

FILED
ALAMEDA COUNTY

SEP 26 2023

CLERK OF THE SUPERIOR COURT

Juliano Longtin

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

RENEE PORTER and JOSHUA TOLIN,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

EQUINOX HOLDINGS, INC., a Delaware
corporation; and DOES 1-50, inclusive,

Defendants.

CASE NO.: RG19009052

Hon. Paul D. Herbert
Dept. 302

PDH

~~PROPOSED~~ JUDGMENT

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PDH 1

~~PROPOSED~~ JUDGMENT

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 The Motion for Final Approval of Class Action Settlement came before this Court, the
3 Honorable Paul D. Herbert presiding, on September 21, 2023. The Court having considered the
4 papers submitted in support of the Motion, HEREBY ORDERS, ADJUDGES AND DECREES:

5 1. All terms used herein shall have the same meaning as defined in the Amended
6 Stipulation of Class and Representative Action Settlement and Release (the "Settlement Agreement"),
7 a copy of which is attached hereto as Exhibit A.

8 2. Consistent with the definitions provided in the Settlement Agreement, the term "Settlement
9 Class" and "Class Members" shall mean all persons employed by Defendant as a non-exempt, hourly-paid
10 employee in California at any time from April 3, 2015 through December 31, 2022.

11 3. The Settlement Class is properly certified as a class for settlement purposes only.

12 4. The Class Notice provided to the Settlement Class conforms with the requirements of
13 California Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of
14 Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable law, and
15 constitutes the best notice practicable under the circumstances, by providing individual notice to all Class
16 Members who could be identified through reasonable effort, and by providing due and adequate notice of
17 the proceedings and of the matters set forth therein to the other Class Members. The Class Notice fully
18 satisfied the requirements of due process.

19 5. The Settlement Agreement was entered into in good faith, that the settlement is fair,
20 reasonable and adequate, and that the settlement satisfies the standards and applicable requirements for final
21 approval of this class action settlement under California law, including the provisions of California Code of
22 Civil Procedure section 382 and California Rules of Court, Rule 3.769.

23 6. No Settlement Class Members have objected to the terms of the Settlement.


24 7. Three Settlement Class Members have requested exclusion from the Settlement Class. The
25 Class Members who have requested exclusion from the Settlement Class are Lilian Jimenez Guerrero,
26 Yanci Valle, and Kurisa Suhr. These Class Members have thus been excluded, are not entitled to an
27 Individual Settlement Payment, and are not bound by this Judgment except as to the claims arising under
28 the Private Attorneys General Act, discussed below at Paragraph 15.

1 8. Upon entry of this Judgment, payment to the Participating Settlement Class Members
2 shall be effectuated pursuant to the terms of the Settlement Agreement.

3 9. In addition to any recovery that the Plaintiffs may receive under the Settlement Agreement
4 as a Settlement Class Member, and in recognition of each Plaintiffs' efforts on behalf of the Settlement
5 Class, the Court hereby approves the payment of a service fee award to Plaintiffs in the amount of \$20,000
6 each.

7 10. The Court approves the payment of attorneys' fees to Class Counsel in the sum of
8 \$11,500,000.00 and the reimbursement of litigation expenses in the sum of \$392,349.47.

9 [INSERT ONE:]

10 ~~11. The Court Orders that 10% of the attorneys' fees in the third and final distribution be~~
11 ~~kept in the administrator's trust fund until the completion of the distribution process and Court~~
12 ~~approval of a final accounting~~ 

13 [OR]

14 11. The Court Orders that 10% of any fee award be kept in the administrator's trust fund
15 until the completion of the distribution process and Court approval of a final accounting.

16 12. The Court approves and orders payment in the amount of \$120,000.00 to CPT Group,
17 Inc., for performance of its settlement administration services.

18 13. Plaintiffs have satisfied their requirement to notify the State of California Labor &
19 Workforce Development Agency of this Settlement and hereby approves the settlement of claims
20 under the Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698 *et*
21 *seq.*) in the total amount of \$1,000,000. The Court orders payment in the amount of \$750,000 to the
22 State of California Labor & Workforce Development Agency in compromise of claims under the
23 Labor Code Private Attorneys General Act of 2004 (California Labor Code section 2698 *et seq.*).

24 14. In accordance with California Rule of Court 3.771(b), the Parties shall give notice of this
25 Judgment to all Settlement Class Members through the website established by the Settlement
26 Administrator for this Settlement.

27 15. Excluding only those Settlement Class Members identified in Paragraph 7 above, upon
28 entry of Judgment of the Settlement, and upon the satisfaction of Defendant's obligation to provide to the

1 Settlement Administrator the Maximum Settlement Amount pursuant to the Settlement Agreement,
2 Plaintiffs and each Settlement Class Members have released the Released Parties of their Released Class
3 Claims.

