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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

TRUNG LE, individually, KEVIN LAM,
individually, and on behalf of other members
of the general public similarly situated,

Plaintiff,

v.

M4D LLC, and DOES 1 through 25,

Defendants.

) **CASE NO.: 30-2021-01182977**
) [Honorable Judge Melissa R. McCormick,
) Dept. CX104]
)

) **[PROPOSED] ORDER AND JUDGMENT**
) **GRANTING PLAINTIFF LAM'S**
) **MOTION FOR FINAL APPROVAL OF**
) **CLASS ACTION AND PAGA**
) **SETTLEMENT, PLAINTIFF LAM'S**
) **REQUEST FOR ATTORNEYS' FEES**
) **AND COSTS, AND CLASS**
) **REPRESENTATIVE SERVICE**
) **PAYMENT**

) **Date: February 1, 2024**
) **Time: 2:00 p.m.**
) **Dept: CX104**

) FAC Filed: August 11, 2022
) Complaint Filed: February 5, 2021
) Trial Date: None Set

1 Before the Court is Plaintiff Kevin Lam’s (“Lam” or “Plaintiff”) unopposed Motion for
2 Final Approval of Class Action and PAGA Settlement and for Attorneys’ Fees, Costs, and Class
3 Representative Service Payment (the “Motion”). Plaintiff and Defendant M4D, LLC (“M4D” or
4 “Defendant”) (collectively, the “Parties”) have entered into a Class Action and PAGA
5 Settlement Agreement (the “Agreement” or “Settlement”) and an Addendum to Class Action and
6 PAGA Settlement Agreement (the “Addendum”). The Court, having reviewed and considered
7 the Motion, its accompanying memorandum, the Agreement and Addendum, and the
8 declarations in support thereof (and all exhibits thereto), finds that the Motion should be, and
9 hereby is, GRANTED. The Court finds and concludes as follows: This Order incorporates the
10 Agreement and Addendum. The Court has jurisdiction over the subject matter of this proceeding
11 and over all Parties to this proceeding. In addition, the Court has personal jurisdiction over all
12 parties with respect to the Action and the Agreement and Addendum. The Court hereby finds the
13 Agreement involves the resolution of a bona fide dispute and was entered into in good faith.

14 **CERTIFICATION OF SETTLEMENT CLASS**

15 Plaintiff Kevin Lam previously moved for entry of an order conditionally certifying the
16 following proposed Class for settlement purposes: “all individuals who worked for M4D as
17 nonexempt employees in California at any time between February 5, 2017 and August 28,
18 2022.” By Court Order dated October 18, 2023, the Court granted that motion. Class certification
19 is appropriate when the class is ascertainable and there is “a well defined community of interest
20 in the questions of law and fact involved affecting the parties to be represented.” *Dunk v. Ford*
21 *Motor Co.* (1996) 48 Cal.App.4th 1794, 1806; see Cal. Code Civ. Proc. § 382. Civil Procedure
22 Code § 382’s requirements essentially mirror those of Federal Rule 23: numerosity, typicality of
23 the class representatives’ claims, adequacy of representation, predominance of common issues,
24 and superiority. *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435 (“The community of
25 interest requirement involves three factors: (1) predominant common questions of law or fact;
26 (2) class representatives with claims or defenses typical of the class; and (3) class representatives
27 who can adequately represent the class.”) (internal quotations and citations omitted); see also
28 Fed. R. Civ. P. 23(a); *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011, 1019, overruled

1 on other grounds by *Wal-Mart Stores, Inc. v. Dukes* (2011) 564 U.S. 338.

2 The Court, having considered the Parties' arguments and the evidence submitted in
3 support of those arguments, finds that all requirements of certification for settlement purposes
4 continue to be met for the proposed Settlement Class.

5 The Court therefore confirms its previous conditional certification of the Settlement
6 Class for settlement purposes and confirms its previous Order appointing The Gould Law Firm
7 and Garcia & Pham to serve as Class Counsel.

