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Superior Court of California,
County of San Diego

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By Bernabe Montijo, Deputy Clerk

F I L E D
Clerk of the Superior Court

JAN 27 2023

By: M. Abosamra, Deputy

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

ZAID HASSAN, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

v.

WESTPAC LABS, INC., a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 37-2021-00008722-CU-OE-CTL

Assigned for All Purposes to:
Honorable James A. Mangione
Department C-75

CLASS ACTION

**~~[PROPOSED]~~ ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: January 27, 2023
Hearing Time: 9:00 a.m.
Hearing Place: Department C-75

Complaint Filed: March 1, 2021
FAC Filed: June 22, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiffs Zaid Hassan and Rebecca
2 Cummins' ("Plaintiffs") Motion for Final Approval of Class Action Settlement, and considering
3 the papers submitted in support of the motion, including the Joint Stipulation and Settlement
4 Agreement ("Settlement Agreement," "Settlement," or "Agreement"), hereby **FINDS AND**
5 **ORDERS:**

6 Plaintiffs and Defendant WestPac Labs, Inc. ("Defendant") entered the Settlement
7 Agreement on or about July 1, 2022 to settle this lawsuit.

8 The Court entered an Order dated August 26, 2022 preliminarily approving the settlement
9 of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure
10 section 382 and California Rule of Court 3.769, ordering notice to be sent to Class Members,
11 scheduling a Final Approval Hearing on January 27, 2023, and providing Class Members with an
12 opportunity to object to the Settlement or exclude themselves from the Class.

13 The Court held a Final Approval Hearing on January 27, 2023 to determine whether to
14 give final approval to the Settlement of this lawsuit.

15 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
16 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
17 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
18 in the Settlement Agreement.

19 2. Jurisdiction. Because adequate notice has been disseminated and the Class been
20 given the opportunity to request exclusion, the Court has personal jurisdiction with respect to the
21 claims of all Class Members. The Court also has subject matter jurisdiction over this lawsuit,
22 including jurisdiction to approve the Settlement and grants final certification of the Class.

23 3. Final Class Certification. The Court finds the Class satisfies all applicable
24 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
25 process. For settlement purposes only, the Court certifies the Class consisting of all current and
26 former hourly-paid or non-exempt employees of Defendant within the State of California at any
27 time from February 26, 2020, through June 28, 2022 ("Class," "Class Members," and "Class
28 Period"). There are eight hundred fifty-seven (857) Class Members who did not submit valid and

1 timely requests to exclude themselves from the Released Claims of the Settlement (“Participating
2 Class Members”).¹

3 4. Adequacy of Representation. Class Counsel fully and adequately represented the
4 Class for purposes of entering and implementing the Settlement and satisfied the requirements of
5 Code of Civil Procedure section 382.

6 5. Notice Packet. The Court finds the Notice of Class and Representative Action
7 Settlement (“Class Notice”) and the election not to participate (to “opt out” from) the Class
8 Action Settlement (“Exclusion Form”) (collectively, known as the “Notice Packet”) and its
9 distribution to Class Members were implemented pursuant to the Settlement and this Court’s
10 Preliminary Approval Order. The Court also finds the Notice Packet:

11 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
12 pendency of this lawsuit; (ii) material terms and provisions of the Settlement and their rights;
13 (iii) their right to object to any aspect of the Settlement; (iv) their right to exclude themselves
14 from the Settlement; (v) their right to receive an Individual Settlement Share; (vi) their right to
15 appear at the Final Approval Hearing; and (vii) binding effect of the orders and judgment in this
16 lawsuit on all Participating Class Members;

17 b. constitutes notice that fully satisfied the requirements of Code of Civil
18 Procedure section 382, California Rule of Court 3.769, and due process;

19 c. constitutes the best practicable notice to Class Members under the
20 circumstances of this lawsuit; and

21 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

22 6. Final Settlement Approval. The terms and provisions of the Settlement
23 Agreement have been entered in good faith and are the product of arm’s-length negotiations by
24 experienced counsel who have done a meaningful investigation of the claims. The Settlement
25 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
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28 ¹ Phoenix mailed Notice Packets to eight hundred sixty-six (866) Class Members and
receive nine (9) requests for exclusion. Thus, there are eight hundred fifty-seven (857)
Participating Class Members.

adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions.

