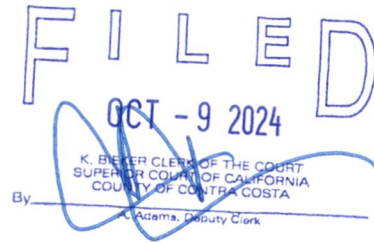


Carolyn H. Cottrell (SBN 166977)
Andrew D. Weaver (SBN 318935)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
ccottrell@schneiderwallace.com
aweaver@schneiderwallace.com

Attorneys for Plaintiff



**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

DAIJAH COLEMAN, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

YDESIGN GROUP, LLC, an unknown
business entity; and DOES 1 through 100,
inclusive

Defendant.

Case No. MSC21-00624

CLASS AND PAGA ACTION

*Assigned for All Purposes to the Honorable
Charles S. Treat, Department 12*

FINAL APPROVAL ORDER

Complaint filed: March 26, 2021

~~**[PROPOSED]**~~ **ORDER**

The Motion for Final Approval of Class Action and PAGA Settlement came before the Court on September 19, 2024, at 9:00 a.m. for a hearing and Final Approval Order and Judgment. Consistent with the Court's Notice of Order Granting Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement ("Preliminary Approval Order"), entered on March 25, 2024, and the parties' Class Action Settlement Agreement and Release ("Settlement"), including the amendments thereto, due and adequate notice having been given to all Class Members, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed and good cause appearing therefore, it is hereby **ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

1. All terms used herein shall have the same meanings as set forth in the Settlement filed December 7, 2023, as **Exhibit A** to the Declaration of Carolyn H. Cottrell in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement, as modified by the First and Second Amendments to the Settlement filed August 14, 2024, as **Exhibits B and C** to the Declaration of Andrew Weaver in Support of Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement.

2. This Court has continuing jurisdiction over the subject matter of this action and over all parties to this action, including all Participating Individuals, until the Settlement is fully administered. (*See* Cal. R. Ct., rule 3.769(h)).

3. All Participating Individuals' Released Claims (including the Released Class Claims, the Released PAGA Claims, and Named Plaintiff Daijah Coleman's Released Claims) are covered by and included within the Settlement and this Final Approval Order and Judgment.

4. The Court hereby finds that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the standards and applicable requirements for final approval of this class action and PAGA settlement under California law, including the provisions of California Code of Civil Procedure § 382.

1 5. The Court finds that the Settlement has been reached as a result of intensive, serious and
2 non-collusive arm's-length negotiations. The Court further finds that the parties have conducted
3 extensive investigation and research, and counsel for the parties are able to reasonably evaluate their
4 respective positions. The Court also finds that Settlement will avoid additional substantial costs, as
5 well as avoid the delay and risks that would be presented by the further prosecution of the action.
6 The Court has reviewed the benefits that are being granted as part of the Settlement and recognizes
7 the significant value to the Participating Individuals.

8 6. The Court finds that the Class, as defined in the Settlement, is properly certified as a class
9 for settlement purposes only, and orders that it be certified for settlement purposes only.

10 7. Distribution of the Settlement Notice to the Class Members as set forth in the Settlement
11 has been completed in conformity with the Preliminary Approval Order, including individual notice
12 to all Class Members who could be identified through reasonable effort, and constituted the best
13 notice practicable under the circumstances. The Settlement Notice provided due and adequate notice
14 of the proceedings and of the matters set forth therein, including the proposed Settlement, to all
15 persons entitled to such notice, and the Settlement Notice and its distribution fully satisfied the
16 requirements of due process.

17 8. The Court finds that zero Class Members have objected to the Settlement, and one Class
18 Member has requested exclusion from the Settlement.

19 9. The Court hereby approves the Settlement and directs the parties to effectuate the
20 Settlement according to its terms.

21 10. Upon final approval of the Settlement and payment of the amounts set forth therein, each
22 and every Released Claim of each and every respective Participating Individual is and shall be
23 deemed to be conclusively released as against the Released Parties.

24 11. The Court finds and orders that the Settlement is and constitutes a fair, reasonable and
25 adequate compromise of the Released Claims against Defendant and the Released Parties.

