

MAYALL HURLEY P.C.
ROBERT J. WASSERMAN (SBN: 258538)
rwasserman@mayallaw.com
JENNY D. BAYSINGER (SBN:)
jbaysinger@mayallaw.com
2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818

Attorneys for Plaintiff Samantha Owens and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

SAMANTHA OWENS,

Plaintiff,

vs.

FIDELITY NATIONAL HOME WARRANTY
COMPANY; and DOES 1-100, inclusive,

Defendants.

Case No.: MSC21-00731

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Plaintiff Samantha Owens' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion") came on for hearing on _____, at 9:00 a.m., before the Honorable Charles S Treat. Jenny D. Baysinger appeared on behalf of Plaintiff Owens ("Plaintiff") and Curt Graham appeared on behalf of Defendant Fidelity National Home Warranty Company ("FNHW"). The Court, having fully and carefully reviewed Plaintiff's Motion, the memorandum and declaration in support thereof, and the Settlement Agreement including the proposed Class Notice, hereby makes the following determinations and orders¹:

1. Plaintiff Samanth Owens is preliminarily appointed as Class Representative.

¹ All terms used in this Order of Preliminary Approval of Class Action Settlement (the "Order") shall have the same meanings given those terms in the Parties' Joint Stipulation of Class Action Settlement and Release ("Settlement Agreement" or "Settlement"), a copy which is attached hereto as **Exhibit 1** and made a part of this Order.

1 2. Mayall Hurley P.C., by and through Jenny D. Baysinger and Robert J. Wassermann, is
2 hereby preliminarily approved and appointed as Class Counsel.

3 3. Phoenix Class Action Administration Solutions is appointed as the Settlement
4 Administrator and shall administer the Settlement in accordance with the terms set forth in the
5 Settlement Agreement and perform the functions set forth therein. The Court also preliminarily
6 approves declared fees and costs of administering the Settlement of up to \$7,500.

7 4. The Class of employees covered by the Parties' Settlement consists of:

- 8 a. All non-exempt individuals who worked for Defendant in California at any time
9 during the Class Period and who are members of one or more of the following
10 subclasses: (1) the "Meal Period Subclass," which includes those who worked at
11 least one shift of more than five (5) hours from March 1, 2020, through and
12 including September 21, 2023; (2) the "Overtime Subclass," which includes
13 those who earned a non-discretionary bonus or other remuneration pertaining to
14 a workweek when he or she also worked overtime on at least one occasion from
15 April 12, 2017, through and including September 21, 2023, and who were not
16 part of the "Overtime Class" in the matter of *Dillard/Menchaca v. Fidelity*
17 *National Financial, Inc., et al.*, Contra Costa County Superior Court Case No.
18 C18-00394; and (3) the "Wage Statement Subclass," which includes those who
19 received one or more wage statements at any time from April 12, 2020, through
20 and including September 21, 2023. SA ¶ 15.

21 5. Pursuant to California Civil Procedure section 382, and for purposes of settlement only,
22 the Class is preliminarily and conditionally certified. The Meal Period Subclass is estimated to consist
23 of 104 individuals, the Overtime Subclass is estimated to consist of 106 individuals, and the Wage
24 Statement Subclass is expected to consist of 104 individuals.

25 6. The Court grants preliminary approval of the Settlement between Plaintiff and
26 Defendant, based upon the terms set forth in the Settlement Agreement.

27 ///

28 ///

- 1 a. As to the Class and subclasses, the Settlement Agreement appears to be fair,
2 adequate and reasonable, and the Court preliminarily approves the terms of the
3 Settlement Agreement.
- 4 b. The Court approves, as to form and content, the Class Notice, in substantially the
5 form attached as **Exhibit A** to the Settlement Agreement. The Court further
6 approves the procedure by which Class Members may opt out of, and object to, the
7 Settlement as set forth in the Settlement Agreement and the Class Notice.

8 7. The Court directs mailing of the Class Notice in accordance with the terms of the
9 Settlement Agreement and on the schedule set forth below. The Court finds the dates selected for the
10 mailing and distribution of the Class Notice, as set forth below, meet the requirements of due process
11 and provide the best notice practicable under the circumstances and shall constitute due and sufficient
12 notice to all persons entitled thereto.

13 8. Subject to further consideration by the Court at the time of the Final Approval Hearing,
14 the proposed PAGA allocation of \$10,000 and payment to the LWDA of \$7,500 is preliminarily
15 approved. Distribution of \$2,500 to the Settlement Class Members employed during the PAGA Period
16 based on the formula outlined in the Settlement Agreement is also approved.

17 9. Subject to further consideration by the Court at the time of the Final Approval Hearing,
18 the proposed Class Representative Enhancement Award of \$10,000 each, 3.5% of the Gross
19 Settlement Amount, to Plaintiff for her service as Class Representative is preliminarily approved.

20 10. Subject to further consideration by the Court at the time of the Final Approval Hearing,
21 Class Counsel's request of attorneys' fees in the amount of 33.33% of the Gross Settlement Amount,
22 presently expected to be \$95,000, and declared costs of up to \$15,000, are preliminarily approved.

23 11. The Court adopts the following dates and deadlines:

24 Administrator to mail Class Notice	Within 20 calendar days of the POA
25 Deadline for Class Members to object or opt out	Within 45 calendar days after Notice mailed.
26 Plaintiff to file Motion for Attorneys' Fees, Costs and Service Payment.	Not less than 16 court days before the Final Approval hearing.
27 Deadline for Plaintiff to file Motion for Final Approval.	Not less than 16 court days before the Final Approval hearing.
28 Final Approval Hearing.	Not less than 100 days after the POA

1
2
3 12. A Final Approval hearing on the question of whether the proposed Settlement,
4 attorneys' fees to Class Counsel, and the Class Representatives' Service Payments should be finally
5 approved as fair, reasonable and adequate is scheduled in for _____, 2024 at
6 ____:____ a.m. / p.m.. The parties to the Agreement are directed to carry out their obligations under
7 the Settlement Agreement.

8
9 Dated: _____

10 _____
11 HON. CHARLES S. TREAT
12 SUPERIOR COURT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 S. Church Street, Lodi, CA 95240, that is located in the county where the mailing and/or delivery below took place.

On October 9, 2023, I served the following document:

**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

addressed to:

Curtis A. Graham
LITTLER MENDELSON P.C.
633 West 5th Street, 63rd Floor
Los Angeles, California 90071
Email: cagraham@littler.com
Sarah Fleming
safleming@littler.com
Gina Camacho
gcamacho@littler.com

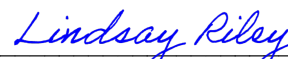
Angela J. Rafoth, Esq.
LITTLER MENDELSON, P.C.
333 Bush Street, 34th Floor
San Francisco, California 94104
Email: arafoth@littler.com

☐ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☒ **BY EMAIL:** In accordance with Code of Civil Procedure, Section 1010.6, on the date specified below, I caused a copy of the document(s) described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is lriley@mayallaw.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on October 9, 2023, at Lodi, California.


LINDSAY RILEY