

FILED
Clerk of the Superior Court

SEP 29 2023

By: V. Secaur

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

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

LOVELYN TADENA-CHUA, *et al.*,

Plaintiff,

v.

ACUMEN FISCAL AGENT, LLC, *et al.*,

Defendants.

Case No. 37-2021-00052766-CU-OE-CTL

Hon. Timothy B. Taylor
Dept. 72

CLASS ACTION

**~~Proposed~~ Order Granting Preliminary
Approval of Class Action Settlement**

Motion for Prelim. App. Hearing

Date: September 29, 2023

Time: 1:30 p.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: December 17, 2021

1 This matter came on for hearing on September 29, 2023 at 1:30 p.m. in Department 72 of the
2 above-captioned Court on Plaintiff's 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 class action settlement agreement
6 ("Settlement"), and the class notice attached as an exhibit to the Settlement ("Class Notice"), and in
7 recognition of the Court's duties (to make a preliminary determination as to the reasonableness of any
8 proposed class action settlement; to ensure proper notice is provided to all class members in accordance
9 with due process requirements; and to set a Final Approval Hearing to consider the good faith, fairness,
10 adequacy and reasonableness of the proposed Settlement), the Court makes the following
11 determinations and orders:

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

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

24 3. The Court further finds, on a preliminary basis, (a) the non-reversionary Gross
25 Settlement Amount is fair and reasonable to the class when balanced against the probable outcome of
26 further litigation relating to class certification, liability and damages issues, and potential appeals;
27 (b) sufficient investigation, research, and informal discovery, have been conducted such that counsel
28 for the parties are able to reasonably evaluate their respective positions; (c) settlement at this time will

1 avoid substantial costs, delay, and risks presented by further prosecution of the litigation; and (d) the
2 proposed Settlement was reached through prudent and non-collusive negotiations facilitated by an
3 experienced mediator.

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

6 5. Class members are therefore defined pursuant to the terms set forth in the Settlement.

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

15 7. The Court further finds the proposed Class Notice provides the best practicable notice
16 to the Class and comports with the constitutional requirements, including those of due process.

17 8. The Court further finds that mailing of the Class Notice to the last known address of all
18 class members with measures taken for verification of an address and skip tracing of bad addresses, as
19 specifically described within the Settlement, constitutes an effective method of notifying class members
20 of their rights with respect to the class action and the Settlement.

21 9. Accordingly, for good cause, the Court **APPROVES** the Class Notice for distribution
22 to the Class pursuant to the notice procedures set forth in full in the Settlement.

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

24 a. CPT Group be appointed the Administrator of the Settlement, as more
25 specifically set forth in the Settlement;

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

27 c. Plaintiff Lovelyn Tadena-Chua be appointed as class representative;

28

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

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

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

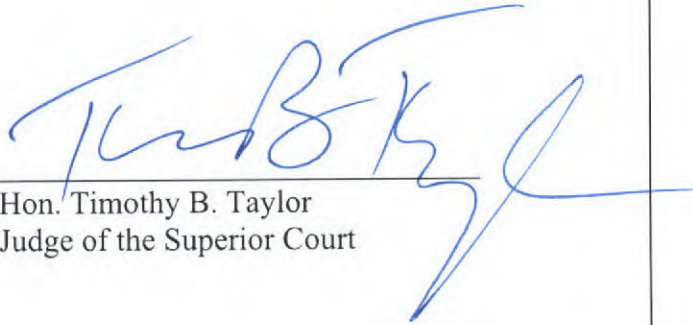
10 10. **IT IS FURTHER ORDERED** that the Final Approval Hearing shall be held before the
11 undersigned at 1:30 pm [~~hearing time~~] on 12/15/23 [~~hearing date~~], in this
12 Department.

13 11. At the Final Approval Hearing, the Court will consider the fairness, adequacy, and
14 reasonableness of the proposed Settlement preliminarily approved in his Order and notice process to
15 be effectuated, and to consider the application for a class representative service payment to the class
16 representative, the administration expenses, attorneys' fees, and costs.

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

20
21 **IT IS SO ORDERED.**

22
23 Date: 9/29/23

24 
25 Hon. Timothy B. Taylor
26 Judge of the Superior Court
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