

FILED
Clerk of the Superior Court

NOV 22 2023

By: T. Abas

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ALYSSA FIGUEROA, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

CASETTA MANAGEMENT, LLC a
Delaware Corporation; and DOES 1 through
50, Inclusive;

Defendants,

CASE NO.: 37-2022-00050082-CU-OE-CTL

**~~PROPOSED~~ PRELIMINARY
APPROVAL ORDER**

Hearing Date: November 22, 2023
Hearing Time: 9:30 a.m.

Judge: Hon. Gregory W. Pollack
Dept.: 71

Complaint filed: December 14, 2022
Trial Date: Not Assigned

This matter, having come before the Honorable Gregory W. Pollack of the Superior Court of the State of California, in and for the County San Diego, on November 22, 2023, for the motion by Plaintiff Alyssa Figueroa ("Plaintiff") for preliminary approval of the class settlement with Defendant Casetta Manegement, LLC ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good cause appearing, hereby GRANTS Plaintiff's

1 Motion for Preliminary Approval of Class Action Settlement.

2 **IT IS HEREBY ORDERED:**

3 1. The Court preliminarily approves the Class Action Settlement Agreement
4 (“Agreement”) attached as Exhibit 1 to the Declaration of Nicole Barvié in Support of Plaintiff’s
5 Motion for Preliminary Approval of Class Action Settlement. This is based on the Court’s
6 determination that the Settlement set forth in the Agreement is within the range of possible final
7 approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and
8 California Rules of Court, rule 3.769.

9 2. This Order incorporates by reference the definitions in the Agreement, and all terms
10 defined therein shall have the same meaning in this Order as set forth in the Agreement.

11 3. The Gross Settlement Amount is One Hundred Sixty Thousand Dollars (\$160,000.00).
12 It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate,
13 and reasonable as to all potential Class Members when balanced against the probable outcome of further
14 litigation and the significant risks relating to certification, liability, and damages issues. It further
15 appears that investigation and research have been conducted such that counsel for the Parties are able
16 to reasonably evaluate their respective positions. It further appears to the Court that settlement at this
17 time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would
18 be presented by the further prosecution of the Action. It further appears that the Settlement has been
19 reached as the result of serious and non-collusive, arms-length negotiations. The Court therefore
20 preliminarily finds that the Settlement is fair, adequate, and reasonable when balanced against the
21 probable outcome of further litigation and the significant risks relating to certification, liability, and
22 damages issues.

23 4. The Agreement specifies for an attorney’s fees award not to exceed one-third (1/3) of
24 the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and
25 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed \$10,000.
26 The Court will not approve the amount of attorney’s fees and costs, nor the amount of any service
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1 award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting these
2 requests, including lodestar, at the time of final approval.

3 5. The Court recognizes that Plaintiff and Defendant agree to certification of a class for
4 settlement purposes only. This agreement will not be deemed admissible in this or any other proceeding
5 should this Settlement not become final. For settlement purposes only, the Court conditionally certifies
6 the following Class: “all non-exempt employees who are currently or previously were employed by
7 Casetta Management, LLC, and performed work in California during the Class Period.” The Class
8 Period is December 14, 2018 to June 5, 2023.

9 6. The Court concludes that, for settlement purposes only, the Class meets the requirements
10 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is
11 ascertainable and so numerous that joinder of all members of the Class is impracticable; (b) common
12 questions of law and fact predominate, and there is a well-defined community of interest amongst the
13 members of the Class with respect to the subject matter of the litigation; (c) the claims of the Plaintiff
14 are typical of the claims of the members of the Class; (d) the Plaintiff can fairly and adequately protect
15 the interests of the members of the Class; (e) a class action is superior to other available methods for
16 the efficient resolution of this controversy; and (f) counsel for the Class is qualified to act as counsel
17 for the Class and the Plaintiff is an adequate representative of the Class.

18 7. The Court provisionally appoints Plaintiff as the representative of the Class. The Court
19 provisionally appoints Nicole Barvié of Barvié Law, APC, Shani O. Zakay of Zakay Law Group, APLC
20 and Jean-Claude Lapuyade of JCL Law Firm, APC as Class Counsel for the Class.

21 8. The Court hereby approves, as to form and content, the Notice of Proposed Settlement
22 of Class Action and Hearing Date for Final Court Approval (“Class Notice”) attached to the Agreement
23 as Exhibit A. The Court finds that the Class Notice appears to fully and accurately inform the Class of
24 all material elements of the proposed Settlement, of the Class Members’ right to be excluded from the
25 Class by submitting a written opt-out request, and of each member’s right and opportunity to object to
26 the Settlement. The Court further finds that the distribution of the Class Notice substantially in the
27 manner and form set forth in the Agreement and this Order meets the requirements of due process, is

1 the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all
2 persons entitled thereto. The Court orders the mailing of the Class Notice by first class mail, pursuant
3 to the terms set forth in the Agreement.

