

La Howard L. Magee (State Bar No. 185199)
Larry W. Lee (SBN 228175)
Simon L. Yang (SBN 260286)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile
Email: hmagee@diversitylaw.com
lwlee@diversitylaw.com
sly@diversitylaw.com

Attorneys for Plaintiff and the Class
(Additional Counsel on Next Page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOY ANN JULIAN, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

WALGREEN CO., an Illinois corporation;
and DOES 1 through 50, inclusive,

Defendants.

Case No. 3:20-cv-09446-VC

AMENDED ~~[PROPOSED]~~ ORDER
GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT

Date: November 18, 2021
Time: 10:00 a.m.
Dept.: Courtroom 4, 17th Floor
Judge: Hon. Vince Chhabria

1 William L. Marder, Cal Bar No. 170131
POLARIS LAW GROUP, LLP
2 501 San Benito Street, Suite 200
Hollister, California 95023
3 Telephone: 831.531.4214
Facsimile: 831.634.0333
4 Email: bill@polarislawgroup.com

5 Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
6 515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
7 (213) 488-6555
8 (213) 488-6554 facsimile
Email: dhyun@hyunlegal.com

9 Attorneys for Plaintiff and the Class
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[PROPOSED] ORDER

Plaintiff Joy Ann Julian (“Plaintiff” or “Class Representative”), having made an application pursuant to Fed. R. Civ. P. Rule 23(e) for entry of an order (a) preliminarily approving the settlement of the litigation pursuant to the Stipulation of Class Action Settlement and Release of Claims (the “Agreement”); (b) conditionally certifying a class for purposes of proceedings in connection with the final approval of the Agreement; (c) approving the form of Class Notice and directing the manner of delivery thereof; (d) approving Howard L. Magee, Larry W. Lee and Simon L. Yang of Diversity Law Group, William L. Marder of Polaris Law Group, and Dennis S. Hyun of Hyun Legal as Class Counsel and Plaintiff as Class Representative.

IT IS HEREBY ORDERED THAT:

1. All defined terms contained herein shall have the same meaning as set forth in the Agreement and Amendment thereto (Dkt. No. 38-1) executed by the Parties and filed with this Court.

2. The Agreement is hereby PRELIMINARILY APPROVED as appearing on its face to be fair reasonable, and adequate and to have been the product of serious, informed, and extensive arm’s-length negotiations among the Plaintiff and Defendant Walgreen Co. (“Defendant”) (Plaintiff and Defendant collectively referred to as the “Parties”). In making this preliminary finding, the Court considered the nature of the claims, the relative strength of Plaintiff’s claims, the amounts and kinds of benefits paid in settlement, the allocation of settlement proceeds among the class members, and the fact that a settlement represents a compromise of the Parties’ respective positions rather than the result of a finding of liability at trial. The Court further preliminarily finds that the terms of the Agreement and Amendment thereto have no obvious deficiencies and do not improperly grant preferential treatment to any individual class member.

3. For settlement purposes only, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(3), the Court conditionally certifies the following class:

All current and former non-exempt California employees who were paid sick pay in the same workweek in which they earned any non-discretionary incentive wages from Defendant at any time during the Class Period, or May 16, 2016 through the date that this Court enters this Order granting Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

1 4. If the Agreement and Amendment thereto do not become final for any reason, the fact
2 that the Parties were willing to stipulate to class certification as part of the Agreement and Amendment
3 thereto shall have no bearing on, and will not be admissible in connection with, the issue of whether a
4 class in this action should be certified in a non-settlement context. The Court's findings are for purposes
5 of conditionally certifying a Settlement Class and will not have any claim or issue or evidentiary
6 preclusion or estoppel effect in any other action against the Releasees, or in this Action if the Agreement
7 and Amendment thereto is not finally approved.

8 5. The Court finds preliminarily, and for purposes of proceeding pursuant to Fed. R. Civ. P.
9 Rule 23(e), that the number of class members is sufficiently numerous, the class members are
10 ascertainable based on the Defendant's records, the Plaintiff's claims are typical of those in the class,
11 and that there is adequate and fair representation.

