

1 **BIBIYAN LAW GROUP, P.C.**

2 Vedang J. Patel (SBN 328647)

3 *vedang@tomorrowlaw.com*

4 Keaton D. Mendoza

5 *Kmendoza@tomorrowlaw.com*

6 1460 Westwood Boulevard

7 Los Angeles, California 90024

8 Tel: (310) 438-5555; Fax: (310) 300-1705

9 Attorneys for Plaintiff, JANICE DENYSE KHINOO,
10 on behalf of herself and all others similarly situated
11 and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF STANISLAUS**

14 JANICE DENYSE KHINOO, an individual
15 and on behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 ASPIRANET, a California Corporation; and
19 DOES 1 through 100, inclusive,

20 Defendant.

CASE NO.: CV-23-007641

(Related with Case No. CV-24-001726)

[Assigned to the Hon. John D. Freeland in
Dept. 23]

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

1
2 This Court, having considered the Motion of plaintiff Janice Denyse Khinoo (“Plaintiff”) for
3 Preliminary Approval of Class and Representative Action Settlement and Provisional Class
4 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations
5 of Vedang J. Patel, David D. Bibiyan, Janice Denyse Khinoo and Tony Rogers the Class and PAGA
6 Action Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”), the
7 proposed Notice of Proposed Class Action Settlement and Date for Final Approval Hearing (“Class
8 Notice”), and other documents submitted in support of the Motion for Preliminary Approval, hereby
9 **ORDERS, ADJUDGES AND DECREES THAT:**

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

12 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
13 Class Members,” “Class Members”) for the purpose of settlement only: all persons employed by
14 defendant Aspiranet (“Defendant”) in California and classified as a non-exempt, hourly-paid
15 employee who worked for Defendant during the period from December 28, 2019 through September
16 17, 2024, subject to paragraph 8.1 of the Settlement Agreement (“Class Period”).

17 3. The Court preliminarily appoints the named plaintiff Janice Denyse Khinoo
18 (“Plaintiff”) as Class Representative, and David D. Bibiyan, and Vedang J. Patel of Bibiyan Law
19 Group, P.C., as Class Counsel.

20 4. The Court preliminarily approves the proposed class settlement upon the terms and
21 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
22 settlement appears to be within the range of reasonableness of settlement that could ultimately be
23 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
24 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
25 probable outcome of further litigation relating to liability and damages issues. It further appears that
26 extensive and costly investigation and research has been conducted such that counsel for the parties
27 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
28 that the settlement at this time will avoid substantial additional costs to all parties, as well as the

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. “Aggrieved Employees” means all persons employed by Defendant in California and
11 classified as a non-exempt, hourly-paid employee who worked for Defendant during from December
12 22, 2022 through the end of Class Period (“PAGA Period”).

13 8. The Court hereby preliminarily approves the definition and disposition of the Gross
14 Settlement Amount of \$1,775,000.00, which is inclusive of: attorneys’ fees of up to thirty-five
15 percent (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Agreement,
16 amounts to \$621,250.00, in addition to actual costs incurred of up to \$50,000.00; service award of
17 up to \$7,500.00 to Plaintiff; costs of settlement administration of no more than \$13,950.00 and
18 Private Attorneys General Act of 2004 (“PAGA”) penalties in the amount of \$88,750.00, of which
19 \$66,562.50 (75%) will be paid to the Labor and Workforce Development Agency (“LWDA”) and
20 \$22,187.50 (25%) to the Aggrieved Employees.

21 9. The Gross Settlement Amount expressly excludes Employer’s Share of Payroll
22 Taxes, which will be paid separately and apart by Defendant on the wages portion of the Gross
23 Settlement Amount.

24 10. Class Member’s “Workweek” shall mean any week during which a Class Member
25 worked for Defendant, for at least one day during the Class Period, based on hire dates, re-hire dates
26 (as applicable), and termination dates (as applicable).

27 11. The Settlement is based on Defendant’s estimate that there were 117,995 Workweeks
28 during the Class Period. In the event the number of Workweeks during the Class Period increases

1 by more than 5%, then at Defendant's election: (1) the Gross Settlement Amount shall be increased
2 proportionally by the Workweeks worked in the Class Period in excess of 123,852 (i.e. 117,955 +
3 5,897) Workweeks multiplied by the Workweek value; or (2) the Class Period shall end on the date
4 the number of Workweeks reaches 123,852. The Workweek count shall be calculated by dividing
5 the originally agreed-upon Gross Settlement Amount (\$1,775,000.00) by 117,955, which amounts
6 to a Workweek value of \$15.00. Defendant shall make its elections no later than 21 days after
7 receiving sufficient information from the Administrator indicating the number of Workweeks has
8 exceeded 123,852.

9 12. The Court deems ILYM Group, Inc. ("ILYM"), the settlement administrator, and
10 preliminarily approves payment of administrative costs, not to exceed \$13,950.00 out of the Gross
11 Settlement Amount for services to be rendered by IL on behalf of the class.

12 13. Not later than 30 days after the Court grants Preliminary Approval of the Settlement,
13 Defendant will deliver the Class Data to the Administrator in the form of a Microsoft Excel
14 spreadsheet. "Class Data" means Class Member's identifying information in Defendant's
15 possession including the Class Member's (1) name; (2) last known address(es); (3) last known
16 telephone number(s); (4) last known Social Security Number(s); and (5) the dates of employment
17 (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

18 14. Before mailing Class Notices, the Administrator shall update Class Members' addresses
19 using the National Change of Address database.

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

26 16. Before the date by which Plaintiff is required to file the Motion for Final Approval
27 of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed
28 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its

1 obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class
2 Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members,
3 the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
4 number of written objections and attach the Exclusion List.

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

12 18. Every Class Member who does not submit a timely and valid Request for Exclusion
13 is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and
14 bound by all terms and conditions of the Settlement, including the Participating Class Members'
15 Releases under the Agreement, regardless of whether the Participating Class Member actually
16 receives the Class Notice or objects to the Settlement.

17 19. Only Participating Class Members may object to the class action components of the
18 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or
19 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
20 and/or Class Representative Service Payment. Participating Class Members may send written
21 objections to the Administrator by mail. In the alternative, Participating Class Members may appear
22 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
23 Hearing. A Participating Class Member who elects to send a written objection to the Administrator
24 must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an
25 additional 15 days for Class Members whose Class Notice was re-mailed).

26 20. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
27 Request for Exclusion will control, and the Objection will be disregarded.

28 21. Each Class Member shall have 45 days after the Administrator mails the Class Notice

1 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
2 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
3 Class Notice. The Class Member may challenge the allocation by communicating with the
4 Administrator via mail.

5 22. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts
6 necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the
7 Administrator no later than 30 days after the Effective Date.

8 23. For any Class Member whose Individual Class Payment check or Individual PAGA
9 Payment check is uncashed and cancelled after the void date (i.e., 180 days after the date of mailing)
10 the Administrator shall transmit the funds represented by such checks to the *cy pres* recipient, Legal
11 Aid at Work.

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

14 25. A Final Approval Hearing shall be held with the Court on _____
15 at ____:____.m in Department 23 of the above-entitled Court to determine: (1) whether the proposed
16 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
17 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount of service award
18 to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and (5) the
19 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.
20

21 **IT IS SO ORDERED.**

22
23 Dated: _____

Judge of the Superior Court