8 **FINAL APPROVAL OF THE PROPOSED SETTLEMENT**

9 For the reasons stated in greater detail below, the Court grants final approval to the
10 proposed Settlement as fair, reasonable, and adequate. *See* Cal. Rules of Ct. 3.769(a); Fed. R.
11 Civ. P. 23(e)(1)(B)(i). The Court finds that the individual Class Payments provided for by the
12 terms of the Agreement are fair and reasonable. The Court orders the payment of those
13 individual Class Payments to Settlement Class Members in accordance with the terms of the
14 Agreement and Addendum. Based on a review of the papers submitted by Plaintiff, the Court
15 finds that the Settlement: (a) resulted from efforts by Plaintiff and Class Counsel who adequately
16 represented the Class; (b) was negotiated at arm's length with the assistance of an experienced
17 class action mediator; (c) provides relief for the Class that the Court finds to be adequate, taking
18 into account (i) the costs, risks, and delay of trial and appeal; (ii) the proposed method of
19 distributing relief to the Class, including the method of processing payments to Settlement Class
20 Members; and (iii) the terms of the proposed award of attorneys' fees, including timing of
21 payment; and (d) treats Settlement Class Members equitably relative to one another. In making
22 this final approval finding, the Court considered the nature of the claims, the amounts of benefits
23 paid and received in the Settlement, the allocation of settlement payments among Settlement
24 Class Members, the fact that Defendant does not admit any liability and does not characterize
25 this Settlement as an admission of liability, and the fact that the Settlement represents a
26 compromise of the Parties' respective positions rather than the result of a finding of liability at
27 trial. The Court further finds that the terms of the Agreement and Addendum have no obvious
28 deficiencies and do not improperly grant preferential treatment to any individual Class Member.

1 **NOTICE AND ADMINISTRATION**

2 The Parties have designated CPT Group, Inc. as the Settlement Administrator. CPT
3 Group has submitted a declaration, which this Court has reviewed, which confirmed that Class
4 Notice was provided to the Settlement Class pursuant to the Preliminary Approval Order of
5 October 18, 2023, and the procedures set forth in the Agreement. The Settlement Administrator
6 shall continue to perform all the duties of the Settlement Administrator set forth in the
7 Agreement. Settlement Administrator CPT Group will calculate Individual Class Payments to
8 Class Members and distribute those awards. The Court finds that the Class Notice provided to
9 the Settlement Class, as described in CPT Group's Declaration, satisfied the requirements of due
10 process and California law and provided the best notice practicable under the circumstances,
11 including individual notice to all Settlement Class Members who could be identified through
12 reasonable effort. The Class Notice was reasonably calculated to apprise Settlement Class
13 Members of the nature of this litigation; the scope of the Settlement Class, the Class claims,
14 issues, or defenses; the terms of the Settlement Agreement; the right of Settlement Class
15 Members to appear, object to the Settlement Agreement, and exclude themselves from the
16 Settlement Class and the process for doing so; of the Final Approval Hearing; and of the binding
17 effect of a class judgment on the Settlement Class.

18 **OBJECTIONS AND EXCLUSIONS**

19 The Court notes that zero Class Members filed objections to the Settlement, zero Class
20 Members requested to opt out of the Settlement, and there were zero workweek challenges. All
21 Settlement Class Members shall be bound by the terms of the Agreement and Addendum upon
22 entry of this Final Approval Order.

23 **PAGA**

24 As part of the Settlement, Plaintiff seeks approval of PAGA Penalties to the
25 California Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees
26 defined as "an individual who worked for M4D as a nonexempt employee in California at any
27 time between February 5, 2020 and August 28, 2022." Defendant's records reflect that there
28 are 48 Aggrieved Employees (between the start of the PAGA Period on February 5, 2020 and

1 the date of mediation on June 28, 2022). The Court approves \$25,000.00 of the Gross
2 Settlement Amount to be allocated for PAGA Penalties, with 75% (\$18,750.00) allocated to
3 the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA
4 Payments. The Court finds the settlement of PAGA Penalties in this Action to be fair,
5 reasonable, to serve public interest, and to be consistent with PAGA's objectives.

