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**FILED**  
Clerk of the Superior Court

OCT 11 2024

By: R. Day, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

MICHAEL DEL TORO, *et al.*

Plaintiffs,

v.

ABZENA (SAN DIEGO) INC., *et al.*

Defendants.

Case No. 37-2023-00017443-CU-OE-CTL

*Hon. Joel R. Wohlfeil*  
*Dept. 73*

**CLASS ACTION**

**[Proposed] Order Granting Preliminary  
Approval of Class Action Settlement**

Motion for Prelim. App. Hearing

Date: October 11, 2024

Time: 9:00 a.m.

[Filed concurrently with Notice of Motion and  
Motion for Preliminary Approval of Class Action  
Settlement, Memorandum of Points and Authorities,  
and Declaration of Nicholas J. Ferraro]

Action Filed: April 25, 2023

1 This matter came on for hearing on October 11, 2024 at 9:00 a.m. in Department 73 of the  
2 above-captioned Court on Plaintiffs' Motion Preliminary Approval of Class Action Settlement  
3 ("Motion").

4 Having fully reviewed the Motion, the supporting Memorandum of Points and Authorities,  
5 Declaration of Nicholas J. Ferraro (and its exhibits), including the settlement agreement ("Settlement"),  
6 and the notice attached as an exhibit to the Settlement, and in recognition of the Court's duties (to make  
7 a preliminary determination as to the reasonableness of any proposed class action settlement; to ensure  
8 proper notice is provided to all class members in accordance with due process requirements; and to set  
9 a final approval hearing to consider the good faith, fairness, adequacy and reasonableness of the  
10 proposed Settlement), the Court makes the following determinations and orders:

11 1. The Court conditionally finds, for the purposes of approving this settlement only, the  
12 proposed class meets the requirements for certification under § 382 of the California Code of Civil  
13 Procedure: (a) the proposed class is ascertainable and so numerous joinder of all class members is  
14 impracticable; (b) there are questions of law or fact common to the proposed class, and a well-defined  
15 community of interest among members of the proposed class with respect to the subject matter of the  
16 class action; (c) the claims of the class representative are typical of the claims of the members of the  
17 proposed class; (d) the class representative appears to be adequate to serve in that role; (e) a class action  
18 is superior to other available methods for an efficient adjudication of this controversy in the context of  
19 settlement; and (f) counsel of record for the Plaintiff are qualified to serve as class counsel.

20 2. The class is hereby defined and certified as: all individuals currently or formerly  
21 employed by Abzena in California as hourly, non-exempt employees during the Class Period of  
22 April 25, 2019, through June 26, 2024."

23 3. The Court finds, on a preliminary basis, the Settlement, incorporated by this reference  
24 in full, and made a part of this Order, appears to be within the range of reasonableness of a settlement  
25 which could ultimately be given final approval by this Court.

26 4. The Court further finds, on a preliminary basis, (a) the non-reversionary Gross  
27 Settlement Amount is fair and reasonable to the class when balanced against the probable outcome of  
28 further litigation relating to class certification, liability and damages issues, and potential appeals;

1 (b) sufficient investigation, research, and informal discovery, have been conducted such that counsel  
2 for the parties are able to reasonably evaluate their respective positions; (c) settlement at this time will  
3 avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and (d) the  
4 proposed Settlement was reached through prudent and non-collusive negotiations.

5 5. The Court finds the allocation from the common fund to PAGA penalties, including the  
6 LWDA's 75% share, as fair, adequate, and reasonable in light of the overall gross settlement and that  
7 the proposed settlement of PAGA penalties has been adequately submitted to the LWDA in advance of  
8 the preliminary approval hearing. Therefore, the Court **APPROVES** the PAGA payment pursuant to  
9 Labor Code § 2699(1)(2).

10 6. Accordingly, good cause appearing, the Motion for Order Granting Preliminary  
11 Approval of Class Action Settlement is **GRANTED**.

