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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

SOLARCITY WAGE AND HOUR CASES,
Coordination Proceeding
Special Title (CRC Rule. 3.550)

Coordinated actions:

Irving v. SolarCity Corp.,
San Mateo County Superior Court,
Case No. CIV 525975

Thomas v. SolarCity Corp.,
San Diego County Superior Court,
Case No. 37-2017-00018317

JUDICIAL COUNCIL COORDINATION
PROCEEDING CASE NO. **JCCP 4945**

(Included actions: Case No. CIV 525975 and
Case No. 37-2017-00018317)

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

Hearing Date: February 1, 2019
Hearing Time: 2:00 p.m.

Judge: Hon. Marie S. Weiner
Dept.: 2

Action Filed: December 24, 2013

FINAL APPROVAL ORDER AND JUDGMENT

1 This matter, having come before the Honorable Marie S. Weiner of the Superior
2 Court of the State of California, in and for the County San Mateo, on September 13, 2018, for the
3 motion by for preliminary approval of the class settlement with.

4 The motion by Plaintiffs Anita Irving, Les Thomas, Breana Daugherty, Jason Wool, and
5 Felicia Kim ("Plaintiffs") for an order finally approving the Joint Stipulation of Class Action
6 Settlement and Release ("Stipulation" or "Settlement") with Defendant SolarCity Corporation
7 ("Defendant") and the motion for an award of attorneys' fees, costs and service awards duly came
8 on for hearing on February 1, 2019, before the above-entitled Court. The Court, having
9 considered the briefs, argument of counsel and all matters presented to the Court and good cause
10 appearing, hereby GRANTS Plaintiffs' Motion for Final Approval of Class Action Settlement, and
11 **HEREBY ORDERS THE FOLLOWING:**

12
13 **I.**
14 **FINDINGS**

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

- 17 1. All terms used herein shall have the same meaning as defined in the
18 Agreement.
- 19 2. This Court has jurisdiction over the subject matter of this litigation pending
20 in the California Superior Court for the County of San Mateo ("Court"), Case No. JCCP 4945,
21 entitled *Solarcity Wage and Hour Cases*, and over all Parties to this litigation, including the Class.

22 **Preliminary Approval of the Settlement**

- 23 3. On September 13, 2018, the Court granted preliminary approval of a class-
24 wide settlement. At this same time the court approved certification of a provisional settlement
25 class for settlement purposes only. The Court confirms this Order and finally approves the
26 settlement and the certification of the Class.

27 **Notice to the Class**

28 **FINAL APPROVAL ORDER AND JUDGMENT**

1 4. In compliance with the Preliminary Approval Order, the Notice was mailed
2 by first class mail to the Class Members at their last known addresses on October 12, 2018.
3 Mailing of the Notice to their last known addresses was the best notice practicable under the
4 circumstances and was reasonably calculated to communicate actual notice of the litigation and
5 the proposed settlement to the members of the Class. The Court finds that the Notice provided
6 fully satisfies the requirements of California Rules of Court, rule 3.769.

7 5. The deadline for opting out or objecting was November 27, 2018. There
8 was an adequate interval between notice and deadline to permit Class Members to choose what to
9 do and act on their decision. No Class Members objected. One (1) Class Member requested
10 exclusion, and that exclusion was submitted by Veronica Li (Wenyan Li).

11 **Fairness Of The Settlement**

12 6. The Agreement provides for a Gross Settlement Amount of \$1,780,000.
13 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
14 Cal.App.4th 1794, 1801.)

15 a. The settlement was reached through arm's-length bargaining
16 between the parties. There is no evidence of any collusion between the parties in reaching the
17 proposed settlement.

18 b. The Parties' investigation and discovery have been sufficient to
19 allow the Court and counsel to act intelligently.

20 c. Counsel for both parties are experienced in similar employment
21 class action litigation and have previously settled similar class claims on behalf of employees
22 claiming compensation. All counsel recommended approval of the Settlement.

23 d. The percentage of objectors and requests for exclusion is small. No
24 objections were received. One (1) request for exclusion was received.

25 e. The participation rate is high. 4,551 Class Members will be
26 participating in the Settlement and will be sent settlement payments.

7. The consideration to be given to the Class under the terms of the Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in this Lawsuits and is fair, reasonable and adequate compensation for the release of the Released Claims, given the uncertainties and risks of the litigation and the delays which would ensue from continued prosecution of the Lawsuits.

8. The Agreement is finally approved as fair, adequate and reasonable and in the best interests of the Class Members.

Attorneys' Fees and Litigation Expenses

9. The Agreement provides for an award of up to one-third of the Gross Settlement Amount to Class Counsel as the Attorneys' Fees, subject to the Court's approval. The Agreement also provides for an award of their actual litigation expenses incurred in an amount not to exceed \$55,000 for Litigation Expenses. Class Counsel requests an award of \$50,364.48 as reimbursement for litigation expenses, and \$593,333 for Attorneys' Fees.

10. An award of \$593,333 for the Attorneys' Fees and \$50,364.48 for Litigation Expenses is reasonable in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested attorneys' fee award represents one-third of the common fund, which is reasonable and at the low end of the range for fee awards in common fund cases, and is supported by Class Counsel's lodestar which exceeds the requested Attorneys' Fees.

Service Enhancement Payments

11. The Agreement provides for a service award of up to Twenty-Five Thousand Dollars (\$25,000) to Class Representative Irving, and Ten Thousand Dollars (\$10,000.00) each to Class Representatives Wool, Kim, and Daugherty as the Service Enhancement Payments, subject to the Court's approval. The Court finds that the amounts of \$25,000 to Class Representative Irving, and \$10,000 each to Class Representatives Wool, Kim, and Daugherty are reasonable in light of the risks and burdens undertaken by the Class Representatives in this class action litigation.