26 12. The parties entered into the Settlement to resolve the dispute that has arisen between them
27 and to avoid the burden, expense, and risk of continued litigation. In entering into the Settlement,
28 Defendant does not admit, and specifically denies, it has violated any state, federal, or local law;

1 violated any regulations or guidelines promulgated pursuant to any statute or any other applicable
2 laws, regulations or legal requirements; or engaged in any other unlawful conduct with respect to its
3 employees. Neither this Final Approval Order and Judgment, the Settlement, nor any document
4 referred to herein, nor any action taken to carry out the Settlement, shall be construed as an admission
5 by Defendant to any such violations or failure to comply with any applicable law.

6 13. The Court hereby finds the individual settlement payments provided for under the
7 Settlement and the Settlement Notice to be fair and reasonable in light of all the circumstances. The
8 Court, therefore, orders the calculations and the payments to be made and administered in
9 accordance with the terms of the Settlement and the Settlement Notice.

10 14. The Court hereby approves and orders payment in the amount of \$30,000.00 from the
11 Gross Settlement Amount for the PAGA Payment, \$22,500.00 of which is payable to the California
12 Labor and Workforce Development Agency ("LWDA"), and \$7,500.00 of which will be distributed
13 to the PAGA Settlement Group Members on a *pro rata* basis, as set forth in the Settlement.

14 15. The Court hereby confirms Plaintiff Daijah Coleman as Class Representative and
15 Schneider Wallace Cottrell Konecky LLP ("SWCK") and Lawyers *for* Justice, PC ("LFJ") as Class
16 Counsel in the action.

17 16. The Court hereby approves and orders the service award to Plaintiff Daijah Coleman in the
18 amount of \$7,500.00 from the Gross Settlement Amount for her efforts on behalf of the Class
19 Members.

20 17. Pursuant to the terms of the Settlement and the authorities, evidence, and argument
21 submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees in the amount
22 of \$305,392.53, and litigation expenses in the amount of \$22,765.80, from the Gross Settlement
23 Amount as final payment for and complete satisfaction of any and all attorneys' fees and costs
24 incurred by and/or owed to Class Counsel.

25 18. The Court also hereby approves and orders payment from the Gross Settlement Amount
26 for actual settlement administration expenses incurred by the Settlement Administrator, ILYM
27 Group, Inc., in the amount of \$20,750.00.

19. The Court orders that the deadline for making the Court-approved individual settlement award payments, the payment to the LWDA, the attorneys' fees and costs payment, the service award payment, and the settlement administration costs payment is as set forth in the implementation schedule set forth below.

20. The Court approves the following implementation schedule:

Event	Deadline
Final Approval Hearing	September 19, 2024 at 9:00 a.m.
Effective Date of Settlement (Settlement, ¶ 3(l)).	(i) In the event that the Settlement has received Final Approval by the Court and there were no timely objections filed, or that any timely objections have been withdrawn, and no appeal has been filed, then it is the date 60 days following the Court's entry of an order of Final Approval of the Settlement; or (ii) in the event that one or more timely objections has/have been filed and not withdrawn, then upon the passage of the applicable date for an objector to seek appellate review of the trial court's entry of an order of Final Approval of the Settlement, without a timely appeal having been filed; or (iii) in the event that a timely appeal of the Court's order of Final Approval has been filed, then the Settlement shall be final when the appellate review has passed, or the date that any such appeal has been either dismissed or withdrawn by the appellant.
Defendant to fund the Gross Settlement Amount in three equal installments (Settlement, ¶ 28(b)).	The first installment shall be due by the Effective Date. The second installment shall be due by October 31, 2024. The third and final installment shall be due by January 31, 2025.
Settlement Administrator to provide parties with a Report of all Settlement Awards (Settlement, ¶ 39(a)).	At least five business days before the Settlement Awards to Participating Individuals are mailed.
Class Counsel's Costs and the Settlement Administrator Costs will be paid entirely from the first installment (Settlement, ¶ 33(c)(1)).	Within 30 days after Effective Date.
Settlement Administrator to make payments for Class Counsel's Fee Award, payments to Participating Individuals, PAGA Group Members and Plaintiff (Settlement, ¶ 33(c)(i)).	In equal portions of each of Defendant's installments (<i>i.e.</i> , one-third of Class Counsel's Fee Award, payments to Participating Individuals, PAGA Group members, and Plaintiff shall be paid out of each installment).
Settlement Administrator to pay the PAGA Payment portion due to the LWDA (Settlement, ¶ 33(c)(1)).	Within 30 days after the Effective Date.

