect all members of the class. You may get money from the class action settlement, but only if you do not opt-out as indicated below.

2. What is the case about?

On December 30, 2020, Charles Rhyu (“Plaintiff”) filed a class action lawsuit against Atieva, Inc. and Atieva USA, Inc., entitled Rhyu v. Atieva, Inc., et al., Alameda County Superior Court Case No. RG20084138. The lawsuit is referred to as “the Action.”

Plaintiff alleges that Atieva, Inc. and Lucid USA, Inc. (“Defendants”) issued improper wage statements when paying overtime or double-time.

Defendants strongly deny all allegations in the Action and contend they fully complied with the law. Defendants entered into this settlement to avoid the costs and expense of litigation.

Class Members in the Action include California non-exempt employees of Atieva, Inc. or Lucid USA, Inc. who received overtime or double-time between July 5, 2019 through November 13, 2020. You have received this Notice because records indicate that you fit into the class definition.

3. What Are My Options?

You may do nothing or opt out. You also have a right to object to the settlement if you do not opt out. The option you choose affects whether you receive a settlement payment and whether you give up certain rights.

a. What happens if I do nothing?

If you do nothing, you will receive a settlement payment and you will release all claims that are released pursuant to the terms of the Agreement.

b. How do I opt-out?

If you do not want to be a member of the Class or participate in this settlement, you must take the following steps:

- (1) You must mail a written signed statement expressing your desire to opt-out from the settlement no later than **[60 days after mailing]** to the Settlement Administrator, **[REDACTED]**.

(2) The written statement **MUST** include: (i) your name (and former names, if any); (ii) your current address; and (iii) the statement “I wish to opt out from this Settlement.”

If you meet the requirements set forth above, you will no longer be a member of the Class, you will be barred from participating in the settlement or objecting to the settlement, and you will receive no benefit from this settlement, but will retain your own rights to assert against Defendants. However, you cannot opt out-out of the PAGA portion of the settlement.

c. How do I object to the settlement?

If you are satisfied with the proposed settlement, you do not need to appear at the hearing at which the Court will consider final approval of the settlement. However, if you object to the proposed settlement you must take the following steps:

(1) You must mail a written statement of the objection stating the basis for the objection no later than **[60 days after mailing]** to the Settlement Administrator, [REDACTED]. Do not mail your objection to the court.

(2) The written statement **MUST** include: (i) a statement advising if you plan to address the Court at the hearing; (ii) a statement of your objections; and (iii) any other papers which you propose to submit to the Court, including any legal briefs. You may appear personally at the final approval hearing, or through your own counsel, paid for at your expense.

Even if you do not submit a written objection, you have the right to address the Court at the Final Approval Hearing currently scheduled for [REDACTED], 2023 at [REDACTED], before the Honorable Evelio Grillo in Department 21 of the Alameda County Superior Court, located at 1225 Fallon Street, Oakland, California 94612.

Class Members who fail to make any written or oral objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objections to any aspect of the proposed settlement.

4. How is my individual settlement amount calculated?

a. Summary of settlement

The maximum sum that Defendants will pay in connection with the settlement is \$90,000 (“Gross Settlement Amount”). Your individual settlement award will be determined by dividing the number of wage statements you received during the Class Period containing overtime or doubletime wages by the total number of wage statements all Participating Class Members received during the Class Period containing overtime or doubletime wages. The Class Period is July 5, 2019 through November 13, 2020.

Your estimated settlement amount is \$ [REDACTED]. For purposes of taxation, 100% shall be considered penalties to be reported on a 1099 Form.

b. Will the Named Plaintiff receive any additional payment?

Yes. The Court will also be asked to award a \$2,500 service payment to Plaintiff Charles Rhyu. The service payment will be paid from the Gross Settlement Amount. This service payment is sought to compensate Plaintiff for his efforts in assisting with the prosecution of the Action on behalf of the Class and in return for executing a General Release of all Claims. The actual amount awarded will be determined by the Court to ensure it is reasonable.

c. How will the attorneys for the class be paid?

You do not need to pay any portion of either Class Counsel or Defendants' attorneys' fees and costs. All payments to Class Counsel will be deducted from the Gross Settlement Amount. Class Counsel will apply to the court for attorneys' fees not to exceed \$30,000 and actual costs. Further, the Settlement Administrator's costs are estimated to be \$####. The actual amounts awarded will be determined by the Court.

5. What are the rights at issue in this lawsuit?

The settlement relates to the time that you worked for Defendants as a non-exempt employee. If the proposed Settlement is approved, all Participating Class Members will have released the "Released Parties" from the "Released Claims" as defined below and will be permanently barred from suing or otherwise making a claim against any of the Released Parties that is in any way related to the Released Claims. This is more completely explained below:

"Released Parties" means Defendants Atieva, Inc., Lucid USA, Inc., and each of their past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, attorneys, parents, subsidiaries, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns.

As of the date of the Judgment, all Participating Settlement Class Members fully and finally release Defendants and the Released Parties from any and all Class Released Claims. The Class Released Claims include any and all claims asserted in the Action, arising from or related to the facts and claims alleged in the Action, or that could have been raised in the Action based on the facts and claims alleged. The Class Released Claims include all claims related to wage statements; failure to keep accurate records; penalties, including civil penalties, statutory penalties, recordkeeping penalties, and wage statement penalties; and attorneys' fees and costs arising from the Class Released Claims; all claims related to the Class Released Claims arising under: the California Labor Code (including, but not limited to, sections 226 and 226.3, and 2698 *et seq.*), the Wage Orders of the California Industrial Welfare Commission arising from the Class Released Claims; the California Private Attorneys General Act of 2004 ("PAGA") arising from the Class Released Claims; California Code of Civil Procedure § 1021.5 arising from the

Class Released Claims, the Business & Professions Code related to Class Released Claims, and any tort and/or common law claims related to the Class Released Claims. This release excludes the release of claims not permitted by law.

6. Will I be subject to discipline based on whether I participate in the settlement?

No. Your decision as to whether or not to participate in the settlement will in no way affect your employment with Defendants. Defendants are prohibited from retaliating in any way based on your decision whether or not to participate in the settlement.

7. Where can I get additional information?

This Notice only summarizes this lawsuit and the settlement. For more information, you may inspect the Court files at located at 1225 Fallon Street, Oakland, California 94612. If you have questions about the settlement, you may also contact Class Counsel as follows:

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8. Payment of Settlement Share

The court must finally approve the settlement at the final approval hearing before settlement checks are mailed. Assuming the court grants final approval of the settlement, and assuming there are no objections or appeals, checks should be mailed to those who do not opt out, approximately 45 days after the final approval hearing. If you have moved, or your check is returned as undeliverable and/or the check you are mailed is not cashed, then your portion of the settlement share will escheat to the State Controller to be deposited in the Unclaimed Property Fund in your name. If this happens, you can contact the California State Controller's Office and make a claim to obtain your settlement amount. The State Controller's office can be contacted through <http://www.sco.ca.gov/> or by calling: (213) 833-6010.

DO **NOT** CONTACT THE COURT FOR INFORMATION REGARDING THIS
SETTLEMENT.