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5 Attorneys for Plaintiff JESSE DOWNARD
6 individually and on behalf of similarly situated employees

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8 **SUPERIOR COURT OF CALIFORNIA**
9
10 **FOR THE COUNTY OF PLACER**

11 JESSE DOWNARD, individually and on
12 behalf of all other similarly situated
13 employees,

14 Plaintiff,

15 vs.

16 SIERRA MENTAL WELLNESS GROUP, a
17 California Corporation; and DOES 1 to 100,
inclusive,

18 Defendants.
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Case No. S-CV-0049587

CLASS ACTION

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: January 16, 2024

Time: 8:30 a.m.

Dept.: 42

Judge: Hon. Trisha Hirashima

Filed: December 19, 2022

FAC Filed: March 27, 2023

Trial Date: None Set

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on January 16, 2024, at 8:30 a.m., or as soon thereafter as the
3 matter may be heard in Department 42 of the above-entitled Court, Plaintiff Jesse Downard, individually
4 and on behalf of all other similarly situated individuals, hereby move for entry of an Order for the
5 following:

- 6 1. Preliminarily certifying the proposed class herein for purposes of settlement;
- 7 2. Preliminarily appointing Plaintiff Jesse Downard as class representative for purposes of
8 settlement;
- 9 3. Preliminarily appointing Shimoda & Rodriguez Law, PC, as Class Counsel for purposes of
10 settlement;
- 11 4. Preliminarily approving the proposed class action and Private Attorneys General Act
12 settlement, in the amount of \$450,000, which is incorporated herein by reference;
- 13 5. Preliminarily approving the appointment of ILYM Group, Inc. as the Settlement
14 Administrator and for payment to ILYM Group, Inc. for administering said class action
15 settlement in an amount not to exceed \$15,000;
- 16 6. Preliminarily approving the settlement of claims under the Private Attorneys General Act for
17 the total amount of \$20,000, 75% of which will be paid to the Labor and Workforce
18 Development Agency and 25% of which will be paid to Aggrieved Employees;
- 19 7. Approving as to form and content the Notice of Settlement, which provide Class Members
20 information regarding the settlement, their ability to opt out of, or object to, the class action
21 settlement and which provides instruction on how to dispute an individual's settlement
22 allocation under the proposed settlement agreement;
- 23 8. Approving the proposed procedures to notify the class and determining that the proposed
24 notification procedures and process complies with Class Members' due process rights and
25 directing the Notice of Settlement to be sent by first class mail to Class Members;
- 26 9. Directing Defendant to report employment information, including social security numbers, to
27 the Settlement Administrator to administer the settlement proceeds;
- 28

1 10. Scheduling a fairness hearing on the question of whether the proposed settlement should be
2 finally approved as fair, reasonable, and adequate;

3 11. Directing that any amount from settlement checks that were not cashed by the check cashing
4 deadline be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers
5 Rights under the doctrine of *cy pres*;

6 12. Preliminarily and conditionally approving and adopting the Proposed Order and its
7 implementation schedule, which is filed herewith and incorporated by reference.

8 This motion is being made pursuant to Code of Civil Procedure section 382, Labor Code section
9 2699(l), and California Rules of Court 3.769 and 3.764, on the grounds that the proposed class action
10 and Private Attorneys General Act settlement is fair, reasonable, and adequate as to all Class Members
11 and should be approved by the Court. This motion will be based on the notice of motion, memorandum
12 of points and authorities, the Declaration of Justin P. Rodriguez, the Declaration of Jesse Downard,
13 exhibits, the record and files of this case, and any further oral or documentary evidence introduced at the
14 hearing of this motion.

15
16 **Pursuant to Local Rule 20.2.3, the court will issue a tentative ruling for this matter on the court**
17 **day before the hearing. The tentative ruling will be available after 12:00 noon as an audio**
18 **recording accessible at (916) 408-6480; the tentative ruling will also be available at the court's**
19 **website, www.placer.courts.ca.gov. The tentative ruling shall become the final ruling on the**
20 **matter and no hearing will be held unless oral argument is timely requested or the tentative ruling**
21 **indicates otherwise. Requests for oral argument must be made by calling (916) 408-6481 no later**
22 **than 4:00 p.m. on the court day prior to the hearing.**

23 Dated: October 27, 2023

24 **Shimoda & Rodriguez Law, PC**

25 By: 
26 Galen T. Shimoda
27 Justin P. Rodriguez
28 Renald Konini
Attorneys for Plaintiff