12 6. Accordingly, for purposes of the Agreement and the Amendment thereto only, this
13 litigation is hereby CONDITIONALLY CERTIFIED as a class action pursuant to Fed. R. Civ. P. 23(e).

14 7. Pursuant to Fed. R. Civ. P. 23(g), the Court hereby APPOINTS as Class Counsel for
15 settlement purposes only Larry Howard L. Magee, Larry W. Lee and Simon L. Yang of Diversity Law
16 Group, William L. Marder of Polaris Law Group, and Dennis S. Hyun of Hyun Legal. The Court finds
17 that Class Counsel collectively have extensive experience and expertise in prosecuting wage and hour
18 class actions.

19 8. Plaintiff is approved as the Class Representative for the Settlement Class Members for
20 settlement purposes only.

21 9. The Court finds on a preliminary basis that the proposed settlement described in the
22 Agreement and Amendment thereto (including the monetary provisions, the plan of allocation, the
23 release of claims, the proposed award of attorneys' fees and costs and the Class Representative
24 Enhancement) falls within the "range of reasonableness" and therefore grants preliminary approval of
25 the Agreement. Based on a review of the papers submitted by the Parties, the Court finds that the
26 Agreement is the result of extensive arm's length negotiations conducted after Class Counsel had
27 adequately investigated the claims and became familiar with the strengths and weaknesses of those
28 claims. The assistance of an experienced mediator in the settlement process supports the Court's

1 conclusion that the Agreement is non-collusive.

2 10. The Court hereby APPROVES Simpluris as the Settlement Administrator for the
3 purposes of this settlement.

4 11. The Court hereby APPROVES the Calculation for Individual Settlement Payments as set
5 forth in the Agreement, *i.e.*, the Settlement Administrator will calculate the total Compensable
6 Workweeks for all Settlement Class Members by adding the number of Compensable Workweeks for
7 each Settlement Class Member during the Class Period. The respective Compensable Workweeks for
8 each Settlement Class Member will be divided by the total Compensable Workweeks for all Settlement
9 Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement
10 Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each
11 Settlement Class Member's estimated Individual Settlement Payments.

12 12. The Court hereby APPROVES the check cashing deadline for Individual Settlement
13 Payments of 180 days from issuance. This Court further APPROVES the procedures for redistribution
14 to Settlement Class Members as set forth in the Amendment. If a Settlement Class Member does not
15 cash his or her settlement check within 180 days, the uncashed funds, subject to Court approval, shall be
16 redistributed to Settlement Class Members who cashed their first settlement checks on a *pro rata* basis.
17 These redistributed checks shall remain valid and negotiable for one hundred and eighty (180) days from
18 the date of their issuance. If a Settlement Class Member does not cash his or her redistributed settlement
19 check within 180 days, the uncashed funds from this second distribution shall be transmitted to Legal
20 Aid at Work

21 13. A hearing (the "Final Approval and Fairness Hearing") is hereby SCHEDULED to be
22 held before the Court on March 10, 2022 at 10:00 a.m./~~p.m.~~ at _____, for the following
23 purposes:

- 24 a. to determine finally whether this litigation satisfies the applicable prerequisites for
- 25 class action treatment of a settlement class;
- 26 b. to determine whether the proposed Agreement is fair, reasonable, and adequate
- 27 and should be granted final approval by the Court;
- 28 c. to determine whether the Order of Final Approval as provided under the

Agreement should be entered, and to determine whether the Releases should be released of and from the Released Claims as provided in the Agreement;

d. to determine whether the proposed plan of allocation of the Maximum Settlement Fund is fair and reasonable and should be approved by the Court;

e. to finally consider Plaintiff's application for the Class Representative Enhancement;

f. to finally determine whether Class Counsel's application for an award of attorneys' fees and costs is fair, reasonable, and adequate and should be approved by the Court;

g. to determine that the Settlement Administrator's costs should be paid from the Maximum Settlement Fund; and

h. to rule upon such other matters as the Court may deem appropriate.