4 16. Upon entry of Judgment of the Settlement, and upon the satisfaction of Defendant's
5 obligation to provide to the Settlement Administrator the Maximum Settlement Amount pursuant to the
6 Settlement Agreement, the Labor Workforce & Development Agency, Plaintiffs and the PAGA Members,
7 including the opt outs identified in Paragraph 7 above, have released the Released Parties of their Released
8 PAGA Claims.

9 17. If Defendant defaults on any of the three installment payments outlined in the Settlement
10 Agreement that, in whole, fund the Maximum Settlement Amount, then default may be entered for the
11 amount of the Installment plus the late payment fee that remain past due at the time in the event default is
12 sought.

13 18. The Court sets a compliance hearing is set for September 21, 2026 at 3:00 p.m. in
14 Department 302 of the Alameda County Superior Court, as to the status of compliance with this
15 Judgment and the tasks required of the Parties pursuant to the terms of the Settlement Agreement.

16 19. No later than September 11, 2026, the Parties shall file a declaration stating that all claims
17 have been paid and that the terms of the Settlement Agreement have been completed. In the event that any
18 un-cashed or abandoned checks must be distributed to the approved *cy pres* recipients (Public Counsel,
19 Safe Place for Youth, Inclusion Matters) following the check negotiation period, the Settlement
20 Administrator will cancel the tax documents associated with those un-cashed or abandoned checks, and
21 the Parties will submit to the Court a revised Judgment that states the final disposition of all amounts under
22 this Settlement, including the aggregate amount of all uncashed checks and any accrued interest, in
23 compliance with California Code of Civil Procedure § 384. The Settlement Administrator shall not
24 transmit any funds to the *cy pres* recipients until the Parties have provided to the Settlement Administrator
25 a revised Judgment approving the final distribution of all Settlement funds, including the amount of
26 unclaimed funds and accrued interest, if any, to be transmitted to the *cy pres* recipients. Any revised
27 Judgment shall require that all unclaimed funds and any accrued interest shall be distributed to the *cy pres*

1 recipients so that no additional funds from this Settlement remain in the custody of the Settlement
2 Administrator.

3 20. This Judgment is intended to be a final disposition of the Action in its entirety, and is
4 intended to be immediately appealable.

5 21. Plaintiffs shall give notice of this Judgment Approving Class Action Settlement.

6 22. In accordance with and for the reasons stated in the Final Approval Order, this
7 Judgment shall be entered whereby the Plaintiffs, all Settlement Class Members who have not
8 otherwise opted out, PAGA Members, and the Labor Workforce & Development Agency shall take
9 nothing from Defendant, except as expressly set forth in the Settlement Agreement, as attached hereto
10 as Exhibit A.

11 23. Pursuant to California Code of Civil Procedure Section 664.6 and Rule 3.769(h) of the
12 California Rules of Court, this Court reserves exclusive and continuing jurisdiction over this action,
13 the Plaintiffs, Settlement Class Members, and Defendant, for the purposes of:

14 (a) supervising the implementation, enforcement, construction, and interpretation of the
15 Settlement, the Preliminary Approval Order, the plan of allocation, the Final Approval
16 Order, and the Judgment; and

17 (b) supervising distribution of amounts paid under this Settlement.

18
19 **IT IS SO ORDERED.**

20
21 Dated: 09/26/2023

22 Paul D. Herbert
Hon. Paul D. Herbert
Judge of the Superior Court

23 4895-3069-1969, v. 1

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 09/26/2023
PLAINTIFF/PETITIONER: Renee Porter et al	Clad File, Executive Officer/Clerk of the Court By: <u><i>P. Tungohan</i></u> Deputy P. Tungohan
DEFENDANT/RESPONDENT: Equinox Holdings, Inc.	
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 , Judgment Entered on September 26, 2023 (Dept. 302 / Judge Herbert) 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.

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

Equinox Holdings, Inc.

Mia Farber
Jackson Lewis LLP

Ronald W. Makarem
Makarem & Associates

Renee Porter

Joshua Tolin

Dated: 09/26/2023

Chad Finke, Executive Officer / Clerk of the Court

By:

P. Tungohan

P. Tungohan, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
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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, Judgment Entered on September 26, 2023 (Dept. 302 / Judge Herbert) 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 , 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.

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X

Samuel David Almon
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Los Angeles, CA 90025

Chad Finke, Executive Officer / Clerk of the Court

Dated: 09/26/2023

By:

P. Tungohan

P. Tungohan, Deputy Clerk

CERTIFICATE OF MAILING