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Attorneys for Plaintiff Lovelyn Tadena-Chua

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

01/05/2024 at 09:53:00 AM

Clerk of the Superior Court
By E- Filing, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

LOVELYN TADENA-CHUA *et al.*

Plaintiff,

vs.

ACUMEN FISCAL AGENT, LLC *et al.*

Defendants.

Case No. 37-2021-00052766-CU-OE-CTL

Hon. Marcella O. McLaughlin
Dept. 72

CLASS ACTION

**Notice of Entry of Order Granting Final
Approval and Judgment**

Action Filed: December 17, 2021

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE
2 TAKE NOTICE THAT:

3 1. On December 19, 2023 in this Department, the Court entered the Order and Judgment
4 Granting Final Approval of Class Action Settlement and Attorneys' Fees and Costs and Entering
5 Judgment attached hereto as Exhibit 1.

6 2. The Court issued the Minute Order attached hereto as Exhibit 2.

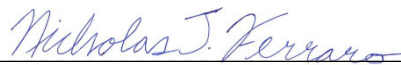
7 3. A copy of this Notice has been submitted to the LWDA via its online electronic portal
8 in accordance with Labor Code § 2699(1)(3).

9 4. Plaintiff hereby provide notice of the Court's final ruling and entry of judgment.

10
11 Respectfully submitted,

12
13 Dated: January 5, 2024

Ferraro Vega Employment Lawyers, Inc.

14 

15 Nicholas J. Ferraro

16 *Attorneys for Plaintiff Lovelyn Tadena-Chua*

EXHIBIT 1

FILED
Clerk of the Superior Court

DEC 19 2023

By: V. Secaur

ELECTRONICALLY RECEIVED

Superior Court of California,
County of San Diego

11/17/2023 at 10:48:25 AM

Clerk of the Superior Court
By Lee McAlister, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

LOVELYN TADENA-CHUA, *et al.*

Plaintiff,

vs.

ACUMEN FISCAL AGENT, LLC, *et al.*

Defendants.

Case No. 37-2021-00052766-CU-OE-CTL

Hon. Marcella O. McLaughlin
Dept. 72

CLASS ACTION

**[Proposed] Order Granting Final Approval of
Class Action Settlement and Attorneys' Fees
and Costs and Entering Judgment**

Motion for Final Approval/Attorneys' Fees:

Date: December 15, 2023

Time: 1:30 p.m.

[Filed concurrently with Notice of Motion and
Motion for Final Approval of Class Action
Settlement, Memorandum of Points and
Authorities, Declaration of Nicholas J. Ferraro,
Declaration of Settlement Administrator, and
Declaration of Lovelyn Tadena-Chua]

Action Filed: December 17, 2021

1 This matter came on for hearing on December 15, 2023 at 1:30 p.m. in Department 72 of the
2 above-captioned Court, the Honorable Marcella O. McLaughlin presiding, on (1) Plaintiff's Motion for
3 Final Approval of Class Action Settlement and (2) Plaintiff's Motion for Attorneys' Fees and Costs.

4 Having received and considered the motions and supporting papers, including the Class Action
5 Settlement Agreement ("Settlement"), the evidence and documents received by the Court in connection
6 with the Motions for Final Approval and Attorneys' Fees and Costs, and the previously decided Motion
7 for Preliminary Approval, the Court GRANTS FINAL APPROVAL of the Settlement and ORDERS
8 AND MAKES THE FOLLOWING DETERMINATIONS:

9 1. Pursuant to the terms of the Settlement and the Order Granting Preliminary Approval,
10 and the Settlement, a notice was sent to each class member by first-class U.S. mail. The notice
11 informed the class of the terms of the Settlement, their right to receive a settlement payment without
12 any required action, their right to comment upon or object to the Settlement, and their right to appear
13 in person or by counsel at the Final Approval Hearing and to be heard regarding approval of the
14 Settlement. Adequate periods of time were provided for each of these procedures.

15 2. Zero class members returned a written objection to the proposed Settlement as part of
16 the notice process or stated an intention to appear at the Final Approval Hearing and there were no
17 dissenting appearances from class members at the hearing. No class members requested exclusion
18 from the Settlement.

19 3. The Court finds and determines the notice procedure afforded adequate protections to
20 the class and provides the basis for the Court's informed decision regarding approval of the Settlement
21 based on the response. The Court finds and determines the notice provided was the best notice
22 practicable, satisfying the requirements of law and due process.

23 4. For purposes of approving this Settlement only, this Court finds and concludes: (a) the
24 proposed class is ascertainable and so numerous that joinder of all members of the class is
25 impracticable; (b) there are questions of law or fact common to the proposed class, and there is a well-
26 defined community of interest among members of the class with respect to the subject matter of the
27 claims; (c) the claims of the representative are typical of the claims of the class; (d) the class
28 representative has and will fairly and adequately protect the interests of the class; (e) a class action is

1 superior to other available methods for an efficient adjudication of this controversy in the context of
2 settlement; and (f) the law firm of Ferraro Vega Employment Lawyers, Inc. is qualified and adequate
3 to serve as Class Counsel in this action.

4 5. The Court confirms certification, for settlement purposes only, of the class as defined in
5 the Settlement and approved at the preliminary approval stage.

6 6. The Court finds and determines the terms set forth in the Settlement are fair, reasonable,
7 and adequate and, having found the Settlement was reached as a result of informed and non-collusive
8 arms'-length negotiations facilitated by a neutral and experienced mediator, directs the Parties to
9 effectuate the Settlement according to its terms. The Court further finds the Parties conducted
10 extensive investigation, research, and informal discovery, and that their attorneys were able to
11 reasonably evaluate their respective positions. The Court also finds that Settlement will enable the
12 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the
13 Parties were to continue to litigate the case. The Court has reviewed the monetary recovery and
14 recognizes the significant value provided to the Class. Therefore, the Court approves the Settlement
15 and incorporates the terms of the Settlement in full into this Final Approval Order as though fully set
16 forth herein.

17 7. The Court finds and determines the fees and expenses in administering the Settlement
18 incurred by the Settlement Administrator of \$12,000 are fair and reasonable. The Court orders these
19 administration costs be paid in accordance with the terms of the Settlement.

20 8. The Court finds and determines the Service Award of \$5,000 to Plaintiff Tadena-Chua
21 as fair and reasonable. The Court orders the service awards be paid in accordance with the terms of
22 the Settlement.

23 9. The Court finds and determines payment to the California Labor and Workforce
24 Development Agency of \$7,500, as its 75% share of the civil penalties under the Private Attorneys
25 General Act is fair, reasonable, and appropriate. The Court orders that amount be paid in accordance
26 with the terms of the Settlement and approves the settlement of claims under the Private Attorneys
27 General Act pursuant to Labor Code § 2699(1)(2).
28

1 10. Pursuant to the terms of the Settlement and the statutory provisions authorizing
2 attorneys' fees under the California Labor Code and Code of Civil Procedure, as set forth in the Motion
3 for Attorneys' Fees, the Court awards Class Counsel attorneys' fees of \$66,660 and litigation costs of
4 \$13,092.89. Class Counsel has sufficiently explained the basis for the fee award based on a percentage
5 of the fund. The Court finds such amounts to be fair and reasonable. The Court orders the Settlement
6 Administrator to make these payments in accordance with the Settlement.

7 11. Without affecting the finality of this Order or the entry of judgment in any way, the
8 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
9 and enforcement of this Order and the Settlement.

10 12. Nothing in this Order shall preclude any action to enforce the Parties' obligations under
11 the Settlement or under this Order, including the requirement that Defendant make payments to Class
12 Members in accordance with the Settlement.

13 13. The Court hereby ENTERS FINAL JUDGMENT in accordance with the terms of the
14 Settlement, in accordance with this Final Approval Order and Judgment.

15 14. The Parties shall comply with Cal. Rules of Court Rule 3.771(b), by filing a Notice of
16 Entry of Judgment with the Court.

17
18 **IT IS SO ORDERED.**

19
20 Date:

12/19/2023



Hon. Marcella O. McLaughlin
Judge of the Superior Court

EXHIBIT 2

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 12/18/2023

TIME: 09:00:00 AM

DEPT: C-72

JUDICIAL OFFICER PRESIDING: Marcella O McLaughlin

CLERK: Valerie Secaur

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: N/A

CASE NO: **37-2021-00052766-CU-OE-CTL** CASE INIT.DATE: 12/17/2021

CASE TITLE: **Tadena-Chua vs Acumen Fiscal Agent LLC [E-FILE]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

APPEARANCES

The Court, having taken the above-entitled matter under submission on 12/15/2023 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The unopposed motion for final approval of class action and PAGA settlement is GRANTED.

A. The court finds that the settlement is fair, reasonable, and adequate. Accordingly, and because plaintiff's counsel has sufficiently addressed the deficiencies noted in the tentative ruling (ROA 102), the court approves the parties' proposed settlement.

B. The litigation costs of \$13,092.89, payable to class counsel, and the claims administration costs of \$12,000, payable to CPT Group, are reasonable for a case of this type. Moreover, the costs awarded are less than the amounts originally estimated in the preliminary approval papers (\$25,000 and \$15,000, respectively). The costs are therefore approved.

C. The proposed the service award of \$5,000 to plaintiff is reasonable and approved.

D. Finally, the attorneys' fees proposal of \$66,660 represents one-third of the gross settlement fund. This is not out of line with class action fee awards calculated using the percentage-of-the-benefit method. See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn. 11. In addition, upon performing a "cross-check" using the lodestar method, the court finds that the requested attorneys' fees are reasonable.

According to the supplemental declaration of Nicholas J. Ferraro – which was submitted after the court issued its tentative ruling proposing to deny the motion – the attorneys assigned to this matter billed a total of 251 hours. (Ferraro Supp. Decl., ¶ 3.) This results in a blended hourly rate of approximately \$265.58 (\$66,660 divided by 251), which is eminently reasonable for similar work in San Diego County during the relevant time period. The requested fee award is also less than counsel's theoretical lodestar of \$90,975 (using their design hourly rates, which are much higher than the one calculated by the court immediately above). (See *id.*) Accepting for these purposes the validity of the design rates, the requested fees represent, in effect, a negative multiplier.

In sum, based on the evidence submitted with the moving papers as well as Mr. Ferraro's supplemental declaration, the court finds that the requested fee award of \$66,660 is reasonable under the circumstances and hereby approved. *See Nemecek & Cole v. Horn* (2012) 208 Cal.App.4th 641, 651 ("The amount to be awarded as attorney fees is left to the sound discretion of the trial court, which is in the best position to evaluate the services rendered by an attorney in his courtroom."); *see also 569 East County Boulevard, LLC v. Backcountry Against the Dump, Inc.* (2016) 6 Cal.App.5th 426, 436-37 ("In making its [lodestar] calculation, the court may rely on its own knowledge and familiarity with the legal market, as well as the experience, skill, and reputation of the attorney requesting fees.").

E. The court signs the proposed order (ROA 100) submitted with the moving papers.

IT IS SO ORDERED.



Judge Marcella O McLaughlin