6 **ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENT**

7 The Court has reviewed the declarations regarding Plaintiff's efforts in this case and
8 hereby determines that the requested Class Representative Service Payments to Class
9 Representative Kevin Lam of \$10,000.00 is appropriate under the circumstances of the case and
10 the time and effort spent by Plaintiff in litigating the case on behalf of the Class. The Court finds
11 and determines that the attorneys' fees request of \$250,000.00, or one third of the Gross
12 Settlement Amount, is reasonable under both methods used in California courts for determining
13 fee awards in class action cases: the lodestar method and the percentage-of-the recovery method.
14 The percentage requested is within the range of percentage awards approved in California. *See*
15 *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 n.11 ("Empirical studies show that,
16 regardless whether the percentage method or the lodestar method is used, fee awards in class
17 actions average around one-third of the recovery." The Court further finds and determines that
18 the litigation costs request of \$10,345.35 is relevant to the litigation and reasonable in amount.
19 Class Counsel has submitted a declaration showing that these costs were necessary to secure the
20 resolution of this litigation. Pursuant to the terms of the Settlement, and the authorities, evidence,
21 and argument submitted by Class Counsel, the Court hereby awards Class Counsel attorneys'
22 fees in the amount of \$250,000.00 and litigation costs in the amount of \$10,345.35 to be paid
23 from the Gross Settlement Amount as final payment for and complete satisfaction of any and all
24 attorneys' fees and costs incurred by and/or owed to Class Counsel. The Court finds and
25 determines that the payment to CPT Group in the amount of \$9,000.00 is fair and reasonable for
26 settlement administration in a class of this size. The Court hereby awards CPT Group the amount
27 of \$9,000.00 as an Administrative Expenses Payment for its work on the settlement
28 administration in this case. Defendant or any Released Parties, as defined in the Agreement, shall

1 not have any further liability in this Action for costs, expenses, interest, attorneys' fees, or for
2 any other charge, expense, or liability, except as provided for by the Agreement and Addendum
3 or in any action to enforce the terms of the Agreement. The Court finds and determines that the
4 Releases contained in the Settlement Agreement are appropriate and shall bind all Class
5 Members who did not timely opt out of the class portion of the Settlement.

6 **JUDGMENT**

7 The Court hereby enters FINAL JUDGMENT in this case in accordance with the terms
8 of the Agreement and Addendum, Preliminary Approval Order, and this Order. Nothing in this
9 Order or Judgment shall preclude any action to enforce the Parties' obligations pursuant to the
10 Agreement or pursuant to this Order, including the requirement that Defendant make payments
11 in accordance with the terms of the Agreement. In accordance with, and for the reasons stated in
12 this Order, judgment shall be entered within the meaning and for purposes of California Code of
13 Civil Procedure §§ 577, 904.1(a) and Rules 3.769 and 8.104 of the California Rules of Court.
14 Pursuant to California Rule of Court 3.769(h), California Code of Civil Procedure § 664.6, and
15 the Addendum to the Agreement, this Court shall retain jurisdiction over the Parties to enforce
16 the terms of the Judgment. CPT Group, Inc. shall disburse the settlement funds in accordance
17 with the Class Action and PAGA Settlement Agreement and Addendum to Class Action and
18 PAGA Settlement Agreement.

19
20 DATED: _____

21 JUDGE OF THE SUPERIOR COURT
22 Hon. Melissa R. McCormick
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PROOF OF SERVICE
STATE OF CALIFORNIA

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is: 161 Fashion Lane, Suite 207, Tustin, Ca 92780. On January 31, 2024, I served the within document(s):

- **SUPPLEMENTAL DECLARATION OF TARUS DANCY IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND REQUEST FOR ATTORNEYS' FEES, COSTS, AND CLASS REPRESENTATIVE SERVICE PAYMENT**
- **SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFF LAM'S MOTION FOR FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**
- **[PROPOSED] ORDER/JUDGMENT**

In the matter of **Le v. M4D LLC, 30-2021-01182977**

on the following interested party(ies) in this action:

O'HAGAN MEYER LLP Katherine C. Den Bleyker kdenbleyker@ohaganmeyer.com William B. Richards, Jr. wrichards@ohaganmeyer.com Tatyana Esmailian tesmailian@ohaganmeyer.com 550 S. Hope Street, Suite 2400 Los Angeles, California 90071 Tel: (213) 423-6006	Representing: Defendant(s): M4D LLC
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(By Mail) The envelope was mailed with postage thereon fully prepaid. As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Tustin, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.



(By Hand Delivery) I delivered the within documents to the attorney service for delivery to the person(s) at the address(es) set forth below with instructions that such envelope be delivered personally



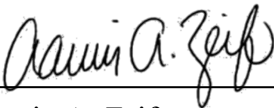
(By Overnight Mail) I am readily familiar with the firm's practice of collection and processing correspondence for mailing with FedEx. Under that practice it would be deposited with FedEx on that same day thereon fully prepaid at Tustin, California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on that date following ordinary business practices.



(By Electronic Mail) The document listed above was transmitted via email to the email address(es) noted above

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 31, 2024, at Tustin, California



Aarin A. Zeif