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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF MADERA

14 BRANDY HALE, an individual, on behalf of
15 herself, and on behalf of all persons similarly
16 situated,

17 Plaintiff,

18 vs.

19 PALEOWEST, LLC, a Limited Liability
20 Company; and DOES 1 through 50, inclusive,

21 Defendants.

CASE NO.: **MCV088135**

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

Hearing Date: August 23, 2024
Hearing Time: 9:00 a.m.

Judge: Hon. Brian W. Enos
Dept: 45

Date Filed: December 1, 2022
Trial Date: Not set

1 The unopposed motion of Plaintiff Brandy Hale (“Plaintiff”) for an order finally approving
2 the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendant PaleoWest,
3 LLC (“Defendant”), attorneys’ fees and costs, service payment, and the expenses of the
4 Administrator duly came on for hearing on August 23, 2024 before the Honorable Brian W. Enos.

5 **I.**

6 **FINDINGS**

7 Based on the oral and written argument and evidence presented in connection with the
8 motion, the Court makes the following findings:

- 9 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 10 2. This Court has jurisdiction over the subject matter of this litigation pending before
11 the Superior Court for the State of California, in and for the County of Madera, and over all
12 Parties to this litigation, including the Class.
- 13 3. Based on a review of the papers submitted by Plaintiff and a review of the
14 applicable law, the Court finds that the Gross Settlement Amount of Eight Hundred Thousand
15 Dollars (\$800,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 16 4. The Court further finds that the Settlement was the result of arm’s length
17 negotiations conducted after Class Counsel had adequately investigated the claims and became
18 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
19 Settlement, and the assistance of an experienced mediator in the settlement process, among other
20 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

21 **Preliminary Approval of the Settlement**

- 22 5. On March 12, 2024, the Court granted preliminary approval of the Settlement. At
23 this same time, the Court approved conditional certification of the Class for settlement purposes
24 only.

25 **Notice to the Class**

- 26 6. In compliance with the Preliminary Approval Order, the Court-approved Class
27 Notice was mailed by first class mail to members of the Class at their last-known addresses on or
28

1 about April 10, 2024. Mailing of the Class Notice to their last-known addresses was the best
2 notice practicable under the circumstances and was reasonably calculated to communicate actual
3 notice of the litigation and the proposed settlement to the Class. The Class Notice given to the
4 Class Members fully and accurately informed the Class Members of all material elements of the
5 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
6 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
7 fully with the laws of the State of California, the United States Constitution, due process and other
8 applicable law. The Class Notice fairly and adequately described the Settlement and provided
9 Class Members adequate instructions and a variety of means to obtain additional information.

10 7. The Response Deadline for opting out or submitting written objections to the
11 Settlement was June 10, 2024, which for re-mailings was extended by fourteen (14) days. There
12 was an adequate interval between notice and the deadline to permit Class Members to choose what
13 to do and to act on their decision. A full and fair opportunity has been afforded to the Class
14 Members to participate in this hearing, and all Class Members and other persons wishing to be
15 heard have had a full and fair opportunity to be heard. Class Members also have had a full and
16 fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
17 Court determines that all Class Members who did not timely and properly submit a request for
18 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

19 **Fairness of the Settlement**

20 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
21 48 Cal.App.4th 1794, 1801 (1996).

22 a. The settlement was reached through arm's-length bargaining between the
23 Parties during an all-day mediation before Mark Rudy, an experienced mediator of wage and hour
24 class actions. There has been no collusion between the Parties in reaching the Settlement.

25 b. Plaintiff and Class Counsel's investigation and discovery have been
26 sufficient to allow the Court and counsel to act intelligently.

1 c. Counsel for all Parties are experienced in similar employment class action
2 litigation. Class Counsel recommended approval of the Agreement.

3 d. The percentage of objectors and requests for exclusion is small. No
4 objections were received. No requests for exclusion were received.

5 e. The participation rate was high. 214 Participating Class Members will be
6 mailed a settlement payment, representing 100% of the overall Class.

7 9. The consideration to be given to the Class Members under the terms of the
8 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
9 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
10 Members' claims, given the uncertainties and significant risks of the litigation and the delays
11 which would ensue from continued prosecution of the action.

12 10. The Agreement is approved as fair, adequate and reasonable and in the best
13 interests of the Class Members.

14 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

15 11. An award of \$266,666 for attorneys' fees, representing one-third of the Gross
16 Settlement Amount, and \$19,374.70 for litigation costs and expenses, is reasonable, in light of the
17 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
18 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
19 and billing statement.

20 **Class Representative Service Payment**

21 12. The Agreement provides for a Class Representative Service Payment of not more
22 than \$12,500 to the Plaintiff, subject to the Court's approval. The Court finds that Class
23 Representative Service Payment in the amount of \$12,500 to the Plaintiff is reasonable in light of
24 the risks and burdens undertaken by the Plaintiff in this litigation and for his time and effort in
25 bringing and prosecuting this matter on behalf of the Class.

1 **Administration Expenses Payment**

2 13. The Administrator shall calculate and administer the payment to be made to the
3 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
4 Class Representative Service Payment to the Plaintiff, issue all required tax reporting forms,
5 calculate withholdings and perform the other remaining duties set forth in the Agreement. The
6 Administrator has documented \$6,250 in fees and expenses, and this amount is reasonable
7 considering the work performed by the Administrator.

