

1 WHEREAS, a Motion for Preliminary Approval of Joint Stipulation and Class, Collective
2 and PAGA Settlement Agreement (“Motion for Preliminary Approval”) came on regularly for
3 hearing in this department on December 20, 2023;

4 WHEREAS, Matthew B. Hayes of Hayes Pawlenko LLP appeared on behalf of Plaintiffs
5 and Sarah Kroll-Rosenbaum of Akerman LLP appeared on behalf of Defendant AMN Services,
6 LLC (“AMN”);

7 WHEREAS, this action was initially filed in the Los Angeles Superior Court on May 6,
8 2016, and thereafter removed to the United States District Court for the Central District of
9 California (“Federal Court”) on June 10, 2016;

10 WHEREAS, on October 12, 2017, the Federal Court certified a class defined as: all non-
11 exempt hourly employees employed by AMN in California from September 11, 2013 through
12 October 12, 2017 who worked overtime during one or more pay periods from September 11, 2013
13 through October 12, 2017, pursuant to a Professional Services Agreement that provided for per
14 diem adjustments based on the number of hours and/or shifts missed and had the value of per diem
15 benefits excluded from their regular rate for purposes of calculating overtime (hereafter
16 “California Class”);

17 WHEREAS, on October 12, 2017, the Federal Court also certified a Fair Labor Standards
18 Act (“FLSA”) collective defined as: all non-exempt hourly employees employed by AMN in
19 California at any time since September 13, 2013 or outside California at any time since December
20 15, 2013 whose employment was governed by a Professional Services Agreement that provided
21 for per diem adjustments based on the number of hours and/or shifts missed and had the value of
22 per diem benefits excluded from their regular rate for purposes of calculating overtime (hereafter
23 “FLSA Collective”).

24 WHEREAS, the Federal Court approved a notice and opt-out procedure for the California
25 Class whereby all individuals falling within the class definition were provided written notice of
26 the certification order and were given 90 calendar days to opt-out of the California Class;

27 WHEREAS, after the opt-out process, there were 9,717 members of the California Class;

1 WHEREAS, the Federal Court approved a notice and opt-in procedure for the FLSA
2 Collective whereby all individuals falling within the collective definition were provided written
3 notice of the Federal Court’s certification order and were given 90 calendar days to opt-in to the
4 FLSA Collective;

5 WHEREAS, 1,032 individuals opted-in to the FLSA Collective;

6 WHEREAS, following more than seven (7) years of litigation in Federal Court, which
7 included extensive discovery and law and motion, the parties ultimately reached an agreement in
8 principle to resolve the action with the assistance of a private mediator, Honorable Suzanne Segal
9 (Ret.);

10 WHEREAS, pursuant to a stipulation between the parties, the Federal Court remanded the
11 action to this Court for further proceedings on August 4, 2023;

12 WHEREAS, the parties thereafter prepared and executed the Joint Stipulation and Class,
13 Collective and PAGA Settlement Agreement (“Settlement”) now before this Court;

14 WHEREAS, the Settlement is on behalf of the 9,717 individuals who did not opt-out of the
15 California Class (hereafter “Settlement Class”) and the 1,032 individuals who opted-in to the
16 FLSA Collective (hereafter “Settlement Collective”);

17 WHEREAS, because these individuals have already been provided notice and an
18 opportunity to opt-out of the class and/or opt-in to the collective, the Settlement does not provide
19 for a second opt-out procedure, but does provide for an objection procedure; *see, e.g., Low v.*
20 *Trump Univ., LLC*, 881 F.3d 1111, 1121 (9th Cir. 2018) *and Officers of Justice v. Civil Serv. Com.*,
21 688 F.2d 615, 634-35 (9th Cir. 1982) (both holding that “due process” requires only a “single
22 opportunity to opt-out” of a class and does not require a “second” opt-out opportunity from a
23 “settlement”);

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1 NOW, THEREFORE, having carefully considered the Motion for Preliminary Approval,
2 the Settlement, the arguments of counsel, and all records on file with this Court, THE COURT
3 HEREBY FINDS AND ORDERS AS FOLLOWS:

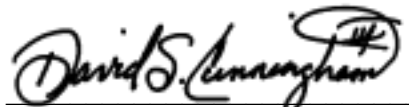
- 4 1. The Court finds on a preliminary basis that the Settlement appears to be fair, adequate
5 and reasonable, falls within the range of reasonableness, and therefore meets the
6 requirements for preliminary approval;
- 7 2. The Settlement Class and Settlement Collective, as defined above, are conditionally
8 certified for purposes of carrying out the Settlement;
- 9 3. Verna Maxwell Clarke (“Clarke”), Laura Wittmann (“Wittmann”), and Kasie Fatig
10 (“Fatig”) are appointed as representatives of the Settlement Class and Settlement
11 Collective;
- 12 4. Matthew B. Hayes and Kye D. Pawlenko of Hayes Pawlenko LLP (hereafter “Class
13 Counsel”) are appointed as counsel for the Settlement Class and Settlement Collective;
- 14 5. CPT Group, Inc. (hereafter “Administrator”) is appointed as the third-party
15 administrator for the Settlement;
- 16 6. The Court preliminarily approves the following deductions from the \$59,990,000 gross
17 settlement amount (“Gross Settlement”):
 - 18 a. PAGA penalties in the gross amount of \$2,382,500, allocated 75% (\$1,786,875)
19 to the California Labor & Workforce Development Agency (“LWDA”) and
20 25% (\$595,625) to those members of the Settlement Class who qualify as
21 “Aggrieved Employees” as defined in the Settlement;
 - 22 b. Class representative service awards of up to \$10,000 to Clarke, \$10,000 to
23 Wittmann, and \$5,000 to Fatig for their services in prosecuting this action and
24 representing the Settlement Class and Settlement Collective;
 - 25 c. Attorneys’ fees to Class Counsel of up to 1/3 of the Gross Settlement
26 (\$19,996,666) and reimbursement of litigation costs to Class Counsel of up to
27 \$200,000; and

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- d. Settlement administration fees and expenses of up to \$60,000 to the Administrator;
- 7. The Court finds that the proposed notice to the Settlement Class and Settlement Collective, included as Exhibit A to the Settlement (“Settlement Notice”), and the proposed procedure for disseminating the Settlement Notice, meet the requirements of due process, provide the best notice practicable, and will constitute sufficient notice to the Settlement Class and Settlement Collective;
- 8. By no later than January 26, 2024, the Administrator shall disseminate the Settlement Notice to the Settlement Class and Settlement Collective pursuant to the terms of the Settlement;
- 9. The deadline for members of the Settlement Class and Settlement Collective to object to the Settlement shall be March 26, 2024:
- 10. A Final Fairness Hearing is scheduled for June 6, 2024 at 9:00 a.m. in Department 11 of this Court; and
- 11. The deadline to file the motion for final approval of the Settlement and the motion for attorneys’ fees, costs and class representative service awards shall be pursuant to the Code of Civil Procedure based on a June 6, 2024 hearing date.

IT IS SO ORDERED.

Dated: 01/02/2024


 HON. DAVID S. CUNNINGHAM
 Judge of the Superior Court

1 **APPROVED AS TO FORM AND CONTENT**

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3 Dated: December 21, 2023

HAYES PAWLENKO LLP

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5 By: /s/Matthew B. Hayes
6 Matthew B. Hayes
7 Kye D. Pawlenko
8 Attorneys for Plaintiff

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9 Dated: December 21, 2023

AKERMAN LLP

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11 By: /s/Sarah Kroll-Rosenbaum
12 Sarah Kroll-Rosenbaum
13 Anthony D. Sbardellati
14 Attorneys for Defendant

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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- 1. At the time of service I was at least 18 years of age and not a party to this legal action.
- 2. My business address is 1414 Fair Oaks Avenue, Suite 2B, South Pasadena, CA 91030.
- 3. I served copies of the following documents (specify the exact title of each document served):

[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF JOINT STIPULATION AND CLASS, COLLECTIVE AND PAGA SETTLEMENT AGREEMENT

- 4. I served the documents listed above in item 3 on the following persons at the addresses listed:

SARAH KROLL-ROSENBAUM
sarah.kroll-rosenbaum@akerman.com
ANTHONY D. SBARDELLATI
anthony.sbardellati@akerman.com

- 5. **By electronic transmission.** Pursuant to an agreement between the parties to accept e-mail service as personal service, I attached the document(s) to an e-mail sent to the e-mail addresses listed above.

- 6. I served the documents by the means described in item 5 on *(date)*: December 21, 2023

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

12/21/23 Matthew B. Hayes /s/Matthew B. Hayes