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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

PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

Date: October ____, 2023

Time: 9:00 a.m.

Dept.: 12

Judge: Hon. Charles S. Treat

1 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 PLEASE TAKE NOTICE THAT, on a date and time to be set by the clerk at the time of
4 filing, in Department 12 of the above-captioned court before the Honorable Charles S. Treat,
5 Plaintiff Samantha Owens (“Plaintiff”) will bring on for hearing this Motion for Preliminary
6 Approval of Class Action Settlement (the “Motion”).¹ The Motion respectfully requests the Court
7 grant:

- 8 1. Preliminary certification of the Class described in the proposed Joint Stipulation of
9 Class Action Settlement and Release (“Settlement”), defined as follows:
 - 10 a. All non-exempt individuals who worked for Defendant in California at any time
11 during the Class Period and who are members of one or more of the following
12 subclasses: (1) the “Meal Period Subclass,” which includes those who worked at
13 least one shift of more than five (5) hours from March 1, 2020, through and
14 including September 21, 2023; (2) the “Overtime Subclass,” which includes those
15 who earned a non-discretionary bonus or other remuneration pertaining to a
16 workweek when he or she also worked overtime on at least one occasion from
17 April 12, 2017, through and including September 21, 2023, and who were not part
18 of the “Overtime Class” in the matter of *Dillard/Menchaca v. Fidelity National*
19 *Financial, Inc., et al.*, Contra Costa County Superior Court Case No. C18-00394;
20 and (3) the “Wage Statement Subclass,” which includes those who received one
21 or more wage statements at any time from April 12, 2020, through and including
22 September 21, 2023. SA ¶ 15.
- 23 2. Preliminary approval of Plaintiff Samantha Owens as Class Representative;
- 24 3. Preliminary approval of Mayall Hurley P.C., by and through Lead Counsel Jenny D.
25 Baysinger and Robert J. Wassermann, as Class Counsel;
- 26 4. Preliminary approval of the Settlement, finding it to be fair, reasonable, adequate, and
27 in the collective best interest of the Class;

28

¹ Defendant does not oppose the relief sought by Plaintiff’s Motion.

5. Approval as to the form and content of the proposed Class Notice, a copy of which is attached as Exhibit A to the Settlement Agreement;
6. Approval as to the method of notice described in the Settlement;
7. Authorization for dissemination of the Class Notice pursuant to the terms of the Settlement;
8. An order appointing and approving Phoenix Class Action Administration Solutions as Claims Administrator, and for preliminary approval of the costs of administration of the Qualified Settlement Fund for an amount, as declared, not to exceed \$7,500;
9. Preliminary approval of the proposed PAGA allocation and payment to the LWDA;
10. Preliminary approval of a Class Representative Enhancement Payment in the amount of \$10,000 to Plaintiff in consideration for her service as Class Representative;
11. Preliminary approval of attorneys' fees in an amount not to exceed one-third of the Gross Settlement Amount, or \$95,000, and declared costs of up to \$15,000;
12. An Order of Preliminary Approval containing a schedule for the implementation of the terms of the Settlement, including deadlines for mailing the notice, the filing of opt-outs or objections, and the filing of papers in connection with the Final Approval Hearing, specifically including scheduling hearing for a contemplated motion for final approval and motion for attorneys, fees, costs, and enhancement payment; and
13. An order setting the Final Approval Hearing for the Court to consider final approval of the Settlement and its terms, as well as a contemplated motion for an award of attorneys' fees and costs for Class Counsel, and the Enhancement Payment for Plaintiff.

This Motion is based on the Notice of Motion; the Memorandum of Points and Authorities; the accompanying Declaration of Jenny D. Baysinger, with exhibits (including the Settlement Agreement attached as Exhibit 1); the pleadings, orders, and other papers on file in this matter; and any further evidence and arguments as may be presented at the hearing of this matter.

Pursuant to Contra Costa County Local Rule 3.43, Judges assigned to unlimited civil law and motion matters shall prepare a tentative ruling for each matter on calendar and a ruling will be

1 available to counsel and litigants beginning at 1:30 p.m. on the court day preceding the scheduled
2 hearing. Tentative rulings can be accessed on the court's website at [https://www.cc-](https://www.cc-courts.org/civil/motions-hearings-tentative.aspx)
3 [courts.org/civil/motions-hearings-tentative.aspx](https://www.cc-courts.org/civil/motions-hearings-tentative.aspx). If the website is down, or for some reason cannot
4 be accessed, counsel and/or self-represented parties are directed to call (925) 608-1000 during
5 business hours. If the tentative ruling is satisfactory to counsel, he or she need not appear and the
6 tentative ruling will become final. If counsel or self-represented litigants wish to appear, he or she
7 may do so only after appropriately notifying the court and all other counsel or SRL of that intent.
8 The tentative ruling shall become the ruling of the court unless by 4:00 p.m. the court day
9 preceding the hearing, counsel or self-represented parties call the department rendering the decision
10 to request argument. If a judge so indicates in the instructions accompanying the tentative ruling,
11 the parties may also be required to specify what issues are to be argued. Calling counsel or self-
12 represented parties requesting argument must advise all other affected counsel and self-represented
13 parties by no later than 4:00 p.m. of his or her decision to appear and of the issues to be argued.
14 Failure to timely advise the Court and counsel or self-represented parties will preclude any party
15 from arguing the matter.

16 **DATED:** October 9, 2023

MAYALL HURLEY P.C.

17 By



JENNY D. BAYSINGER

Attorneys for Plaintiffs and the Putative Class

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:

**PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR 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
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gcamacho@littler.com

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333 Bush Street, 34th Floor
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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