8 **PAGA Penalties**

9 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement
10 Amount of \$20,000, which shall be allocated \$15,000 to the Labor & Workforce Development
11 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
12 Agreement pursuant to the PAGA and \$5,000 to be distributed to the Aggrieved Employees and
13 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
14 (\$5,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during
15 the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
16 Periods. "Aggrieved Employees" are all individuals who were employed by Defendant in
17 California and classified as a non-exempt employee at any time during the PAGA Period (June 30,
18 2021 through November 23, 2023). Pursuant to Labor Code section 2699, subdivision (l)(2), the
19 LWDA was provided notice of the Agreement and these settlement terms and has not indicated
20 any objection thereto. The Court finds the PAGA Penalties to be reasonable.

21 **II.**

22 **ORDERS**

23 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

24 15. The Class is certified for the purposes of settlement only. The Class is defined as
25 follows:

26 All individuals who were employed by Defendant in California and classified as a
27 non-exempt employee at any time during the Class Period (December 1, 2018 to
28 November 23, 2023).

1 16. All persons who meet the foregoing definition are members of the Class, except for
2 those individuals who filed a valid request for exclusion (“opt out”) from the Class. There were no
3 individuals who requested exclusion.

4 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
5 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
6 the amounts necessary to fully pay Defendant’s share of payroll taxes in accordance with the
7 Agreement, by transmitting the funds to the Administrator no later than 14 days after the Effective
8 Date.

9 18. Class Counsel are awarded attorneys’ fees in the amount of \$266,666 and costs in
10 the amount of \$19,374.70. Class Counsel shall not seek or obtain any other compensation or
11 reimbursement from Defendant, Plaintiff or members of the Class.

12 19. The payment of Class Representative Service Payment in the amount of \$12,500 to
13 the Plaintiff is approved.

14 20. The payment of \$6,250 to the Administrator for its fees and expenses is approved.

15 21. The PAGA Penalties amount of \$20,000 is approved and is to be distributed in
16 accordance with the Agreement.

17 22. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
18 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
19 entry.

20 23. Neither the Agreement nor this Settlement is an admission by Defendants, nor is
21 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of
22 any wrongdoing by Defendant or that this Action is appropriate for class or representative
23 treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment,
24 the Agreement, nor any document referred to herein, nor any action taken to carry out the
25 Agreement is, may be construed as, or may be used as an admission by or against Defendants of
26 any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement,
27 and any negotiations or proceedings related thereto, shall not in any event be construed as, or
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1 deemed to be evidence of, an admission or concession with regard to the denials or defenses by
2 Defendant. Notwithstanding these restrictions, Defendants may file in the Action or in any other
3 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
4 records on file in the Action as evidence of the Settlement to support a defense of *res judicata*,
5 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
6 Released Class Claims and/or Released PAGA Claims.

7 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
8 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
9 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
10 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
11 to individual Class Members.

12 25. If the Agreement does not become final and effective in accordance with the terms
13 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
14 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
15 revert to their respective positions as of before entering into the Agreement, and expressly reserve
16 their respective rights regarding the prosecution and defense of this Action, including all available
17 defenses and affirmative defenses, and arguments that any claim in the Action could not be
18 certified as a class action and/or managed as a representative action.

19 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

20 26. Except as set forth in the Agreement and this Final Approval Order and Judgment,
21 Plaintiffs, and all members of the Class, shall take nothing in the Action.

22 27. All Parties shall bear their own attorneys' fees and costs, except as otherwise
23 provided in the Agreement and in this Final Approval Order and Judgment.

24 28. Effective on the date when Defendant fully funds the entire Gross Settlement
25 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
26 Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will
27 release claims against all Released Parties as follows:
28

1 (a) All Participating Class Members, on behalf of themselves and their
2 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
3 and assigns, release Released Parties from the Released Class Claims. The “Released Class
4 Claims” are all claims debts, liabilities, demands, actions or causes of action that were alleged, or
5 reasonably could have been alleged, based facts stated in the Operative Complaint which occurred
6 during the Class Period, including all claims for restitution and other equitable relief, claims for
7 unpaid minimum and overtime wages, timeliness of earned wages, liquidated damages, failure to
8 provide meal and/or rest periods or to pay meal and rest period premiums, waiting time penalties,
9 unfair business practices, expense reimbursement, proper calculation of the regular rate of pay,
10 unpaid sick pay, unpaid hours worked, and failure to provide accurate wage statements.
11 Participating Class Members do not release any other claims, including claims for vested benefits,
12 wrongful termination, violation of the Fair Employment and Housing Act, unemployment
13 insurance, disability, social security, workers’ compensation, or Class claims based on facts
14 occurring outside the Class Period.

15 (b) All Plaintiff, on behalf of herself and the State of California Labor and
16 Workforce Development Agency, and all Aggrieved Employees waive, fully release and forever
17 discharge, on behalf of themselves and their respective former and present representatives, agents,
18 attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released
19 PAGA Claims. The “Released PAGA Claims” are all claims for PAGA penalties that were
20 alleged, or reasonably could have been alleged, based on the facts stated in the Operative
21 Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA
22 Claims do not include other PAGA claims, underlying wage and hour claims, claims for vested
23 benefits, wrongful termination, discrimination, unemployment insurance, disability, social
24 security, worker’s compensation, and PAGA claims outside of the PAGA Period.

25 (c) Plaintiff and her respective former and present spouses, representatives,
26 agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge
27
28

1 Released Parties from all claims, transactions, or occurrences of any nature whatsoever that arose
2 on before the date of preliminary settlement approval, as fully set forth in the Agreement.

3 29. For any Class Member or Aggrieved Employee whose Individual Class Payment
4 check or Individual PAGA Payment check is uncashed and cancelled after the void date, the
5 Administrator shall transmit the funds represented by such checks to the California Controller's
6 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"
7 subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

8 30. The Court hereby enters judgment in the entire Action as of the filing date of this
9 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
10 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
11 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
12 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

13 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

14
15 Dated: _____

16
17 _____
HON. BRIAN W. ENOS
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA