

1 Theodore Tang (313294)
theodore@frontierlawcenter.com
 2 Manny Starr (319778)
manny@frontierlawcenter.com
 3 Dan Ginzburg (327338)
dan@frontierlawcenter.com
 4 FRONTIER LAW CENTER
 5 23901 Calabasas Road, #1084
 6 Calabasas, California 91302
 7 Telephone: (818) 914-3433
 Facsimile: (818) 914-3433

F Superior Court of California F
 County of Butte
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 L 12/09/2024 L
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 D Sharif E. Mallah, Clerk D
 By  Deputy
 Electronically FILED

8 Attorneys for Plaintiff
 9 Rochell Minor, for himself and all others similarly situated

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 12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 13 **FOR THE COUNTY OF BUTTE**

14 ROCHELL MINOR, individually and on
 15 behalf of all similarly situated individuals,

16 Plaintiff,

17 vs.

18 NPH MEDICAL SERVICES, INC.;
 19 VENSURE HR, INC.; and DOES 1 to 100,

20 Defendants.
 21

CASE NO. 22CV00643

[PROPOSED] ORDER AND JUDGMENT

Date.: December 4, 2024
 Time: 9:00 a.m.
 Dept: 1

Complaint Filed: March 30, 2022
 Trial Date: None Set

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1 Plaintiff Rochell Minor (“Plaintiff”) and Defendants NPH Medical Service, Inc. (“NPH”),
2 and Vensure HR, Inc. (“VHI,” or collectively with NPH as “Defendant”) (together with Plaintiff,
3 the “Parties”) have entered into a Class Action and PAGA Settlement and Release (“Settlement
4 Agreement”) to settle the above-captioned class action subject to the Court’s approval (the
5 “Settlement”). On November 7, 2024, Plaintiff filed a Motion for Final Approval of Class Action
6 Settlement, including a request for approval of the Enhancement Payments to Plaintiff and Class
7 Counsel’s application for a fee and expense award.

8 The matter came on regularly for hearing on December 4, 2024, at 9:00 am in Department
9 1, the Honorable Tamara Mosbarger presiding. The appearances are as stated in the record.
10 Having reviewed and considered the written submissions of all parties and being fully advised, the
11 Court rules as follows:

12 **I. SUMMARY OF THE MONETARY TERMS OF THE SETTLEMENT**
13 **AGREEMENT**

14 The Settlement Agreement is attached as Exhibit A. Unless otherwise stated, all capitalized
15 terms in this Order and Judgment have the same meaning as in the Agreement.

16 **A. Class Definition**

17 The Class consists of “all persons who worked for NPH in California as an hourly paid,
18 non-exempt employee during the Class Period.” (“Class” or “Class Members”). *See* Settlement
19 Agreement §1.5. The “Class Period” is in turn defined as March 30, 2018, to December 22, 2023.
20 *Id.* at § 1.12. Based upon Defendant’s records, there are 1,164 individuals that make up the Class,
21 of which 2 opted-out. *See* Declaration of Jennifer Forst for CPT Group (“Forst Decl.” ¶ 14.) Class
22 Members had the option of opting-out of the settlement, and two have done so. *See* Settlement
23 Agreement § 7.5 *et seq.*; Forst Decl. ¶¶7, 12, 14.

24 **B. Gross Settlement Amount**

25 The Settlement Agreement provides for the Gross Settlement Amount of One Million
26 Dollars (\$1,000,000.00). *See* Settlement Agreement § 3.1.1.

27 **C. PAGA Penalties**

28 The Settlement Agreement allocates Forty Thousand Dollars (\$40,000) of the Gross

1 Settlement Amount for the payment of PAGA penalties (“PAGA Penalties”). *See* Settlement
2 Agreement §3.2.5. Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Payment, *i.e.*
3 Thirty Thousand Dollars (\$30,000.00), shall be paid to the California Labor and Workforce
4 Development Agency (“LWDA”). *Id.* The remaining twenty-five percent (25%) of the PAGA
5 Payment, *i.e.* Ten Thousand Dollars (\$10,000.00) shall be distributed to Participating Class
6 Members. *See* Settlement Agreement at § 3.2.5.