1 **Claims Administration Costs**

2 12. The Agreement provides for Claims Administration Costs to be paid in an
3 amount not to exceed \$40,000. The Declaration of the Claims Administrator provides that the
4 actual claims administration expenses were \$35,000. The amount of this payment of \$35,000 is
5 therefore reasonable in light of the work performed by the Claims Administrator.

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7 **II.**

8 **ORDERS**

9 Based on the foregoing findings, and good cause appearing, IT IS HEREBY
10 ORDERED, ADJUDGED AND DECREED:

11 1. The Class is certified for the purposes of settlement only. The Class is
12 hereby defined to include:

13 All individuals who worked for SolarCity in California as a commissioned
14 salesperson who were classified as non-exempt from December 24, 2009 to August
15 28, 2018..

16 2. Excluded from the Class is the one individual, Veronica Li (Wenyan Li),
17 who submitted a valid and timely request for exclusion. Every person in the Class who did not opt
18 out is a Settlement Class Member.

19 3. The Stipulation is hereby approved as fair, reasonable, adequate, and in the
20 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
21 this Order and the terms of the Agreement. The Parties selected Children's Advocacy Institute as
22 the *cy pres* beneficiary.

23 4. Class Counsel are awarded Attorneys' Fees in the amount of \$593,333 and
24 Litigation Expenses in the amount of \$ 50,364.48. Class Counsel shall not seek or obtain any
25 other compensation or reimbursement from Defendant, Plaintiffs or members of the Class.

1 5. The payment of service awards to the Plaintiffs in the amounts of \$25,000
2 to Class Representative Irving, and \$10,000 each to Class Representatives Wool, Kim, and
3 Daugherty are approved.

4 6. The payment of \$35,000 to the Settlement Administrator for Settlement
5 Administration Expenses is approved.

6 7. The PAGA Penalty Payment is approved, to be allocated as set forth in the
7 Stipulation.

8 8. Final Judgment is hereby entered in this action. The Final Judgment shall
9 bind each Settlement Class Member. The Final Judgment shall operate as a full release and
10 discharge of Defendant and each and all of its respective past and present parents, subsidiaries,
11 affiliated companies and corporations, and each and all of their respective past and present
12 directors, officers, managers, employees, general partners, limited partners, principals, agents,
13 insurers, reinsurers, shareholders, attorneys, advisors, representatives predecessors, successors,
14 divisions, joint venturers, assigns, or related entities, and each and all of their respective executors,
15 successors, assigns and legal representatives (“Released Parties”) from any and all Released
16 Claims that occurred during the Class Period as to the Settlement Class Members. The Released
17 Claims are defined as the Alleged Claims, all claims that could have been alleged based upon the
18 factual allegations in the Lawsuits, and any premiums, penalties, interest, punitive damages, costs,
19 attorneys' fees, injunctive relief, declaratory relief, or accounting based on the Alleged Claims
20 which occurred during the Class Period for only those workweeks when the Class Member was
21 classified as non-exempt. The Released Claims expressly exclude all other claims including but
22 not limited to claims for wrongful termination, retaliation, discrimination, unemployment
23 insurance, disability, workers’ compensation and claims outside the Class Period which are not
24 released.

25 9. In addition to the release given by each Settlement Class Member, each
26 Class Representative also generally releases Defendant and the Released Parties from any and all
27 of the Class Representative Released Claims as defined in the Stipulation. This general release by
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1 each Class Representative also includes a waiver of rights under California Civil Code Section
2 1542.

3 10. The Stipulation is not an admission by Defendant or any of the other
4 Released Parties, nor is this Final Approval Order and Judgment a finding, of the validity of any
5 claims in the lawsuits or of any wrongdoing by Defendant or any of the other Released Parties.
6 Neither this Final Approval Order, the Stipulation, nor any document referred to herein, nor any
7 action taken to carry out the Settlement is, may be construed as, or may be used as an admission
8 by or against Defendant or any of the other Released Parties of any fault, wrongdoing or liability
9 whatsoever. The entering into or carrying out of the Stipulation, and any negotiations or
10 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
11 admission or concession with regard to the denials or defenses by Defendant or any of the other
12 Released Parties and shall not be offered in evidence in any action or proceeding against
13 Defendant or any of the Released Parties in any court, administrative agency or other tribunal for
14 any purpose as an admission whatsoever other than to enforce the provisions of this Final
15 Approval Order and Judgment, the Stipulation, or any related agreement or release.
16 Notwithstanding these restrictions, any of the Parties may file in the Lawsuits or in any other
17 proceeding this Final Approval Order and Judgment, the Stipulation, or any other papers and
18 records on file in the Lawsuits as evidence of the Settlement to support a defense of res judicata,
19 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
20 claims being released by the Settlement.

21 11. Notice of entry of this Final Approval Order and Judgment shall be given to
22 Class Counsel on behalf of Plaintiffs and all Class Members. It shall not be necessary to send
23 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
24 Final Approval Order and Judgment shall be posted on Class Counsel's website as indicated in the
25 Notice.

26 12. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
27 interpret, implement, and enforce the Agreement, to hear and resolve any contested challenge to a
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1 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
2 connection with the distribution of settlement benefits.

3 11. If the Settlement does not become final and effective in accordance with the
4 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
5 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
6 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
7 be vacated.

8
9 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
10 **ENTERED ACCORDINGLY.**

11
12 Dated: _____

HON. MARIE S. WEINER
JUDGE, SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN MATEO