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Attorneys for Plaintiff CRISTAL BOWMAN
on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

CRISTAL BOWMAN, individually and on
behalf of all others similarly situated

Plaintiff,

vs.

DELTA DENTAL OF CALIFORNIA, a
California Non-Profit Corporation; and DOES
1-50, inclusive,

Defendants.

Case No. RG21108230

Assigned For All Purposes to:
Hon. Evelio Grillo, Dept. 21

**[PROPOSED] SETTLEMENT
APPROVAL ORDER AND JUDGMENT**

Date: April 11, 2023

Time: 10:00 a.m.

Dept. 21

RES ID: 342423094653

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1. The Court has jurisdiction over the subject matter of this Action and over all Parties to the Action.

3. The “Allegedly Aggrieved Employees” means Plaintiff Bowman and the following eighteen California employees of Defendant who were reclassified from exempt to non-exempt in April 2021: (1) Walter (Clark) Bowers; (2) Vickie Ferris; (3) James Grigg; (4) Christian Ibanez; (5) Huy Le; (6) Mabel Lee; (7) Ariel Lopez; (8) Michele Mamauag; (9) Lory Aglanao Martin; (10) Maylene Matibag; (11) Rachel Nasca; (12) Julie Thi Nguyen; (13) Trinh Nguyen; (14) Nora Peterson; (15) Lywantin Piamonte; (16) Adlyn Kavita Ram; (17) Arleemah Sharafan; (18) Angela Thorn.

4. The Court hereby finds that Plaintiff notified the Labor and Workforce Development Agency (“LWDA”) of the Settlement in accordance with the notice requirements of California Labor Code § 2699(*l*). The Court has received no feedback from the LWDA regarding the Settlement.

1 5. The Court finds that the Settlement has been reached as a result of serious and non-
2 collusive, arm's-length negotiations. The Court has considered the nature of the claims, the
3 procedural history of this case, the amounts paid in settlement, and the allocation of settlement
4 proceeds among the LWDA and the Allegedly Aggrieved Employees. The Court hereby finds the
5 Settlement involves the resolution of a bona fide dispute, was entered into in good faith, and
6 provides genuine and meaningful relief under PAGA. The Court therefore approves the Settlement
7 as fair, adequate, and reasonable and directs the Parties to effectuate the Settlement according to the
8 terms outlined in the Settlement Agreement.

9 6. Delta Dental will not be required to pay any additional amounts in connection with
10 the Settlement other than the Gross Settlement Amount specifically set forth in the Settlement
11 Agreement and this Order.

12 7. The Court awards attorneys' fees to Plaintiff's Counsel in the total amount of
13 \$_____ (requested up to 1/3 of the Total Settlement Amount or \$106,666.66) and
14 costs to Plaintiff's Counsel in the total amount of \$_____ (requested up to \$14,976.46).
15 The Attorneys' Fees and Costs are to be paid from the Gross Settlement Amount as final payment
16 for and complete satisfaction of any and all attorneys' fees and costs incurred by Plaintiff, and to be
17 incurred by Plaintiff, to prosecute the Action.

18 8. The Court awards Plaintiff an Enhancement Award in the amount of \$_____
19 (requested up to \$5,000) to be paid from the Gross Settlement Amount. Plaintiff submitted a
20 declaration detailing the ways in which she assisted Plaintiff's Counsel in the litigation of the
21 Action, and the award is appropriate in light of the stated purpose of PAGA and her efforts.

22 9. The Court appoints Simpluris, Inc. to serve as the Settlement Administrator. The
23 Court concludes that the Settlement Administration Costs in the amount of
24 \$_____(requested up to \$5,000.00) are reasonable and necessary to administer the
25 Settlement and shall be paid from the Gross Settlement Amount.

26 10. The remaining PAGA Settlement Amount of \$_____ (estimated
27 \$188,356.88) shall be allocated as follows: 75% of the PAGA Settlement Amount, or
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1 \$ _____ (estimated \$141,267.66), will be paid to the LWDA, and the remaining 25%,
2 or \$ _____ (estimated \$47,089.22), will be paid to all Allegedly Aggrieved Employees
3 pursuant to the calculation set forth in the Settlement Agreement for calculating Individual PAGA
4 Payments.

5 11. The Court directs that the Parties to carry out their obligations as set forth in the
6 Settlement Agreement, attached as Exhibit 1, and in accordance with the timelines set forth therein.

7 12. The Court directs that the Settlement Administrator to send the Notice, attached as
8 **Exhibit A** to the Settlement Agreement, to the Allegedly Aggrieved Employees with the Individual
9 PAGA Payments to be disseminated pursuant to the Settlement.