7 **D. Net Settlement Amount**

8 The Net Settlement Amount (calculated after deduction of the approved Class Counsel
9 Award, Enhancement Payment to Plaintiff, LWDA portion of the PAGA Payment and Settlement
10 Administration Costs) will be paid to all Participating Class Members. Settlement Agreement at §
11 3.2.4. The total amount of the settlement will be distributed on a pro rata basis determined by the
12 number of work weeks each Class Member was employed by Defendant. *See Id.*

13 **E. Class Representative Enhancement Payments**

14 The Settlement Agreement permits the Class Representatives to each seek an Enhancement
15 Payment in the amount of Ten Thousand Dollars (\$10,000.00). *See* Settlement Agreement §3.2.1.

16 **F. Class Counsel Awards**

17 The Settlement Agreement contemplates that Class Counsel may seek an award of attorney
18 fees in the amount of 33 1/3% of the Gross Settlement Amount. That amount is \$333,333.33. *See*
19 Settlement Agreement § 3.2.2; Forst Decl. ¶15. Additionally, the Settlement provides that Class
20 Counsel may seek reimbursement for actual litigation costs up to the amount of Forty Thousand
21 Dollars (\$40,000.00). Settlement Agreement § 3.2.2. However, Plaintiff’s litigation cost request is
22 only \$28,859.51

23 **G. Settlement Administration Costs**

24 The Settlement Agreement provides for the payment of the fees and expenses reasonably
25 incurred by the Settlement Administrator, in an amount up to Fifteen Thousand Dollars
26 (\$15,000.00). Settlement Agreement at § 3.2.3. Any portion of the Settlement Administration
27 Costs not used or approved by the Court shall be added to the Net Settlement Amount. *Id.* CPT
28 Group is claiming costs of Twelve Thousand Five Hundred Dollars (\$12,500) (Forst Decl. ¶15), so

1 the difference of Two Thousand Five Hundred Dollars (\$2,500) shall be applied back to the Net
2 Settlement Amount.

3 **II. NOTICE TO CLASS MEMBERS**

4 The Preliminary Approval Order approved of the distribution of the Notice of Proposed
5 Class Action Settlement (“Notice Packet”) to Class Members. In compliance with the Preliminary
6 Approval Order, on September 19, 2024, the Notice Packet was sent to 1,164 Class Members via
7 first class mail. *See* Forst Decl. ¶7.

8 Between the dates of September 19, 2024, and November 6, 2024, the Settlement
9 Administrator received One Hundred Thirty (130) Notice Packets as undeliverable and notice that
10 the Post Office had forwarded 13 to a forwarding address automatically. The Administrator
11 performed a skip trace using the Accurint database, and updated addresses were obtained for One
12 Hundred Twenty Three (123) packets, which were remailed to Class Members. As of November
13 6, 2024, only Eighteen (18) Notice Packets are considered undeliverable with no forwarding
14 address or new address via skip trace. Forst Decl. ¶9.

15 **III. THE SETTLEMENT IS PRESUMPTIVELY FAIR AND REASONABLE**

16 The presumption of fairness articulated in *Wershba v. Apple Computer, Inc.*, 91 Cal. App.
17 4th 224, 234-235 (2001), applies here. As part of the Motion for Preliminary Approval, the Court
18 reviewed the litigation history of the case as described in the Settlement Agreement, and
19 determined at that time that the settlement was indeed arrived at via arms-length negotiation.
20 Nothing has been presented to the Court to contradict that finding, and the Court therefore finds
21 that the settlement was arrived at through arm’s-length negotiation.

22 Thus, the Court finds that the Settlement was entered into in good faith pursuant to
23 California Code of Civil Procedure section 877.6. The Settlement appears to be the product of
24 serious, informed, non-collusive negotiations, has no obvious deficiencies, and does not
25 improperly grant preferential treatment to any individuals. The Court further finds that the
26 Settlement is fair, reasonable, and adequate and that Plaintiffs have satisfied the standards for final
27 approval of a class action settlement under California law.

28 Under the provisions of California Code of Civil Procedure section 382 and Federal Rule

1 of Civil Procedure 23, as approved for use by the California state court in *Vasquez v. Superior*
2 *Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

3 [Q]uestions of law or fact common to the members of the class
4 predominate over any questions affecting only individual members,
5 and that a class action is superior to the available methods for the
6 fair and efficient adjudication of the controversy ... Fed. R. Civ.
7 Proc. 23.

