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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

TYRA TOLER, an individual, on behalf of
herself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

TOTAL TESTING SOLUTIONS, LLC, a
California limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 21STCV38452

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Date: December 13, 2022

Time: 9:00 a.m.

Judge: Hon. Elihu M. Berle

Dept.: 6

1 This matter having come before the Honorable Judge Elihu M. Berle of the Superior Court of
2 the State of California, in and for the County of Los Angeles, at 9:00 a.m. on December 13, 2022, with
3 Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC and Shani O. Zakay, Esq. of the Zakay Law
4 Group, APLC as counsel for plaintiff TYRA TOLER (“Plaintiff”), and Lonnie D. Giamela, Esq. and
5 Areen Babajanian, Esq. of Fisher & Phillips LLP, appearing for Defendant TOTAL TESTING
6 SOLUTIONS, LLC, a California limited liability company (hereinafter “Defendant”). The Court,
7 having carefully considered the briefs, argument of counsel and all the matters presented to the Court,
8 and good cause appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of Class
9 Action Settlement.

10 **IT IS HEREBY ORDERED:**

11 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
12 (“Settlement Agreement” or “Agreement”), a true and correct copy of which is attached hereto as
13 **Exhibit “1”**. This is based on the Court’s determination that the Settlement Agreement is within the
14 range of possible final approval, pursuant to the provisions of Section 382 of the California Code of
15 Civil Procedure and California Rules of Court, rule 3.769.

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

18 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
19 Defendant shall pay is One Hundred Sixty Thousand Dollars (\$160,000.00). It appears to the Court on
20 a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all
21 Class Members when balanced against the probable outcome of further litigation relating to
22 certification, liability, and damages issues. It further appears that investigation and research have been
23 conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It
24 further appears to the Court that settlement at this time will avoid substantial additional costs by all
25 Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the
26 litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and
27 non-collusive arms-length negotiations.

4. The Court preliminarily finds that the Settlement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to the Class Members are fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

5. Plaintiff seeks a Class Counsel Fees Payment in the amount of up-to one-third of the Gross Settlement Amount for attorneys' fees, currently estimated at Fifty-Three Thousand and Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$53,333.33), plus a Class Counsel Litigation Expenses Payment of up to Twenty Thousand Dollars (\$20,000), and proposed Class Representative Service Payment to the Class Representative, Tyra Toler, in an amount of not more than Ten Thousand Dollars (\$10,000). While these awards appear to be within the range of reasonableness, the Court will not approve the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, or the Class Representative Service Payment until the Final Approval Hearing.

6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class:

All individuals who were paid on an hourly basis by Defendant and performed work in California between October 19, 2017, and June 7, 2022.

7. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the Class Representative are typical of the claims of the Class Members; (d) the Class Representative will fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other

1 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified
2 to act as counsel for the Class Representative in her individual capacity and as the representative of the
3 Class Members.

4 8. The Court provisionally appoints plaintiff TYRA TOLER as the representative of the
5 Class.

6 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
7 APC, and Shani Zakay, of the Zakay Law Group, APLC, as Class Counsel for the Class Members.

8 10. The Court hereby approves, as to form and content, the Proposed Class Notice (“Class
9 Notice”) attached to the Agreement as **Exhibit “A”**. The Court finds that the notice appears to fully
10 and accurately inform the Class Members and Aggrieved Employees of all material elements of the
11 proposed Settlement, including the right of any Class Member to be excluded from the Class by
12 submitting a written request for exclusion, and of each Class Member’s right and opportunity to object
13 to the Settlement. The Court further finds that the distribution of the notices substantially in the manner
14 and form set forth in the Agreement and this Order meets the requirements of due process, is the most
15 reasonable notice under the circumstances, and shall constitute due and sufficient notice to all persons
16 entitled thereto. The Court orders the mailing of the notices by first class mail, pursuant to the terms
17 set forth in the Agreement.

18 11. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. Within ten
19 (10) business days after the Preliminary Approval Date, Defendant shall provide the Settlement
20 Administrator with the Class Data, including information regarding Class Members that Defendant will
21 in good faith compile from its records, including each Class Member’s full name; last known mailing
22 address; last known personal email address; Social Security Number; and number of Class Period
23 Workweeks and PAGA Pay Periods. No later than fourteen (14) calendar days after receiving the Class
24 Data from Defendant, the Settlement Administrator shall mail and email copies of the Notice Packet to
25 all Class Members via first class U.S. Mail.

26 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
27 Settlement. Any Class Member may individually choose to opt out of and be excluded from the
28

1 Settlement as provided in the Notice by following the instructions for requesting exclusion from the
2 Settlement of the Released Class Claims that are set forth in the Notice. All requests for exclusion must
3 be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the
4 Settlement Administrator mails the Notice Packets to Class Members or, in the case of re-mailed
5 Notice, not more than fourteen (14) days from the original Response Deadline. Any such person who
6 chooses to opt out of and be excluded from the Settlement will not be entitled to an Individual Class
7 Payment under the Settlement and will not be bound by the Settlement, or have any right to object,
8 appeal or comment thereon. Class Members who have not requested exclusion shall be bound by all
9 determinations of the Court, the Agreement, and Judgment.

10 13. Any Class Member who has not opted out may appear at the final approval hearing and
11 may object or express the Class Member's views regarding the Settlement and may present evidence
12 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined
13 by the Court as provided in the Notice. Class Members will have forty-five (45) calendar days from the
14 date the Settlement Administrator mails the Class Notice to postmark their written objections to the
15 Settlement Administrator.

16 14. A final approval hearing shall be held before this Court on _____ at
17 _____ AM/PM in Department 6 of the Los Angeles County Superior Court to determine all necessary
18 matters concerning the Settlement, including: whether the proposed settlement of the Action on the
19 terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be
20 finally approved by the Court; whether an Order Granting Final Approval should be entered herein;
21 whether the plan of allocation contained in the Agreement should be approved as fair, adequate and
22 reasonable to the Class; and to finally approve the Class Counsel Fees Payment, Class Counsel
23 Litigation Expenses Payment, Class Representative Service Payment, and the Administration Expenses
24 Payment. All papers in support of the motion for final approval and the motion for Class Counsel Fee
25 and Litigation Expense Payment and Class Representative Service Payment shall be filed with the
26 Court and served on all counsel within twenty-eight (28) days following the expiration of the Response
27 Deadline.

1 15. In the event the Settlement does not become effective in accordance with the terms of the
2 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
3 effective for any reason, this Settlement Agreement shall be rendered null and void and shall be vacated,
4 and the Parties shall revert to their respective positions as of before entering into the Agreement. In
5 such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order,
6 shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to
7 alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it
8 is not approved.

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

12
13
14
15 Dated: _____

JUDGE OF THE SUPERIOR COURT