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LAW AND MOTION DEPT. 53/54
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

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BY FAX

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

JAMIE ELLSWORTH, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

LECLAIR FITNESS II, LLC, a California
limited liability company; LECLAIR
FITNESS III, LLC, a California limited
liability company; LECLAIR FITNESS IV,
LLC, a California limited liability company;
and DOES 1 through 50, inclusive,

Defendants.

Case No.: 34-2021-00295114-CU-OE-GDS

~~PROPOSED~~ ORDER GRANTING FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND JUDGMENT

Date: September 20, 2022

Time: 9:00 a.m.

Dept.: 54

Reservation #: 2658341

Complaint Filed: February 23, 2021

FAC Filed: May 6, 2022

Trial Date: None

AUG 26 2022

[PROPOSED] ORDER GRANTING FINAL APPROVAL OF SETTLEMENT AND JUDGMENT

1 Plaintiff Jamie Ellsworth ("Plaintiff") and Defendants LeClair Fitness II, LLC, LeClair
2 Fitness III, LLC, and LeClair Fitness IV, LLC (together, "Defendants") (collectively, the
3 "Parties") have entered into the Joint Stipulation of Class Action and PAGA Settlement and
4 Release ("Settlement Agreement") to settle the above-captioned class action subject to the
5 Court's approval (the "Settlement").

6 This matter is now before the Court on Plaintiff's Motion for Final Approval of Class and
7 Representative Action Settlement, including approval of an Enhancement Payment for the
8 Named Plaintiff and Class Counsel's Application for a Fee and Expense Award. The Court has
9 read, heard, and considered all the pleadings and documents submitted, and the presentations
10 made in connection with the Motion which came on for hearing on September 20, 2022.

11 **I. BACKGROUND**

12 On February 23, 2021, Plaintiff commenced a putative class and representative action
13 against Defendants in the Superior Court of California for the County of Sacramento. On May 6,
14 2022, Plaintiff filed a first amended complaint. The first amended-complaint is the operative
15 complaint ("Complaint"). As alleged in the Complaint, Plaintiff asserts class-wide claims for:
16 failure to pay minimum and overtime wages; failure to pay overtime at the correct regular rate of
17 pay; failure to provide paid rest periods; failure to pay wages at termination; failure to reimburse
18 employees; failure to provide accurate wage statements); and unfair business practices. The
19 Complaint also asserts a representative Private Attorneys General Act of 2004, California Labor
20 Code section 2698, *et seq.* ("PAGA") claim predicated on Defendants' alleged violations of the
21 Labor Code.

22 **A. The Class**

23 The "Class" is defined as "all current and former non-exempt or hourly employees of
24 Defendants that worked in California at any time from February 23, 2017, through November 28,
25 2021."

26 **B. Operation of the Settlement**

27 Pursuant to the Preliminary Approval Order dated April 29, 2022, this Court
28 conditionally certified the Class and granted preliminary approval to the Settlement. The

1 Preliminary Approval Order also approved of the proposed form of notice and notice plan. The
2 Court entered the Preliminary Approval Order after review and consideration of all of the
3 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

4 In compliance with the Preliminary Approval Order, the Notice of Class Action
5 Settlement ("Class Notice") was sent to all Class Members via first class mail. Class Notices
6 were sent to 155 individuals with updated addresses. No Class Notice remained undeliverable.
7 The notice process was timely completed.

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

17 [Q]uestions of law or fact common to the members of the class
18 predominate over any questions affecting only individual members,
19 and that a class action is superior to the available methods for the
20 fair and efficient adjudication of the controversy ... Fed. R. Civ.
Proc. 23.

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

22 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
23 FOLLOWS:

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

26 2. The Court has jurisdiction over the subject matter of the litigation, the Class
27 Representative, the other members of the Settlement Class, PAGA Aggrieved Employees and
28 Defendants.

1 3. The Court finds that the dissemination of the Class Notice as disseminated to the
2 Class Members, constituted the best notice practicable under the circumstances to all persons
3 within the definition of the Class, and fully met the requirements of California law and due
4 process under the United States Constitution.

5 4. The Court approves the settlement of the above-captioned action, as set forth in
6 the Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are
7 directed to perform in accordance with the terms set forth in the Settlement Agreement.

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

10 6. The Court hereby certifies the following Class for settlement purposes only:

11 All current and former non-exempt or hourly employees of
12 Defendants that worked in California at any time from February 23,
13 2017, through November 28, 2021.

14 Dana Peel and Joe Delmonaco submitted timely and valid Requests for Exclusion and are not
15 members of the Settlement Class.

16 7. With respect to the Class and for purposes of approving the settlement only and
17 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
18 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
19 questions of law or fact common to the Class, and there is a well-defined community of interest
20 among members of the Class with respect to the subject matter of the claims in the Litigation; (c)
21 the claims of Class Representative are typical of the claims of the members of the Class; (d) the
22 Class Representative has fairly and adequately protected the interests of the members of the
23 Class; (e) a class action is superior to other available methods for an efficient adjudication of this
24 controversy; and (f) the counsel of record for the Class Representative, *i.e.*, Class Counsel, are
25 qualified to serve as counsel for the Plaintiff in her individual and representative capacity and for
26 the Class.

27 8. Within thirty (30) days after the grant of Final Approval of the Settlement,
28 Defendants shall remit to the Qualified Settlement Fund established by the Settlement

1 Administrator the Gross Settlement Amount of One Hundred Seventy-Eight Thousand Seven
2 Hundred Twenty-One Dollars and One Cents (\$178,721.01), pursuant to the terms of the
3 Settlement Agreement.

4 9. From the Gross Settlement Amount, the Settlement Administrator shall pay:

5 (a) To Class Counsel attorneys' fees in the amount of Sixty-Two Thousand
6 Five Hundred Fifty-Two Dollars and Thirty-Five Cents (\$62,552.35) and reimbursement of
7 actual litigation costs in the amount of Eleven Thousand Five Hundred Thirty-Five Dollars and
8 Fifty-Five Cents (\$11,535.55);

9 (b) Enhancement Payment to Class Representative Jamie Ellsworth to
10 reimburse her for her unique services, and as consideration for the execution of a general release,
11 in the amount of Ten Thousand Dollars (\$10,000.00);

12 (c) The sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to the
13 California Labor and Workforce Development Agency for its seventy-five percent (75%) share
14 of PAGA penalties;

15 (d) The sum of Two Thousand Five Hundred Dollars (\$2,500) to PAGA
16 Aggrieved Employees for their twenty-five percent (25%) share of PAGA penalties; and

17 (e) the sum of Six Thousand Two Hundred Fifty Dollars (\$6,250.00) to the
18 Settlement Administrator, Phoenix Settlement Administrators, for its fees and costs relating to
19 the settlement administration process.

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

23 11. The Court approves of the Individual Settlement Payment and Individual PAGA
24 Payment amounts, which will be distributed pursuant to the terms of the Settlement Agreement.

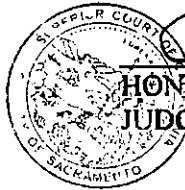
25 12. The Court hereby orders the parties to implement the terms of the Settlement
26 Agreement, including distributing any uncashed settlement payment checks to the California
27 State Controller's Office – Office of Unclaimed Property in the name of the Settlement Class
28 Members and PAGA Aggrieved Employees.

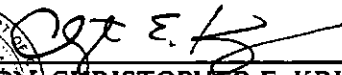
1 13. All Class Members who did not opt out of the Settlement shall be bound by the
2 releases provided in the Settlement Agreement. The Class Representative shall be bound by the
3 general releases provided in the Settlement Agreement.

4 14. The Court hereby enters final judgment in this case in accordance with the terms
5 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
6 the Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction
7 over the action and the Parties, including all Settlement Class Members, for purposes of
8 enforcing and interpreting this Order and the Settlement.

9 **IT IS SO ORDERED AND ADJUDGED.**

10
11 Dated: SEP 29 2022




HON. CHRISTOPHER E. KRUEGER
JUDGE OF THE SUPERIOR COURT