8 Certification of a settlement class is the appropriate judicial device under these circumstances.

9 **IV. ORDER AND JUDGMENT**

10 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
11 FOLLOWS:

12 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
13 Settlement Agreement filed in this case.

14 2. The Court has jurisdiction over the subject matter of the litigation, the Class
15 Representatives, the other members of the Participating Class, and Defendants.

16 3. The Court finds that the dissemination of the Notice Packet, as disseminated by the
17 appointed Settlement Administrator Phoenix Class Action Administration Solutions to the Class
18 Members, constituted the best notice practicable under the circumstances to all persons within the
19 definition of the Class, and fully met the requirements of California law and due process under the
20 United States Constitution.

21 4. The Court approves the settlement of the above-captioned action, as set forth in the
22 Settlement Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are
23 directed to perform in accordance with the terms set forth in the Settlement Agreement.

24 5. Except as otherwise provided in the Settlement Agreement, the Parties are to bear
25 their own costs and attorneys' fees.

26 6. The Court hereby certifies the following Class for settlement purposes only: all
27 persons who worked for NPH in California as an hourly paid, non-exempt employee during the
28 Class Period. The Class Period is defined as March 30, 2018, through December 22, 2023,
inclusive. There are two (2) exclusions from the Class, as those individuals provided timely and
valid requests to be excluded. Those individuals are Audra Jones and Gwen Kjer.

1 7. With respect to the Class and for purposes of approving the settlement only and for
2 no other purpose, this Court finds and concludes that: (a) the members of the Class are
3 ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions
4 of law or fact common to the Class, and there is a well-defined community of interest among
5 members of the Class with respect to the subject matter of the non-exempt claims in the Action;
6 (c) the claims of Class Representatives are typical of the claims of the members of the Class; (d)
7 the Class Representatives have fairly and adequately protected the interests of the members of the
8 Class; (e) a class action is superior to other available methods for an efficient adjudication of this
9 controversy; and (f) the counsel of record for the Class Representative, *i.e.*, Class Counsel, are
10 qualified to serve as counsel for the Plaintiffs in their individual and representative capacity and
11 for the Class.

12 8. With respect to the PAGA claims and for settlement purposes only and for no other
13 purpose, this Court finds and concludes that: in light of the recovery for the individual claims that
14 the class members will receive, the \$40,000 allocated to settle the PAGA claims is fair,
15 reasonable, and adequate in that it remediates the alleged labor law violations, is sufficient to deter
16 future similar conduct, and maximizes enforcement of California's labor laws.

17 9. Pursuant to the terms of the Settlement Agreement, the Settlement Administrator
18 shall make the following payments from the Gross Settlement Amount:

19 (a) to Class Counsel attorneys' fees in the amount of Three Hundred Thirty-Three
20 Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents (\$333,333.33) and
21 reimbursement of litigation costs in the amount of Twenty Eight Thousand Eight Hundred Fifty
22 Nine Dollars and Fifty-One Cents (\$28,859.51);

23 (b) an Enhancement Payment to Class Representative Destinee Nicole Robinson-
24 Moore in the amount of Ten Thousand Dollars (\$10,000)

25 (c) the sum of Thirty Thousand Dollars (\$30,00.00) to the California Labor and
26 Workforce Development Agency for its seventy-five percent (75%) share of the PAGA Penalties;

27 (d) the sum of Ten Thousand Dollars (\$10,000) to the Aggrieved Employees to be
28 distributed according to the settlement for their twenty-five percent (25%) share of the PAGA

1 Penalties; and

2 (e) the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) to the Settlement
3 Administrator, CPT Group, for its fees and costs relating to the settlement administration process.

4 10. The Court finds that the amounts set forth in 8(a)-(e) are fair and reasonable.

5 11. The Court approves the Individual Class Payment amounts and Individual PAGA
6 Payment amounts, which shall be distributed by the Settlement Administrator pursuant to the
7 terms of the Settlement Agreement. All Individual Settlement Payments to Participating Class
8 Members that remain uncashed after 180 days of the mailing of the Settlement Payment checks
9 shall be paid to the Cy Pres recipient "Legal Aid at Work".

