

1 Plaintiffs filed a Motion for Preliminary Approval of Class Action Settlement, memorialized in
2 the Stipulation of Class and Representative Action Settlement and Release, (the “Settlement
3 Agreement”), Exhibit 1 to the Declaration of Samuel D. Almon, filed on or about February 3, 2022.

4 After reviewing the Agreement, the Notice process, and other related documents, and having
5 heard the argument of Counsel for respective parties, IT IS HEREBY ORDERED AS FOLLOWS:

6 1. The Court preliminarily finds that the terms of the proposed class action Settlement are
7 fair, reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. In granting
8 preliminary approval of the class action settlement the Court has considered the factors identified in
9 *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer,*
10 *Inc.*, 91 Cal. App. 4th 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006).

11 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
12 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
13 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
14 their respective positions. The Court also finds that settlement at this time will avoid additional
15 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
16 of the action. The Court finds that the risks of further prosecution are substantial.

17 3. The Court has made no findings on the merits of the claims asserted in the above entitled
18 Action (“Action”). Defendant has denied the allegations asserted in the Action and expressly has made
19 no admission of liability in connection with any of the claims or allegations asserted in the Action.

20 4. The parties' Settlement is granted preliminary approval as it meets the criteria for
21 preliminary settlement approval. The Settlement falls within the range of reasonableness and appears to
22 be presumptively valid, subject only to any objections that may be raised at the final fairness hearing.
23 The Settlement Class meets the requirements for conditional certification for settlement purposes only
24 under Code of Civil Procedure § 382. The Court finds that it is appropriate to notify the members of the
25 proposed settlement Class of the terms of the proposed settlement.

26 5. The Court finds further that, in the present case, the proposed method of providing notice
27 of the Settlement to the Settlement Class via First Class U.S. Mail to each Settlement Class Member's
28 last known address, is reasonably calculated to notify the Settlement Class Members of the proposed

1 Settlement and provides the best notice possible under the circumstances. The Court also finds the
2 Notice of Class Action Settlement form is sufficient to inform the Settlement Class Members of the
3 terms of the Settlement and their rights thereunder, including the right to object to the Settlement or any
4 part thereof and the procedure for doing so, their right to exclude themselves from the Settlement and
5 the procedure for doing so, their right to obtain a portion of the Settlement proceeds, and the date, time
6 and location of the Final Approval Hearing. The proposed Notice of Class Action Settlement, Exhibit A
7 to the Settlement Agreement, and the procedure for providing Notice set forth in the Settlement
8 Agreement, are approved by the Court.

9 6. For purposes of settlement only, the Court provisionally and conditionally certifies the
10 following class: “All persons employed by Equinox Holdings, Inc. (“Equinox”) in California as a non-
11 exempt, hourly-paid employee at any time from April 3, 2015 through December 31, 2022” (the
12 “Settlement Class”; members of the Settlement Class are referred to herein as “Settlement Class
13 Members”). For purposes of approval of the PAGA portion of the proposed settlement, PAGA
14 Members is defined as “all persons employed by Equinox in California as non-exempt employees at any
15 time from December 26, 2017 through December 31, 2022.” PAGA Members cannot opt out of or
16 object to the settlement of the PAGA claim.

17 7. Plaintiffs Renee Porter, Joshua Tolin, Frank J. Fodera, Jr., Michael M. Bonella, and
18 Genevieve Billson (“Plaintiffs”) are appointed the Class Representatives. The Court finds that Ronald
19 W. Makarem and Samuel D. Almon, and Makarem & Associates, APLC are adequate, as they are
20 experienced in wage and hour class action litigation and have no conflicts of interest with absent Class
21 Members, and that they adequately represented the interests of absent class members in the Litigation.
22 Ronald W. Makarem and Samuel D. Almon, and Makarem & Associates, APLC are appointed Class
23 Counsel.

24 8. Under the terms of the Settlement Agreement, the Court preliminarily approves the
25 Parties’ selection of CPT Group, Inc. as the Settlement Administrator. The Settlement Administrator is
26 ordered to mail the Class Notice to the Settlement Class Members via First-Class U.S. Mail as specified
27 in the Settlement Agreement, and to otherwise carry out all other duties set forth in the Settlement
28 Agreement. The Parties are ordered to carry out and comply with all terms of this Order and the

1 Settlement Agreement, and particularly with respect to providing the Settlement Administrator all
2 information necessary to perform its duties under the Settlement Agreement.