7. Binding Effect. The terms and provisions of the Settlement Agreement and this Order and Judgment are binding on Plaintiffs, Participating Class Members, Eligible Aggrieved Employees, and their spouses, heirs, registered domestic partners, executors, administrators, successors, and assigns. In addition, those terms shall have res judicata and other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of any such persons to the extent those claims, lawsuits, or other proceedings involve matters that were or could have been raised in this lawsuit and are encompassed by the Released Claims and Private Attorneys General Act of 2004 ("PAGA") Released Claims. The Settlement Agreement will have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have submitted timely requests for exclusion.

8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude any action to enforce the terms and provisions of the Settlement Agreement.

9. Released Parties. The Released Parties include Defendant and its present and former members, owners, directors, officers, subsidiaries, parents, affiliates, successors, predecessors, related entities, and joint venturers, and each of their respective present and former officers, directors, stockholders, managers, agents, employees, assigns, or legal representatives.

a. Release of Claims. As of the Effective Final Settlement Date, in exchange for the consideration set forth in the Agreement, Plaintiffs and the Participating Class Members do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all Released Claims against any and all Released Parties. The Settlement includes a release of all Released Claims during the Class Period.

b. PAGA Released Claims. As of the Effective Final Settlement Date, Plaintiffs, individually and on behalf of the State of California, and all Class Members (regardless of whether the Class Member submitted a timely and valid request for exclusion), do and shall be deemed to have fully, finally, and forever released,

1 settled, relinquished, and discharged any and all of the Released Parties of and
2 from any and all PAGA Released Claims.

- 3 c. Plaintiffs' Release of Claims and General Release. As of the Effective Final
4 Settlement Date, and in exchange for the Class Representative Enhancement
5 Payments to Plaintiffs not to exceed \$10,000 to each Plaintiff, in recognition of
6 their work and efforts in obtaining the benefits for the Class and undertaking the
7 risk for the payment of costs if this matter had not successfully resolved, Plaintiffs
8 provide a general release of claims for themselves and their spouses, heirs,
9 successors, and assigns. Plaintiffs' Release of Claims also includes a waiver of
10 Civil Code section 1542.

11 10. Class Representative Enhancement Payments. The Court finds the Class
12 Representative Enhancement Payments of \$10,000, to be paid by Defendant to each Plaintiff out
13 of the Gross Settlement Amount, to be reasonable and appropriate. Class Representative
14 Enhancement Payments are to be paid pursuant to the terms and provisions set forth in the
15 Settlement Agreement.

- 16 a. The rationale for making enhancement payments is class representatives should
17 be compensated for the expense and risk they incurred in conferring a benefit on
18 the Class. Criteria courts consider include: (1) risk to the class representatives in
19 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
20 effort spent by the class representatives; (4) duration of the litigation; and (5)
21 personal benefit (or lack thereof) enjoyed by class representatives.
- 22 b. The Court reviewed Plaintiffs' declarations outlining their involvement. Given the
23 risks inherent in their services as the class representatives, duration of the case
24 and time involved, and benefits created, the Court approves the payment of the
25 Class Representative Enhancement Payments of \$10,000 to each Plaintiff.

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1 11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award
2 of \$420,000, to be paid out of the Gross Settlement Amount by Defendant to Class Counsel, to
3 be reasonable and appropriate. The Court further finds the Cost Award as reimbursement for
4 actual litigation costs incurred of \$15,963.72, to be paid by Defendant to Class Counsel out of
5 the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be
6 paid pursuant to the terms and provisions set forth in the Settlement. Defendant shall not be
7 required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by
8 Class Counsel or any other counsel representing Plaintiffs or Class Members. In addition,
9 Defendant shall not be required to pay for any other attorneys' fees and expenses, costs, or
10 disbursements incurred by Plaintiffs or Class Members in connection with or related in any
11 manner to this lawsuit, the Settlement, the settlement administration, and/or the Released Claims
12 and PAGA Released Claims.

13 a. The Court has an independent right and responsibility to review the requested
14 Attorney Fee Award and only award so much as it determines reasonable. (See
15 *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123,
16 127-28.) The Attorney Fee Award requested by Class Counsel of \$420,000 is
17 thirty-five percent (35%) of the common fund created for the benefit of the Class
18 and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half*
19 *International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the exceptional results
20 achieved, financial risk undertaken, novel and difficult nature of this litigation,
21 skills required, percentage fees award in previous and other cases, and contingent
22 fees charged in the marketplace, the Court finds the requested Attorney Fee
23 Award is consistent with the marketplace, is reasonable, and is approved.

24 b. The Court reviewed the declaration of Douglas Han regarding the costs expended
25 in prosecuting this case. Under the terms of the Settlement, Class Counsel may
26 seek reimbursement of up to \$20,000 in litigation costs. The Court finds Class
27 Counsel expended \$15,963.72 in litigation costs, and such costs were reasonable.
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1 Thus, the Court approves the payment of the Cost Award of \$15,963.72 from the
2 common fund for the reimbursement of Class Counsel's litigation costs.

3 12. Administration Costs. The Court finds Administration Costs of \$11,500, to be
4 paid by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be
5 reasonable and appropriate. The Administration Costs are to be paid pursuant to terms and
6 provisions set forth in the Settlement Agreement.

7 a. The Court reviewed the declaration of Kevin Lee from Phoenix Class Action
8 Settlement Administrators, the Court-approved Settlement Administrator. The
9 Court finds notice was provided to the Class pursuant to the Preliminary Approval
10 Order, constitutes the best practicable notice to the Class, and satisfied due
11 process. Thus, the Court approves the payment of the Administration Costs of
12 \$11,500 for the Settlement Administrator's services administering the Settlement.

13 13. PAGA Payment. The Court finds the PAGA Payment of \$100,000, seventy-five
14 percent (75%) of which (\$75,000) will be paid to the LWDA out of the Gross Settlement
15 Amount and twenty-five percent (25%) of which (\$25,000) shall be distributed to Class
16 Members, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment is to be paid
17 pursuant to the terms and provisions set forth in the Settlement Agreement.

18 14. Funding of the Settlement. No later than twenty-one (21) calendar days after: (a)
19 the date the Final Approval of the Settlement can no longer be appealed; or (b) the date the Court
20 enters judgment granting Final Approval of the Settlement if there are no objectors and no
21 Plaintiffs in intervention at the time the Court grants Final Approval of the Settlement,
22 Defendant shall deposit the Gross Settlement Amount of \$1,200,000 by wiring the funds to the
23 Settlement Administrator. Upon the Settlement Administrator's request, Defendant shall also
24 provide any tax information the Settlement Administrator may need to calculate payments to
25 Participating Class Members and Class Members. Within fourteen (14) calendar days after the
26 deadline to fund the Settlement Agreement, the Settlement Administrator shall calculate and
27 disburse all payments due under the Settlement Agreement.

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1 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
2 Settlement is entitled to a presumption of fairness. In their moving papers, Plaintiffs contend the
3 Settlement was the product of arm's-length negotiations following extensive litigation,
4 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
5 Lynn Frank, an experienced and well-respected mediator.

6 a. The fairness of the Settlement is demonstrated by there being no objections to and
7 only nine (9) requests for exclusion from the Settlement.

8 b. The fairness of the Settlement is further illustrated by the gross *average*
9 Individual Settlement Share being approximately \$759.28, and the gross *highest*
10 Individual Settlement Share being about \$1,739.13.

11 16. Uncashed Checks. Participating Class Members and Class Members must cash or
12 deposit checks for their Individual Settlement Share and their employee portion of the PAGA
13 Payment within one hundred eighty (180) calendar days after the checks are mailed to them.
14 Uncashed settlement checks will be mailed to the California State Controller's Unclaimed
15 Property Division in accordance with California Unclaimed Property Law.

16 17. Modification of Settlement Agreement. The Participating Class Members are
17 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
18 modifications of the Settlement by an express written instrument signed by the Parties or their
19 successors-in-interest. Such amendments or modifications shall be consistent with this Order and
20 Judgment and cannot limit the rights of Participating Class Members under the Settlement.

21 18. Final Accounting and Compliance. The Court sets a nonappearance case review
22 for October 6, 2023 at 9:00 a.m. in Department C-75. Within five (5) court days before this
23 hearing, Plaintiffs shall file a compliance status report. Pursuant to Code of Civil Procedure
24 section 384, the compliance status report shall specify the total amount paid to Participating
25 Class Members and the residual of the unclaimed settlement funds that will be paid to the entity
26 identified as the recipient of such funds in the Settlement Agreement.

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On February 1, 2023, I served the foregoing document described as

for the following case: **Hassan, et al. v. WestPac Labs, Inc.**
LWDA/Court Case No.: **LWDA-CM-823011-21**
37-2021-00020091-CU-OE-CTL
San Diego County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 1, 2023, at Pasadena, California.



Mariah Anderson