

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Website: www.bamlawca.com

11 Attorneys for Plaintiffs

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SACRAMENTO

14 JESSICA LOPEZ and CHARONE
15 DESHAZIER, individuals, on behalf of
16 themselves and on behalf of all persons
similarly situated,

17 Plaintiffs,

18 vs.

19 ETHOS-CALIFORNIA VETERINARY
20 GROUP, INC., a California corporation;
21 ETHOS VETERINARY HEALTH LLC; a
22 Delaware limited liability company; and
23 DOES 1-50, Inclusive,

24 Defendants.

CASE NO.: 34-2022-00327993-CU-OE-GDS

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: June 14, 2024

Hearing Time: 9:00 a.m.

Reservation # A-327993-001

Judge: Hon. Jill H. Talley

Dept: 23

Date Filed: October 6, 2022

Trial Date: Not set

25 This matter came before the Honorable Jill H. Talley of the Superior Court of the State of
26 California, in and for the County Sacramento, on June 14, 2024, for hearing on the unopposed
27 motion by Plaintiffs Jessica Lopez and Charone DeShazier ("Plaintiffs") for preliminary approval
28

PRELIMINARY APPROVAL ORDER

1 of the Settlement with Defendants Ethos-California Veterinary Group, Inc., and Ethos Veterinary
2 Health LLC (“Defendants”). The Court, having considered the briefs, argument of counsel and all
3 matters presented to the Court and good cause appearing, hereby GRANTS Plaintiffs’ Motion for
4 Preliminary Approval of Class Action Settlement.

5
6 **IT IS HEREBY ORDERED:**

7 1. The Court preliminarily approves the Class Action and PAGA Settlement
8 Agreement (“Agreement”) attached as Exhibit #1 to the Declaration of Kyle Nordrehaug in
9 Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based
10 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
11 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
12 Procedure and California Rules of Court, rule 3.769.

13 2. This Order incorporates by reference the definitions in the Agreement, and all
14 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

15 3. The Gross Settlement Amount that Defendants shall pay is One Million Two
16 Hundred Seventy Thousand Dollars and Zero Cents (\$1,270,000.00). It appears to the Court on a
17 preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all
18 potential Class Members when balanced against the probable outcome of further litigation and the
19 significant risks relating to certification, liability and damages issues. It further appears that
20 investigation and research have been conducted such that counsel for the Parties are able to
21 reasonably evaluate their respective positions. It further appears to the Court that the Settlement
22 will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
23 would be presented by the further prosecution of the Action. It further appears that the Settlement
24 has been reached as the result of serious and non-collusive, arm’s-length negotiations.

25 4. The Court preliminarily finds that the Settlement appears to be within the range of
26 reasonableness of a settlement that could ultimately be given final approval by this Court. The
27 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
28

1 preliminarily finds that the monetary settlement made available to the Class is fair, adequate, and
2 reasonable when balanced against the probable outcome of further litigation and the significant
3 risks relating to certification, liability, and damages issues.

4 5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
5 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$25,000, and
6 proposed Class Representative Service Payments to the Plaintiffs in an amount not more than
7 \$7,500 for Plaintiff DeShazier and \$10,000 for Plaintiff Lopez. The Court will not approve the
8 amounts of attorneys' fees and costs, nor the amount of any service award, until the Final
9 Approval Hearing. Plaintiffs will be required to present evidence supporting these requests,
10 including lodestar, prior to final approval.

11 6. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
12 representative treatment and certification of a class for settlement purposes only. This stipulation
13 will not be deemed admissible in this or any other proceeding should this Settlement not become
14 final. For settlement purposes only, the Court conditionally certifies the Class which consists of
15 "all individuals who were employed by any Defendants in California and classified as a non-
16 exempt employee at any time during the Class Period." The "Class Period" is October 6, 2018
17 through February 15, 2024.

18 7. The Court concludes that, for settlement purposes only, the Class meets the
19 requirements for certification under section 382 of the California Code of Civil Procedure in that:
20 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
21 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
22 community of interest amongst the members of the Class with respect to the subject matter of the
23 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
24 the Plaintiffs will fairly and adequately protect the interests of the members of the Class; (e) a
25 class action is superior to other available methods for the efficient adjudication of this controversy;
26 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are
27 adequate representatives of the Class.

1 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
2 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
3 Nicholas J. De Blouw, Jeffrey S. Herman, Sergio J. Puche, and Trevor G. Moran of Blumenthal
4 Nordrehaug Bhowmik De Blouw LLP, Shani O. Zakay of Zakay Law Group, APC, and Jean-
5 Claude Lapuyade of JCL Law Firm, APC as Class Counsel.