3 9. Class Members will be bound by the Agreement unless they submit a timely and valid
4 written request to be excluded from the Settlement. Any Settlement Class Member who wishes to
5 comment on or object to the Settlement or any term thereof, including any proposed award of attorney's
6 fees and costs to Class Counsel or any proposed representative enhancement to the Class Representative,
7 shall have forty five (45) days from the mailing of the Class Notice to submit their comments and/or
8 objection to the Settlement Administrator, as set forth in the Settlement Agreement and Class Notice.
9 Settlement Class Members likewise shall have forty five (45) days from the mailing of the Class Notice
10 to submit to the Settlement Administrator any dispute regarding the calculation of their Individual
11 Settlement Share, as set forth in the Settlement Agreement and Class Notice. Settlement Class Members
12 likewise shall have forty five (45) days from the mailing of the Class Notice to submit to the Settlement
13 Administrator a Request for Exclusion from the Settlement, as set forth in the Settlement Agreement and
14 Class Notice.

15 10. A Final Approval Hearing is hereby set for September 8¹⁰, 2023, at 3:00 p.m. in
16 Department 302 of the Alameda County Superior Court, to consider any objections to the Settlement,
17 determine if the proposed Settlement should be found fair, adequate and reasonable and given full and
18 final approval by the Court, and to determine the amount of attorney's fees and costs awarded to Class
19 Counsel, the amount of any representative enhancement award to the Class Representatives, and to
20 approve the fees and costs payable to the Settlement Administrator. All legal memoranda, affidavits,
21 declarations, or other evidence in support of the request for final approval, the award of attorney's fees
22 and costs to Class Counsel, the enhancement award to the Class Representative, and the fees and costs
23 of the Settlement Administrator, shall be filed no later than sixteen (16) court days prior to the Final
24 Approval Hearing. Notice of the Final Approval Hearing shall be provided to the Labor & Workforce
25 Development Agency concurrently with filing the final approval papers. The Court reserves the right to
26 continue the Final Approval Hearing without further notice to the Settlement Class Members.

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SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: George E. McDonald Hall of Justice 2233 Shoreline Drive, Alameda, CA 94501	FILED Superior Court of California County of Alameda 03/10/2023
PLAINTIFF/PETITIONER: Renee Porter et al	Chad Finke, Executive Officer / Clerk of the Court By: <u>P. Tungohan</u> Deputy
DEFENDANT/RESPONDENT: Equinox Holdings, Inc.	P. Tungohan
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: RG19009052

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order (*Order Granting Motion for Preliminary Approval of Class Action Settlement: 03/09/2023) entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Renee Porter

Equinox Holdings, Inc.

Joshua Tolin

Ronald W. Makarem
Makarem & Associates

Mia Farber
Jackson Lewis LLP

Samuel David Almon
Makarem & Associates
almon@law-rm.com

Renee Porter

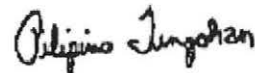
Joshua Tolin

Equinox Holdings, Inc.

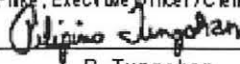
Chad Finke, Executive Officer / Clerk of the Court

Dated: 03/10/2023

By:



P. Tungohan, Deputy Clerk

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DEFENDANT/RESPONDENT: Equinox Holdings, Inc.	
CERTIFICATE OF MAILING	CASE NUMBER: RG19009052

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Order (*Order Granting Motion for Preliminary Approval of Class Action Settlement: 03/09/2023) upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Alameda, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Mia Farber
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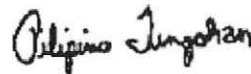
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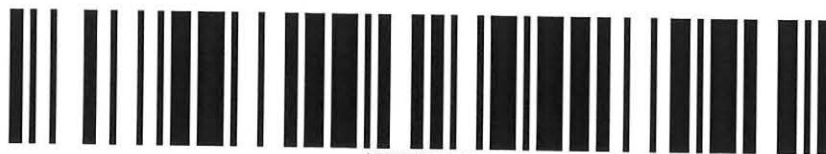
Dated: 03/10/2023

By:



P. Tungohan, Deputy Clerk

CERTIFICATE OF MAILING



35603294

DOCUMENT: Order (*Order Granting Motion for Preliminary Approval of Class Action Settlement: 03/09/2023) (ORD010)
CASE: RG19009052

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SIGNED AND FILED: 03/09/2023

FILED BY:

BARCODE BY: ptungohan 03/10/2023 9:12 AM

ENTERED BY: ptungohan 03/10/2023 9:11 AM