10 13. Upon the Effective Date, the terms of the Settlement Agreement, and this Order and
11 Judgment, shall be binding on the Parties. Plaintiff and Allegedly Aggrieved Employees shall be
12 bound by the releases set forth in the Settlement Agreement. Specifically:

- 13 a. Upon the Effective Date, Plaintiff, on behalf of herself, the State of California, and
14 all Allegedly Aggrieved Employees, will be deemed to have provided the Released
15 Parties with the PAGA Release which states: In her capacity as private attorney
16 general “aggrieved employee” acting on behalf of herself and as a proxy or agent of
17 the LWDA, Plaintiff agrees to release Defendant and the other Released Parties, from
18 any and all PAGA Released Claims that arose during the PAGA Period. The express
19 purpose of this Settlement Agreement and the Judgment to be entered by the Court
20 following approval of this Settlement Agreement is to forever bar Plaintiff, the
21 Allegedly Aggrieved Employees, the LWDA, and any other individual or entity
22 acting on behalf of or purporting to act on behalf of the LWDA or State of California
23 from asserting any of the PAGA Released Claims in any future litigation or
24 proceeding. It is the intent of the Parties that, to the greatest extent provided by law,
25 including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009),
26 the ability of Plaintiff, the State of California, and any Allegedly Aggrieved
27 Individual (which includes any legal heirs and/or successors in interest of each and
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every Allegedly Aggrieved Individual) to bring a PAGA Released Claim is completely and forever foreclosed. Any Party to this Settlement Agreement may use the Settlement Agreement to assert that this Settlement Agreement and the Judgment to be entered by the Court following approval of this Settlement Agreement bar any later-filed action asserting any of the PAGA Released Claims against any of the Released Parties. The provisions of this paragraph apply regardless of whether Plaintiff and/or the Allegedly Aggrieved Employees cash their Individual PAGA Payment checks.

- i. The “Released Parties” are Defendant and its past and present parents, subsidiaries, affiliates, predecessors, successors, assigns, and its present and former officers, agents, shareholders, fiduciaries, plan administrators, employees, attorneys, insurers, and representatives, in their individual and corporate capacities.
- ii. “The PAGA Released Claims” include all claims for civil penalties under PAGA during the PAGA Period for the Allegedly Aggrieved Employees based on or reasonably related to the factual allegations in the First Amended PAGA Complaint, which is attached here as Exhibit B and will replace the PAGA Complaint if the Settlement is approved by the Court, Case No. 21CV000378 or Plaintiff’s PAGA Notice to the LWDA, including but not limited to alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 516, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, 2802, applicable Wage orders, and any other civil penalties that could have been sought by the Labor Commissioner or through PAGA for violations reasonably arising out of the facts, policies, practices, occurrences, or acts alleged in the First Amended PAGA Complaint or Plaintiff’s PAGA Notice to the LWDA or that derive from the alleged misclassification of the Allegedly Aggrieved Employees as exempt employees. The PAGA Released

Claims are released solely for the Allegedly Aggrieved Employees.

iii. "PAGA Period" means the time period from February 15, 2020, through the date on which the Court issues an Approval Order.

b. The releases provided under the settlement shall have *res judicata* effect on Plaintiff, the State of California, and the Allegedly Aggrieved Employees, as well as their heirs, executors, administrators, successors, and assigns 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 fall within the scope of claims released as set forth in the Settlement Agreement.

14. Neither this Order nor the Settlement Agreement (nor any other document referred to herein, nor any action taken to carry out this Order) is, may be construed as, or may be used as, an admission or concession by Defendant or the Released Parties of the validity of any claim asserted by Plaintiff. The fact that Defendant entered into, and took action to implement, the Settlement shall not be considered as, or be deemed evidence of, an admission or concession of wrongdoing, fault or liability as alleged in the Action. Moreover, the fact that Defendant entered into and/or took action to implement the Settlement shall not be offered or received in evidence in any action or proceeding against Defendant in any court, administrative agency or other tribunal for any purpose whatsoever, except to enforce the provisions of this Order and the Settlement Agreement; provided, however, that this Order and the Settlement Agreement may be filed in any action against or by Defendant or the Released Parties to support a defense of *res judicata*, collateral estoppel, release, waiver, good-faith settlement, judgment bar or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion, or similar defense or counterclaim.

15. The Court reserves exclusive and continuing jurisdiction over the lawsuit for the purposes of supervising the implementation, enforcement, construction, administration, and interpretation of the Settlement Agreement and this Judgment pursuant to California Code of Civil Procedure section 664.6.

16. The Court sets a final accounting hearing to assess compliance with this Order and

1 the Settlement Agreement for _____ (proposed _____, 2023) at _____ a.m./p.m.

2 17. The entire Action will be dismissed, with prejudice, at the final accounting hearing
3 and upon the terms set forth in the Settlement Agreement, assuming full compliance with this Order
4 and the Settlement Agreement by that date

5 18. Plaintiff is directed to submit a copy of this Order to the LWDA within ten calendar
6 days after the entry of this Order.

7 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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9 DATED: _____

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JUDGE OF THE SUPERIOR COURT

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