12 7. Class members are therefore defined pursuant to the terms set forth in the Settlement.

13 8. The Court further finds the proposed notice fairly and adequately advises class members  
14 of (a) pendency of the Settlement; (b) conditional class certification for settlement purposes only;  
15 (c) preliminary Court approval of the proposed Settlement; (d) the date, time and place of the Final  
16 Approval Hearing; (e) the terms of the proposed Settlement and the benefits available to the class under  
17 the Settlement; (f) their right to receive a proportionate share of the Net Settlement Amount without  
18 the need to return a claim form; (g) their right to request exclusion, and the procedures and deadline for  
19 doing so; (h) their right to object to the Settlement, and the procedure and deadline for doing so; and  
20 (i) their right to appear at the final approval hearing.

21 9. The Court further finds the proposed notice provides the best practicable notice to the  
22 Class and comports with the constitutional requirements, including those of due process. The Court  
23 further finds that mailing of the notice to the last known address of all class members with measures  
24 taken for verification of an address and skip tracing of bad addresses, as specifically described within  
25 the Settlement, constitutes an effective method of notifying class members of their rights with respect  
26 to the class action and the Settlement.

27 10. Therefore, for good cause, the Court **APPROVES** the notice for distribution to the class  
28 pursuant to the notice procedures set forth in full in the Settlement.

1 Accordingly, it is **ORDERED** that:

2 a. CPT Group, Inc. be appointed the Administrator of the Settlement, as more  
3 specifically set forth in the Settlement;

4 b. Ferraro Vega Employment Lawyers be appointed as class counsel;

5 c. Plaintiffs Michael Del Toro and Troy Aylwin be appointed as class  
6 representatives;

7 d. All deadlines, terms, and conditions set forth in the Settlement incorporated by  
8 reference into this Order shall apply and govern the notice procedure and response deadlines;

9 e. Any class member who desires to object may appear in Court at the Final  
10 Approval Hearing to present oral objections;

11 f. If for any reason the Court does not execute and file an Order Granting Final  
12 Approval of Class Action Settlement, or if the Effective Date, as defined in the Settlement, does not  
13 occur for any reason whatsoever, the Settlement and the proposed Settlement that is the subject of this  
14 Order, and all evidence and proceedings had in connection therewith, shall be restored without  
15 prejudice to the *status quo ante*, pursuant to the terms set forth in the Settlement.

16 11. **IT IS FURTHER ORDERED** that the Final Approval Hearing shall be held before the  
17 undersigned at 9:00am [hearing time] on 1-17-25 [hearing date], in this  
18 Department.

19 12. At the Final Approval Hearing, the Court will consider the fairness, adequacy, and  
20 reasonableness of the proposed Settlement preliminarily approved in this Order and notice process to  
21 be effectuated, and to consider the application for a class representative service payment to the class  
22 representative, the administration expenses, attorneys' fees, and costs.

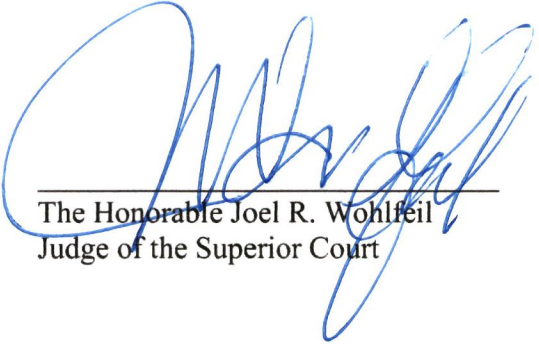
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1           13.    The Court reserves the right to continue the Final Approval Hearing without further  
2 notice to the class.  However, if written objections are submitted, class counsel is ordered to serve  
3 notice on any such objecting class member of the new date and time of the Final Approval Hearing.

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5           **IT IS SO ORDERED.**

6  
7 Date: \_\_\_\_\_

10-11-24

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The Honorable Joel R. Wohlfeil  
Judge of the Superior Court