14. The form of the Revised Class Notice ("Revised Notice Packet") attached as Exhibit 1 to the Amendment to the Agreement (Dkt. No. 38-1 at pp. 8-17) is hereby APPROVED. No later than fifteen (15) business days after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to Settlement Class Members. The Class Data shall be confidential. The Settlement Administrator shall not provide the Class Data to Class Counsel or Plaintiff or any third party, or use the Class Data or any information contained therein for any purpose other than to administer this Settlement. Specifically, for each Class Member, Defendant will provide the Settlement Administrator with Microsoft Excel spreadsheet and shall include the following information for each Settlement Class Member: (1) employee identification number; (2) full name; (3) last known address; (4) Social Security number; and (5) the number of workweeks in which each Class Member was paid sick pay in the same workweek in which they earned any non-discretionary incentive compensation as of March 10, 2021 and extrapolated to the date of preliminary approval. No later than fourteen (14) calendar days after receiving the Class Data from Defendant as provided herein, the Settlement Administrator shall mail copies of the Notice Packet to all Settlement Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Settlement Class Member.

The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class Member. In the event more than one address is identified, then the Settlement Administrator shall mail to each potentially valid address.

15. The Court finds that the Revised Notice Packet, along with the related notification materials, constitute the best notice practicable under the circumstances and are in full compliance with the laws of the State of California, the United States Constitution, and the requirements of due process. The Court further finds that the Revised Notice Packet fully and accurately inform the Settlement Class Members of all material elements of the proposed settlement, of the Settlement Class Members' right to dispute their share of the settlement, of the Settlement Class Members' right to be excluded from the Settlement Class, and of each Settlement Class Member's right and opportunity to object to the settlement.

16. The Court hereby APPROVES the proposed Response Deadline of forty-five (45) calendar days from the initial mailing of the Notice Packet.

17. The Court hereby APPROVES the proposed procedure for opting out of the Settlement Class. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request for exclusion has been timely submitted. Any member of the Class who requests exclusion from the settlement will not be entitled to any share of the settlement and will not be bound by the Agreement or have any right to object, appeal or comment thereon. Members of the Class who fail to submit a valid and timely request for exclusion shall be bound by all terms of the Agreement and the Order and Final Judgment, regardless of whether they otherwise have requested exclusion from the settlement.

18. All reasonable costs of settlement and claims administration, including the mailing of Notice Packets, shall be paid for as provided in the Agreement.

19. All written objections and supporting papers ("Notice of Objection") should: (a) clearly identify the case name and number, *Joy Ann Julian v. Walgreen Co.*, Case No. 3:20-cv-09446-VC, (b) state the basis for the objection, (c) state whether the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing, (d) be signed by the Settlement Class Member; (e) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for

the Northern District of California, 450 Golden Gate Ave., San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California, and (f) be filed or postmarked on or before the Response Deadline. Settlement Class Members who fail to make objections in the manner specified above may still object to the Settlement if the Court finds good cause to excuse the Class Member from compliance and/or the Settlement Class Member has substantially complied with the procedures for objection. Settlement Class Members who submit a timely Notice of Objection will have a right to appear at the Final Approval/Settlement Fairness Hearing in order to have their objections heard by the Court. No Settlement Class Member may appear at the Final Approval/Settlement Fairness Hearing unless he or she has served a timely objection that substantially complies with the procedures provided in this paragraph and/or the Court has excused his/her compliance for good cause. Settlement Class Members who submit a Request for Exclusion are not entitled to object to the Settlement.

20. It is further ordered that pending further order of this Court, all proceedings in this matter except those contemplated herein and as part of the settlement are stayed.

21. All Parties are otherwise ordered to comply with the terms of the Agreement.

22. The Agreement resolves all of the class claims, as well as the representative claim asserted under the Private Attorney Generals Act (the "PAGA"), California Labor Code § 2698, *et seq.*, contained in the Complaint, *i.e.*, the First through Fourth Causes of Action, and as set forth in Plaintiff's PAGA notice submitted to the California Labor and Workforce Development Agency.

23. Jurisdiction is hereby retained over this Litigation and the Parties to the Litigation, and each of the Class Members for all matters relating to this Litigation, the Agreement, including (without limitation) all matters relating to the administration, interpretation, effectuation, and/or enforcement of the Agreement and this Order.

IT IS SO ORDERED.

Dated: November 18, 2021

HON. VINCE CHHABRIA
UNITED STATES DISTRICT COURT