1	Settlement Administrator to mail first installment Settlement Awards due to Participating	Within 10 business days after the Effective
2	Individuals (Settlement, ¶ 33(d)).	Date. (Second and Third installments within 10 business days of receipt.)
3	Check Cashing Deadline (Settlement, ¶ 33(e)).	180 days from the date of issuance.
4	Settlement Administrator to mail Reminder Letter to Class Members who have not yet cashed their Settlement Check (Settlement, ¶ 33(e)).	Within 90 days remaining of the Check Cashing Period.
5	Settlement Administrator to place a Reminder Call to Class Members who have not yet cashed their Settlement Check (Settlement, ¶ 33(e)).	During the last 60 days of the Check Cashing Period.
6	Settlement Administrator to transmit the amount remaining in the QSF as a result of uncashed check to a <i>cy pres</i> recipient (Settlement, ¶ 34(c)).	Within 10 business days after the close of the check-cashing period for the third (and final) round of checks.
7	Deadline for Class Counsel to file Post-Judgment Report (Settlement, ¶ 27).	At the conclusion of the last of the 180-day check cashing periods set forth below and following receipt of the Settlement Administrator's report showing the total funds that were actually paid to Participating Individuals.
8	Deadline for Class Counsel to file their Post-Distribution Accounting (Settlement, ¶ 38(a)).	Within 21 days after distribution of any remaining funds to the <i>cy pres</i> recipient.
9	Compliance Hearing	September 18, 2025

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15 **IT IS SO ORDERED.**

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18 Date: OCT 07 2024

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19 Hon. Charles S. Treat
20 Superior Court Judge

EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 12
JUDICIAL OFFICER: CHARLES S TREAT
HEARING DATE: 09/19/2024

[REDACTED]

20. 9:00 AM CASE NUMBER: MSC21-00624

CASE NAME: COLEMAN VS YDESIGN GROUP, LLC

*HEARING ON MOTION IN RE: FINAL APPROVAL

FILED BY:

TENTATIVE RULING:

Plaintiff Daijah Coleman moves for final approval of her class action and PAGA settlement with defendant YDesign Group, LLC. She also move for approval of her attorney's fees, litigation costs, administration costs, and representative payments.

Since preliminary approval was granted, the administrator has mailed notices to 379 class members. 33 packets were returned by the post office. Follow up resulted in new addresses, leaving 10 non-deliverable. No objections have been received, and only one class member has opted out.

The motion is **granted**.

Background and Settlement Terms

Defendant is an online retailer of lighting and home furnishings, with two offices in California. Its successor is Lumens, Inc. Plaintiff worked for defendant as a customer service representative between April and November 2019.

The original complaint was filed on March 26, 2021 as a class action. It was amended to add a PAGA claim, and further amended again.

The settlement will create a gross settlement fund of \$916,177. This is slightly larger than the figure at preliminary approval because of application of an escalator clause. The class representative payment to the plaintiff will be \$7,500. Attorney's fees will be \$305,393 (one-third of the settlement). Litigation costs are \$19,355. The settlement administrator's costs are \$25,000. PAGA penalties will be \$30,000, resulting in a payment of \$22,500 to the LWDA. The net amount paid directly to the class members will be about \$533,180, not including distribution of PAGA penalties. The fund is non-reversionary. There are 378 participating class members. Based on the class size, the average net payment for each class member is approximately \$1,411 (not including PAGA penalties). The individual payments will vary considerably, however, because of the allocation formula prorating

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payments according to the number of weeks worked during the relevant time. The number of aggrieved employees for PAGA purposes is smaller, because the starting date of the relevant period is later.

The settlement amount will be deposited with the settlement administrator in three installments (the timing of which may need adjustment in light of time passed since the settlement was drafted). The first third is due upon the effective date of the settlement; the second, by June 30, 2024; and the third, by January 31, 2025. Some payments (such as settlement costs and the representative payment) will be made out of the first third, but attorney fees will be paid only proportionally out of each installment.

