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8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 KEVIN MURPHY, individually and on
12 behalf of all other Aggrieved Employees,
13 Plaintiff,

14 vs.

15 FUSION LEARNING, INC., a Delaware
16 Corporation; and DOES 1 through 50,
17 inclusive,
18 Defendants.

Case No. 2:21-cv-06732-JAK-AS
Related Case: 2:22-cv-04497-JAK-AS

[Assigned to Hon. Judge John A.
Kronstadt]

19 **[PROPOSED] ORDER GRANTING**
20 **PLAINTIFF'S MOTION FOR**
21 **PRELIMINARY APPROVAL OF**
22 **CLASS ACTION SETTLEMENT**

23 Date: December 11, 2023
24 Time: 8:30 a.m.
25 Courtroom: 10B

26 Action Filed: July 8, 2021
27 Removal Date: August 19, 2021
28 Trial Date: None Set

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT

1 The Motion of Plaintiffs Kevin Murphy, Gabriel Schwartz, Marc Brewer, and
2 Garrison Moreno (“Plaintiffs”) for Preliminary Approval of Class Action
3 Settlement came on regularly for hearing before this court on December 11, 2023,
4 at 8:30 a.m. The Court, having considered the proposed Class Action and PAGA
5 Settlement Agreement and Class Notice (“Settlement Agreement” or “Settlement”),
6 attached as Exhibit 1 to the Declaration of Matthew K. Moen; having considered
7 Plaintiff’s Motion, the memorandum of points and authorities in support thereof,
8 the proposed Class Notice, and supporting declarations filed therewith; and good
9 cause appearing, HEREBY ORDERS THE FOLLOWING:

10 1. The Court finds on a preliminary basis that the class action settlement
11 and PAGA settlement memorialized in the Settlement Agreement falls within the
12 range of reasonableness of a settlement that ultimately could be granted approval
13 by the Court at a Final Approval Hearing, and, therefore, GRANTS preliminary
14 approval of its terms.

15 2. Based on a review of the papers submitted by Plaintiffs, the Court finds
16 that the Settlement is the result of arms’-length negotiations conducted after
17 Plaintiffs and/or Plaintiffs’ counsel adequately investigated the claims and became
18 familiar with the strengths and weaknesses of the claims. The assistance of an
19 experienced mediator in the settlement process supports the Court's conclusion that
20 the Settlement is non-collusive and reasonable. The Settlement is presumptively
21 valid, subject only to any objections that may be raised pursuant to the terms of the
22 Settlement Agreement.

23 3. The Court finds that on November 9, 2023, Plaintiffs submitted proof
24 that they had served the California Labor & Workforce Development Agency
25 (“LWDA”) with a copy of the proposed Settlement and Motion for Preliminary
26 Approval.

27 4. For purposes of the Settlement, the Court finds that the proposed
28 Settlement Class is ascertainable and that there is a sufficiently well-defined

community of interest among the members of the Settlement Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following Settlement Class:

All current and former non-exempt employees who worked for Defendant Fusion Learning, Inc. in California at any time during the Class Period (April 14, 2018 through June 2, 2023).

5. The Court finds that, for settlement purposes only, the requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(3) are satisfied.

6. For purposes of the Settlement, the Court designates Kevin Murphy, Gabriel Schwartz, Marc Brewer, and Garrison Moreno as the Class Representatives, and designates Haig B. Kazandjian and Cathy Gonzalez of Haig B. Kazandjian Lawyers, APC, and Fletcher W. Schmidt and Matthew K. Moen of Haines Law Group, APC, as Class Counsel.

7. The Court designates CPT Group, Inc. as the third-party Settlement Administrator.

8. The Court approves, as to form and content, the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”), attached as Exhibit A to the Settlement Agreement. The Court finds that the form of notice to the Settlement Class regarding the pendency of the action and of the Settlement, and the methods of giving notice to Settlement Class Members, constitute the best notice practicable under the circumstances, and constitute valid, due, and sufficient notice to all Settlement Class Members. The form and method of giving notice complies fully with the California and United States Constitutions and other applicable law.

9. The Court further approves the procedures for Settlement Class Members to opt-out of or object to the Settlement, as set forth in the Class Notice and the Settlement Agreement. The procedures and requirements for submitting objections in connection with the Final Approval Hearing are intended to ensure the

efficient administration of justice and the orderly presentation of any Settlement Class Member's objection to the Settlement, in accordance with the due process rights of all Settlement Class Members.

10. The Court directs the Settlement Administrator to mail the Class Notice to the Settlement Class Members in accordance with the terms of the Settlement. The Settlement Administrator is directed to perform all other responsibilities as set forth in the Settlement Agreement.

11. The Class Notice shall provide at least 60 calendar days' notice for Settlement Class Members to submit disputes, opt-out of, or object to the Settlement, as described in the Settlement Agreement and Class Notice.

12. A Final Approval Hearing on the question of whether the Settlement Agreement should be finally approved as fair, reasonable and adequate is scheduled on _____, at 8:30 a.m. in Courtroom 10B of the First Street Courthouse located at 350 W. First Street, Los Angeles, California 90012. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to the Settlement Class Members. The Court retains jurisdiction to consider all further applications arising out of or in connection with the Settlement Agreement.

13. At the Final Approval Hearing, the Court will consider: (a) whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiffs' application for service payments, settlement administration costs, payment to the LWDA for its 75% share of civil penalties under the Private Attorneys General Act ("PAGA"), Labor Code section 2698 *et seq.*, and Class Counsel's attorneys' fees and costs should be granted.

14. Plaintiffs' Counsel shall file memoranda, declarations, or other statements and materials in support of the request for final approval of the Settlement and Plaintiffs' application for service payments, settlement

administration costs, payment to the LWDA for its share of PAGA penalties, and Class Counsel's attorneys' fees and costs prior to the Final Approval Hearing according to the time limits set by Local Rule 6-1 and Local Rule 7, as well as Section 9.b of the Court's Initial Standing Order for Civil Cases.

15. An implementation schedule is provided below (assuming the Court grants preliminary approval of the Settlement on December 11, 2023):

Event	Date
Defendants to provide Class Data to Settlement Administrator no later than:	December 26, 2023
Settlement Administrator to mail the Class Notice to the Settlement Class Members no later than:	January 9, 2024
Deadline for Class Members to submit disputes, request exclusion from, or object to the Settlement:	March 9, 2024
Deadline for Plaintiffs to file Motion for Final Approval of Class Action Settlement, Motion for Attorneys' Fees and Costs:	March 25, 2024
Final Approval Hearing	☐ April 22, 2024 at 8:30 a.m. ☐ _____

16. Pending the Final Approval Hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

17. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

18. In the event the Settlement is not finally approved, or otherwise does not become effective in accordance with the terms of the Settlement, this Order shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of before entering into the Settlement.

1 19. As part of Plaintiffs' Motion for Final Settlement Approval, Plaintiffs
2 shall propose the dismissal of this action if the Motion is granted.

3 **IT IS SO ORDERED.**

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5 Dated: _____

6 Honorable John A. Kronstadt
7 United States District Judge
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