10 12. Pursuant to the Settlement Agreement, upon the Effective Date, Plaintiff and all
11 Participating Class Members shall be bound by the following release:

12 All Participating Class Members, on behalf of themselves and their respective
13 former and present representatives, agents, attorneys, heirs, administrators,
14 successors and assigns, release Released Parties from (i) all claims that were
15 alleged, or reasonably could have been alleged under the Labor Code and IWC
16 Wage Orders, based on the Class Period facts stated in the Operative Complaint
17 including e.g., any and all claims involving (a) Meal Period Violations, (b) Rest
18 Period Violations, (c) Failure to Pay Overtime Wages, (d) Failure to Pay Minimum
19 Wage, (e) Waiting Time Penalties, (f) Wage Statement Penalties, and (g) Violations
20 of the Unfair Competition Law. Except as set forth in Section 5.3 of this
21 Agreement, Participating Class Members do not release any other claims, including
22 claims for vested benefits, wrongful termination, violation of the Fair Employment
23 and Housing Act, unemployment insurance, disability, social security, workers'
24 compensation or claims based on facts occurring outside the Class Period.

21 13. In addition, all Aggrieved Employees who are not Participating Class Members
22 shall be bound by the following release:

23 All Non-Participating Class Members who are Aggrieved Employees are deemed
24 to release, on behalf of themselves and their respective former and present
25 representatives, agents, attorneys, heirs, administrators, successors and assigns, the
26 Released Parties from all claims for PAGA penalties that were alleged, or
27 reasonably could have been alleged, based on the PAGA Period facts stated in the
28 Operative Complaint and the PAGA Notice, including, e.g., any and all claims for
PAGA Penalties for (a) Meal Period Violations, (b) Rest Period Violations, (c)
Failure to Pay Overtime Wages, (d) Failure to Pay Minimum Wages, (e) Failure to
Pay Wages Promptly During Employment and/or Upon Termination, and (f)
Failure to Provide Accurate Wage Statements

1 14. Plaintiff, on behalf of himself and no other Class Member, shall be bound by the
2 following release:

3 Plaintiff and his respective former and present spouses, representatives, agents,
4 attorneys, heirs, administrators, successors and assigns generally, release and
5 discharge Released Parties from all claims, transactions or occurrences that
6 occurred during the Class Period, including, but not limited to: (a) all claims that
7 were, or reasonably could have been, alleged, based on the facts contained, in the
8 Operative Complaint and (b) all PAGA claims that were, or reasonably could have
9 been, alleged based on facts contained in the Operative Complaint, and Plaintiff's
10 PAGA Notice, as well as ("Plaintiff's Release.") Plaintiff's Release does not extend
11 to any claims or actions to enforce this Agreement, or to any claims for vested
12 benefits, unemployment benefits, disability benefits, social security benefits,
13 workers' compensation benefits that arose at any time, or based on occurrences
14 outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or
15 law different from, or in addition to, the facts or law that Plaintiff now knows or
16 believes to be true but agrees, nonetheless, that
17 Plaintiff's Release shall be and remain effective in all respects, notwithstanding
18 such different or additional facts or Plaintiff's discovery of them.

13 **Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of
14 Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
15 rights, and benefits, if any, of section 1542 of the Civil Code, which reads:**

16 **A general release does not extend to claims that the creditor or releasing party
17 does not know or suspect to exist in his or her favor at the time of executing
18 the release, and that if known by him or her would have materially affected his
19 or her settlement with the debtor or Released Party**

20 15. The Court hereby enters final judgment in this case in accordance with the terms of
21 the Settlement, Preliminary Approval Order, and this Order in favor of the Plaintiff and Class and
22 Against Defendants in the amounts discussed *supra*. Without affecting the finality of the
23 Settlement or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over
24 the action and the Parties, including all Settlement Class Members, for purposes of enforcing and
25 interpreting this Order and the Settlement. The Court shall retain jurisdiction to enforce this
26 settlement pursuant to Code of Civil Procedure section 664.6.

27 16. A final compliance hearing is set for June 4, 2025, at 9:00 a.m. in this Department.
28 Class Counsel and/or the Settlement Administrator shall file a Declaration or Declarations

1 attesting to compliance no later than 7 calendar days before the hearing.

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3 IT IS SO ORDERED AND JUDGMENT IS HEREBY ENTERED.

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7 Dated: 12/9/2024



Honorable Tamara Mosbarger
Judge of the Superior Court

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