The proposed settlement will certify a class of all current and former non-exempt employed at the California facilities of defendant or Lumens between March 26, 2017 and September 1, 2023 and resident in California. For PAGA purposes, the period covered by the settlement is March 18, 2020 to September 1, 2023.

The class members will not be required to file a claim. Funds will be apportioned to class members based on the number of workweeks worked during the class period.

Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to Legal Services of Northern California as a *cy pres* beneficiary.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are outside the scope of the allegations of the complaint.") "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. Plaintiff's claims center on allegations that call-center employees were not paid for time logging on or off their computers, or entering or leaving the building. They also were allegedly required to work into their meal or rest breaks if necessary to complete a customer call.

Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

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The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include “stacking” of violations, the law may only allow application of the “initial violation” penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where “based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.”)) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, e.g., *Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th 937; but see *Gola v. University of San Francisco* (2023) 90 Cal.App.5th 548, 566-67.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA.

B. Legal Standards

The primary determination to be made is whether the proposed settlement is “fair, reasonable, and adequate,” under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction to the proposed settlement.” (See also *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. The Court of Appeal’s decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the “fair, reasonable, and adequate” standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The court also held that the trial court must assess “the fairness of the settlement’s allocation of civil penalties between the affected aggrieved employees.” (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, “the court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter.” (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because “where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutary purpose.” (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

C. Attorney Fees and Other Costs

Plaintiffs seek one-third of the total settlement amount as fees, relying on the “common fund” theory, or \$305,393. Even a proper common fund-based fee award, however, should be reviewed

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through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id.*, at 505.)

Accordingly, plaintiffs have provided information concerning the lodestar fee amount. They estimate the lodestar at \$732,633, representing an implied multiplier of about 0.42. No adjustment from the one-third fee is necessary. The attorney's fees are reasonable and are approved.

The requested representative payment of \$7,500 for the named plaintiff was deferred until this final approval motion. Criteria for evaluation of such requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07. Plaintiff points out that she executed a broader release than the class as a whole, but does not identify any particular claims of value that she may have. She also risks damage to her reputation and more difficulty in obtaining employment. The representative payment is approved.

Litigation costs of \$19,355 (mostly mediation and filing fees) are reasonable and are approved.

The settlement administrator's costs of \$25,000 are reasonable and are approved.

D. Discussion and Conclusion

The moving papers sufficiently establish that the proposed settlement is fair, reasonable, and adequate to justify final approval. The allocation of PAGA penalties among the aggrieved employees (based on pay periods) is reasonable.

The motion is granted.

Counsel are directed to prepare an order reflecting this entire tentative ruling and the other findings in the previously submitted proposed order and a separate judgment.

The ultimate judgment must provide for a compliance hearing after the settlement has been completely implemented, to be determined in consultation with the Department's clerk by phone. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court. Counsel are reminded that once all payments are completed, pursuant to Code of Civil Procedure § 384(b), the judgment must be amended to reflect the amount paid to the *cy pres* recipient.

Effective January 2, 2025, this case is reassigned to Department 39 for all purposes.

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PROOF OF SERVICE

I, Alma R. Suarez, declare the following:

I am over the age of eighteen years and not a party to the within entitled action. I am employed at Schneider Wallace Cottrell Konecky LLP located at 300 S. Grand Avenue, Suite 2700, Los Angeles CA 90071.

On October 2, 2024, I served the following document(s) described as:

• **FINAL APPROVAL ORDER**

on the following interested party(s):

Lorraine P. Ocheltree
Eisha Perry
DUANE MORRIS LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
Tel.: (415) 957-3088/Fax (415) 421-7105
LPOcheltree@duanemorris.com
eperry@duanemorris.com
cc: BAherrera@duanemorris.com

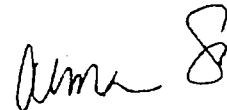
Attorney for Defendants

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Charles T. Sweeny (SBN 325167)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020
Facsimile: (818) 265-1021

*Attorneys for Plaintiff Coleman on behalf
of putative Class Members & Aggrieved
Employees*

BY ELECTRONIC SERVICE by electronically mailing a true and correct copy in PDF format through SWCK's electronic mail system to the email address(es) set forth above from my email at: asuarez@schneiderwallace.com.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 2, 2024, at Phoenix, Arizona.



Alma R. Suarez