4 9. The Court hereby appoints APEX Class Action as the settlement administrator. No later
5 than fifteen (15) calendar days after preliminary approval of the Settlement by the Court, Defendant
6 shall provide to the Settlement Administrator an electronic spreadsheet with the Class Data. The
7 Settlement Administrator will perform address updates and verifications as necessary prior to the
8 mailing of the Class Notice. Using best efforts to mail it as soon as possible, and in no event later than
9 fourteen (14) days after receiving the Class Data, the Settlement Administrator will mail the Class
10 Notice to all Class Members via first-class U.S. Mail. Should the Settlement Administrator require
11 additional time, for any reason, then this fourteen (14) day deadline shall be extended pursuant to
12 requests by the Settlement Administrator and stipulation filed by counsel for the Parties.

13 10. The Court hereby preliminarily approves the proposed procedure for exclusion from the
14 Settlement. Any Class Member may individually choose to opt out of and be excluded from the Class
15 as provided in the Class Notice by following the instructions for requesting exclusion from the Class
16 that are set forth in the Class Notice. All requests for exclusion must be postmarked by no later than
17 forty-five (45) calendar days after the date of the mailing of the Class Notice and received by the
18 Settlement Administrator. If the Class Notice Packet is re-mailed, the response date for requests for
19 exclusion will be extended an additional fifteen (15) days. Any such person who chooses to opt out of
20 and be excluded from the Class will not be entitled to any recovery under the Settlement and will not
21 be bound by the Settlement or have any right to object, appeal or comment thereon. Class Members
22 who have not requested exclusion shall be bound by all determinations of the Court, the Agreement,
23 and the Judgment. A request for exclusion may only opt out that particular individual, and any attempt
24 to affect an opt out of a group, class, or subclass of individuals is not permitted and will be deemed
25 invalid. Subject to the Court's final approval of the Settlement, those Aggrieved Employees that
26 worked during the PAGA Period of September 30, 2021 to June 5, 2023, will still be paid their
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1 allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims
2 in the Agreement regardless of their request for exclusion from the Class.

3 11. Any Class Member who has not opted out may appear at the final approval hearing and
4 may object or express the Member's views regarding the Settlement, and may present evidence and file
5 briefs or other papers that may be proper and relevant to the issues to be heard and determined by the
6 Court as provided in the Notice. Class Members will have forty-five (45) calendar days from the date
7 of the mailing of the Class Notices to submit their written objections to the Settlement Administrator
8 in accordance with the instructions in the Class Notice. If the Class Notice Packet is re-mailed, the
9 response date for written objections will be extended an additional fifteen (15) days. Alternatively,
10 Class Members may appear at the Final Approval Hearing to make oral objections.

11 12. A Final Approval Hearing shall be held before this Court on March 22,
12 2024 at 9:30 a.m. in Department 71 at the San Diego County Superior Court to determine
13 all necessary matters concerning the Settlement, including: whether the proposed settlement of the
14 Action on the terms and conditions provided for in the Agreement is fair, adequate, and reasonable, and
15 should be finally approved by the Court; whether the Final Approval Order and Judgment should be
16 entered herein; whether the plan of allocation contained in the Agreement should be approved as fair,
17 adequate, and reasonable to the Class Members; and to finally approve attorneys' fees and costs, the
18 service awards, and the expenses of the Settlement Administrator. All papers in support of the motion
19 for final approval and the motion for attorneys' fees, costs, and service awards, both motions to be
20 heard at the Final Approval Hearing, shall be filed with the Court and served on all counsel no later
21 than sixteen (16) court days before the hearing.

22 13. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
23 shall be construed as a concession or admission by Defendant in any way that the claims asserted have
24 any merit or that this Action was properly brought as a class or representative action, and shall not be
25 used as evidence of, or used against Defendant as, an admission or indication in any way, including
26 with respect to any claim of any liability, wrongdoing, fault, or omission by Defendant, or with respect
27 to the truth of any allegation asserted by any person. Whether or not the Settlement is finally approved,
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1 neither the Settlement, nor any exhibit, document, statement, proceeding, or conduct related to the
2 Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted
3 in evidence as, received as or deemed to be evidence for any purpose adverse to the Defendant,
4 including, but not limited to, evidence of a presumption, concession, indication, or admission by
5 Defendant of any liability, fault, wrongdoing, omission, concession, or damage.

6 14. In the event the Settlement does not become effective in accordance with the terms of
7 the Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
8 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
9 shall revert to their respective positions as of before entering into the Agreement, and expressly reserve
10 their respective rights regarding the prosecution and defense of this Action, including all available
11 defenses and affirmative defenses, and arguments that any claim in the Action could not be certified as
12 a class action and/or managed as a representative action. In such an event, the Court's orders regarding
13 the Settlement, including this Order, shall not be used or referred to in litigation for any purpose.
14 Nothing in this paragraph is intended to alter the terms of the Agreement with respect to the effect of
15 the Agreement if it is not approved.

16 15. The Court reserves the right to adjourn or continue the date of the final approval hearing
17 and all dates provided for in the Agreement without further notice to Class Members, and retains
18 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

19 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to further
20 orders of the Court at the Final Approval Hearing.

21 **IT IS SO ORDERED.**

22 Dated: 11-22-23

23 **GREGORY W. POLLACK**
24 HON. GREGORY W. POLLACK
25 JUDGE, SUPERIOR COURT OF CALIFORNIA
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