6 9. The Agreement provides for a PAGA Penalty out of the Gross Settlement Amount
7 of \$26,000, which shall be allocated \$19,500 to the Labor & Workforce Development Agency
8 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
9 Agreement pursuant to the PAGA and \$6,500 to the Aggrieved Employees. “Aggrieved
10 Employees” are all individuals who were employed by any Defendants in California and classified
11 as a non-exempt employee at any time during the PAGA Period (May 24, 2021 through February
12 15, 2024). Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA will be provided
13 notice of the Agreement and these settlement terms. The Court finds these PAGA Penalties to be
14 reasonable.

15 10. The Court hereby approves, as to form and content, the Class Notice attached to the
16 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
17 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right
18 to be excluded from the Class by submitting a written opt-out request, and of each member’s right
19 and opportunity to object to the Settlement. The Court further finds that the distribution of the
20 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
21 the requirements of due process, is the best notice practicable under the circumstances, and shall
22 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
23 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class
24 Notice Packet is returned because of an incorrect address, the Administrator will promptly search
25 for a more current address for the Class Member and re-mail the Class Notice Packet to any new
26 address for the Class Member no later than seven (7) days after the receipt of the undelivered
27 Class Notice.

1 11. The Court hereby appoints Apex Class Action as the Administrator. No later than
2 thirty (30) days after this Order, Defendants will provide the Class Data to the Administrator. The
3 Administrator will perform address updates and verifications as necessary prior to the first
4 mailing. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)
5 days after receiving the Class Data, the Administrator will mail the Class Notice Packet to all
6 Class Members via first-class regular U.S. Mail to their last known address.

7 12. The Court hereby preliminarily approves the proposed procedure for exclusion
8 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
9 from the Class as provided in the Class Notice by following the instructions for requesting
10 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
11 postmarked or received no later than sixty (60) calendar days after the date of the mailing of the
12 Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline
13 for requests for exclusion will be extended an additional fourteen (14) days. A Request for
14 Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
15 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
16 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
17 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
18 shall be bound by all determinations of the Court, the Agreement and the Judgment. A request for
19 exclusion may only opt out that particular individual, and any attempt to effect an opt-out of a
20 group, class, or subclass of individuals is not permitted and will be deemed invalid.

21 13. Any Class Member who has not opted out may appear at the final approval hearing
22 and may object or express the Member’s views regarding the Settlement and may present evidence
23 and file briefs or other papers that may be proper and relevant to the issues to be heard and
24 determined by the Court as provided in the Class Notice. Class Members will have until the
25 Response Deadline to submit their written objections to the Administrator. Written objections
26 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
27 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
28

1 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
2 Hearing to make an oral objection.

3 14. A final approval hearing shall be held before this Court on November 1, 2024 at
4 9:00 a.m. in Department 23 at the Gordon D. Schaber Courthouse of the Sacramento County
5 Superior Court to hear the motion for final approval and the motion for attorneys' fees and costs,
6 and to determine all necessary matters concerning the Settlement, including: whether the proposed
7 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
8 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
9 Order and Judgment should be entered herein; whether the plan of allocation contained in the
10 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
11 finally approve attorneys' fees and costs, service awards, and the fees and expenses of the
12 Administrator. All papers in support of the motion for final approval and for attorneys' fees, costs
13 and service awards shall be filed with the Court and served on all counsel no later than sixteen
14 (16) court days before the hearing and the motion shall be heard at this final approval hearing.

15 15. Neither the Settlement nor any exhibit, document, or instrument delivered
16 thereunder shall be construed as a concession or admission by Defendants in any way that the
17 claims asserted have any merit or that this Action was properly brought as a class or representative
18 action, and shall not be used as evidence of, or used against Defendants as, an admission or
19 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
20 omission by Defendants or with respect to the truth of any allegation asserted by any person.
21 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
22 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
23 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
24 deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to,
25 evidence of a presumption, concession, indication or admission by Defendants of any liability,
26 fault, wrongdoing, omission, concession or damage.

16. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement, and expressly reserve their respective rights regarding the prosecution and defense of this Action, including all available defenses and affirmative defenses, and arguments that any claim in the Action could not be certified as a class action and/or managed as a representative action. In such an event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Agreement with respect to the effect of the Agreement if it is not approved.

17. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

IT IS SO ORDERED.

Dated: _____

HON. JILL H. TALLEY
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA