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themselves and all others similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

KAILEE FROCCHI, an individual;
HANNAH HOWARD, an individual;
JEREMIAH MEYER, an individual; and
KATHERINE WERNER, an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

COREPOWER YOGA LLC, a Colorado
limited liability company; KADA
O’CONNOR, an individual; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.: 23STCV21870

[Assigned for all purposes to: Hon. Samantha
Jessner in Dept. 7]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT AND
CERTIFYING CLASS FOR
SETTLEMENT PURPOSES ONLY**

1 This Court, having considered the motion of plaintiffs Kailee Frocchi, Hannah Howard,
2 Jeremiah Meyer, and Katherine Werner (collectively, "Plaintiffs"), for Preliminary Approval of the
3 Class Action and Representative Action Settlement and Provisional Class Certification for
4 Settlement Purposes Only ("Motion for Preliminary Approval"), the declarations in support, the
5 Class Action and PAGA Settlement Agreement (the "Settlement," "Settlement Agreement" or
6 "Agreement"), the proposed Court Approved Notice of Class Action Settlement and Hearing Date
7 for Final Court Approval ("Class Notice"), and other documents submitted in support of the Motion
8 for Preliminary Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference
10 into this Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following settlement class ("Settlement Class," "Settlement
12 Class Members" or "Class Members") for the purpose of settlement only: all persons employed by
13 defendants CorePower Yoga LLC and Kada O'Connor (collectively, "Defendants") in California
14 and classified as a non-exempt, hourly-paid employee who worked for Defendants during the period
15 from September 11, 2019, through January 23, 2025 ("Class Period").

16 3. The Court preliminarily appoints the named Plaintiffs as Class Representatives. The
17 Court also preliminarily appoints David D. Bibiyan and Vedang J. Patel, of Bibiyan Law Group,
18 P.C. as Class Counsel.

19 4. The Court preliminarily approves the proposed class settlement upon the terms and
20 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
21 settlement appears to be within the range of reasonableness of settlement that could ultimately be
22 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
23 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
24 probable outcome of further litigation relating to liability and damages issues. It further appears that
25 extensive and costly investigation and research has been conducted such that counsel for the parties
26 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
27 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
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1 delay and risks that would be presented by the further prosecution of the Action. It further appears
2 that the settlement has been reached as the result of intensive, non-collusive, and arms-length
3 negotiations utilizing an experienced third-party neutral.

4 5. The Court approves, as to form and content, the Class Notice that has been submitted
5 herewith.

6 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
7 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
8 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
9 with the requirements of law and appears to be the best notice practicable under the circumstances.

10 7. “Allegedly Aggrieved Employee” or “Aggrieved Employee” means a person
11 employed by Defendants in California and classified as a non-exempt, hourly-paid employee who
12 worked for Defendants during the period from September 11, 2022, through the end of the Class
13 Period (“PAGA Period”).

14 8. The Court hereby preliminarily approves the definition and disposition of the Gross
15 Settlement Amount of \$3,200,000.00 which is inclusive of: attorneys’ fees of not more than thirty-
16 five percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the
17 Settlement Agreement, amounts to \$1,120,000.00, in addition to actual costs incurred of up to
18 \$80,000.00; a service award of \$10,000.00 to each of the Plaintiffs, for a total amount of \$40,000.00
19 to Plaintiffs; costs of settlement administration of not to exceed \$109,995.00 and Private Attorneys’
20 General Act of 2004 (“PAGA”) penalties in the amount of \$160,000.00, of which \$120,000.00
21 (75%) will be paid to the Labor and Workforce Development Agency (“LWDA”) and \$40,000.00
22 (25%) to Aggrieved Employees.

23 9. Defendants will also separately pay all mandatory employer payroll taxes owed on
24 the Wage Portions of the Individual Class Payments. .

25 10. The Settlement was negotiated based on Defendants’ representation that, between
26 September 11, 2019 and October 1, 2024 (the “Data Period”), there were 9,459 Class Members who,
27 during the Data Period, collectively worked approximately 327,186 Workweeks in which Class
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1 Members performed work as non-exempt employees in California. If the number of Workweeks
2 during the Data Period is more than ten percent (10%) above 327,186 (i.e., more than 359,905
3 weeks), Defendants will have the option to either: (a) increase the Gross Settlement Amount by the
4 percentage that the actual number of Workweeks during the Data Period equals or exceeds 11% of
5 the original estimate (e.g., if the total number of Workweeks during the Data Period is 11% above
6 the original estimate, the Gross Settlement Amount would be increased by 1% to \$3,232,000); or,
7 (b) end the Class Period on the date the number of Workweeks reaches 359,905. Defendants shall
8 make its election no later than 7 days after receiving sufficient information from the Administrator
9 that the number of Workweeks has exceeded 10%. Should Defendants fail to make its election
10 within 7 days, then option (b) above shall be presumed elected.

11 11. The Court deems, Phoenix Settlement Administrators (“Settlement Administrator,”
12 “Administrator,” or “Phoenix”), and payment of administrative costs, not to exceed \$109,995.00 out
13 of the Gross Settlement Amount for services to be rendered by Phoenix on behalf of the class.

14 12. Not later than 30 days after the Court grants Preliminary Approval of the Settlement,
15 Defendants will simultaneously deliver the Class Data to the Administrator, in machine-readable
16 format. “Class Data” means the following Class Member identifying information to the extent such
17 is available in Defendants’ existing HRIS system: (1) name; (2) last known address(es); (3) last
18 known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of
19 employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

20 13. To protect Class Members’ privacy rights, the Administrator must maintain the Class
21 Data in confidence, use the Class Data only for purposes of the Settlement and for no other purpose,
22 and restrict access to the Class Data to Administrator employees who need access to the Class Data
23 to effect and perform under the Agreement. None of the Class Data will be provided to Plaintiff,
24 Plaintiff’s Counsel, or any other individual or entity, absent advance, written approval from counsel
25 for Defendants. However, Class Counsel shall be entitled to the redacted and anonymized
26 calculations performed by the Administrator, including, but not limited to, the number of
27 Workweeks in the Class Period and the number of Workweeks attributed to each Class Member
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1 and/or Aggrieved Employee. Defendants have a continuing duty to immediately notify Class
2 Counsel if it discovers that the Class Data omitted class member identifying information and to
3 provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of
4 the deadline by which Defendants must send the Class Data to the Administrator, the Parties and
5 their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve
6 any issues related to missing or omitted Class Data.

7 14. Defendant will transfer increments of the Gross Settlement Payment and employer
8 side taxes in installments according to the following schedule:

9 Seven (7) calendar days from the Date of Final 10 Approval (“Payment 1”)	Deadline for Defendants to transfer \$500,000 to the Administrator
11 One year from Final Approval (“Payment 2”)	Deadline for Defendants to transfer \$500,000 12 to the Administrator
13 Two years f Final Approval (“Payment 3”)	Deadline for Defendants to transfer \$500,000 14 to the Administrator and employer side taxes 15 for payments made to date.
16 Three years from Final Approval (“Payment 17 4”)	Deadline for Defendants to transfer \$500,000 to the Administrator
18 No later than three years and six months from 19 Final Approval (“Payment 5”)	Deadline for Defendants to transfer \$500,000 to the Administrator
20 No later than October 25, 2028 (“Payment 6”)	Deadline for Defendant to transfer \$700,000, 21 or all remaining funds, as applicable, to the 22 Administrator

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24 15. The Administrator will mail or otherwise make payments of the incrementally
25 received Gross Settlement Amounts according to the following schedule:

- 26 a. 14 days after Defendant funds Payment 2
27 b. 14 days after Defendant funds Payment 3
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1 c. 14 days after Defendant funds Payment 4

2 d. 14 days after Defendant funds Payment 6

3 16. Using best efforts to perform as soon as possible, and in no event later than 14 days
4 after receiving the Class Data, the Administrator will send to all Class Members identified in the
5 Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish
6 translation, substantially in the form attached to the Agreement as Exhibit A. The first page of the
7 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or
8 Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA
9 Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the
10 Administrator shall update Class Member addresses using the National Change of Address database.

11 17. Not later than 3 business days after the Administrator’s receipt of any Class Notice
12 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any
13 forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the
14 Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the
15 most current address obtained. The Administrator has no obligation to make further attempts to
16 locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second
17 time.

18 18. “Response Deadline” means forty-five (45) days after the Administrator mails Notice
19 to Class Members and Allegedly Aggrieved Employees, and shall be the last date on which Class
20 Members may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection
21 to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned
22 undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline
23 has expired.

24 19. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
25 must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days
26 after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
27 Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her
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1 representative that reasonably communicates the Class Member's election to be excluded from the
2 Settlement and includes the Class Member's name, address and email address or telephone number.
3 To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

4 20. Each Class Member shall have 45 days after the Administrator mails the Class Notice
5 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
6 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
7 Class Notice. The Class Member may challenge the allocation by communicating with the
8 Administrator via mail. The Administrator must encourage the challenging Class Member to submit
9 supporting documentation. In the absence of any contrary documentation, the Administrator is
10 entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are
11 consistent with the Class Data. The Administrator's determination of each Class Member's
12 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
13 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to
14 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
15 Administrator's determination the challenges.

16 21. Only Participating Class Members may object to the class action components of the
17 Settlement and/or the Agreement, including contesting the fairness of the Settlement, and/or
18 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
19 and/or Class Representative Service Payment. Participating Class Members may send written
20 objections to the Administrator, by mail. In the alternative, Participating Class Members may appear
21 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
22 Hearing. A Participating Class Member who elects to send a written objection to the Administrator
23 must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an
24 additional 15 days for Class Members whose Class Notice was remailed). Non-Participating Class
25 Members have no right to object to any of the class action components of the Settlement.

26 22. Before the date by which Plaintiffs is required to file the Motion for Final Approval
27 of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a
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1 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its
2 obligations under the Agreement, including, but not limited to, its mailing of Class Notice, the Class
3 Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members,
4 the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
5 number of written objections and attach the Exclusion List. The Administrator will supplement its
6 declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for
7 filing the Administrator's declaration(s) in Court.

8 23. If a Class Member submits both an objection and a Request for Exclusion, the
9 Request for Exclusion will control and the Objection will be overruled.

10 24. All papers filed in support of final approval, including supporting documents for
11 attorneys' fees and costs, shall be filed by _____.

12 25. A Final Fairness and Approval Hearing shall be held with the Court on
13 _____ in Department 7 of the above-entitled Court to determine: (1)
14 whether the proposed settlement is fair, reasonable and adequate, and should be finally approved by
15 the Court; (2) the amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount
16 of service award to the Class Representatives; (4) the amount to be paid to the Settlement
17 Administrator; and (5) the amount to be apportioned to PAGA and/or paid to the LWDA and PAGA
18 Members.

19 26. For any Class Member whose Individual Class Payment check or Individual PAGA
20 Payment check is uncashed and cancelled after the void date (180 days), the Administrator shall
21 transmit the funds represented by such checks to the California Controller's Office, Unclaimed
22 Property Fund or, if required by the Court, to a *cy pres* recipient to be selected by mutual agreement
23 among the Parties.

24 **IT IS SO ORDERED.**

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26 Dated: _____

Judge of the Superior Court

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