

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TREVOR JOHNSON, et al.,
Plaintiffs,
v.
QUANTUM LEARNING NETWORK,
INC.,
Defendant.

Case No. 15-CV-05013-LHK
ORDER GRANTING PRELIMINARY APPROVAL
Re: Dkt. No. 52

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

On August 11, 2016, the Court held a hearing on Plaintiffs’ motion for preliminary approval of class action settlement and certification of settlement classes (“motion for preliminary approval”). On August 12, 2016, the Court denied the motion for preliminary approval without prejudice. ECF No. 43. On August 29, 2016, the Court held a hearing on Plaintiffs’ amended motion for preliminary approval of class action settlement and certification of settlement classes (“amended motion for preliminary approval”). On August 30, 2016, the Court denied the amended motion for preliminary approval without prejudice. ECF No. 51.

On September 13, 2016, Plaintiffs filed a second amended motion for preliminary approval of class action settlement and certification of settlement classes (“Second Amended Motion for

1 Preliminary Approval”). ECF No. 52. The parties also filed a Second Amended Stipulation and
2 Class Action Settlement Agreement (the “Second Amended Settlement Agreement”). ECF No.
3 53-1. Having considered the motions, the Second Amended Settlement Agreement, the record in
4 this case, and the parties’ arguments at the August 11, 2016 and August 29, 2016 hearings, the
5 Court VACATES the hearing set for December 8, 2016, at 1:30 p.m., and HEREBY ORDERS
6 THE FOLLOWING:

7 1. To the extent defined in the Second Amended Settlement Agreement, the terms in
8 this Order shall have the meanings set forth therein.

9 2. The Court grants the Second Amended Motion for Preliminary Approval based
10 upon the terms set forth in the Second Amended Settlement Agreement, which appear to be fair,
11 adequate, and reasonable to the Class.

12 3. The Second Amended Settlement Agreement is supported by the recommendations
13 of counsel and was negotiated at arms’ length, with the guidance of an experienced wage-and-hour
14 mediator.

15 4. The proposed California Class satisfies the requirements of Federal Rule of Civil
16 Procedure 23 and is certified for purposes of settlement only on that basis.

17 5. The proposed FLSA Class satisfies the requirements of 29 U.S.C. § 216(b) and is
18 certified for purposes of settlement only on that basis.

19 6. To comply with the Ninth Circuit’s decision in *In re Bluetooth Headset Litig.*, 654
20 F.3d 935 (9th Cir. 2011), Class Counsel shall file their motion for attorney’s fees, costs, and
21 service awards by December 12, 2016. Class Counsel shall also post their motion for attorney’s
22 fees, costs, and service awards on the settlement website. The motion for attorney’s fees, costs,
23 and service awards must include (1) the number of hours spent on this litigation by each biller, (2)
24 detailed billing records showing how much time was spent on each task, and (3) each biller’s
25 billable rate and justification for such rate.

26 7. The *cy pres* recipient identified in the Second Amended Settlement Agreement,
27 Legal Aid Society-Employment Law Center, appears to meet the tests under *Dennis v. Kellogg*

1 *Co.*, 697 F.3d 858, 865 (9th Cir. 2013), “that there be a driving nexus between the plaintiff class
2 and the *cy pres* beneficiaries.”

3 8. The parties have proposed a consent-to-join form and a Notice of Class Action
4 Settlement (“Notice”), attached to the Second Amended Settlement Agreement as Exhibit A. ECF
5 No. 53-1, Ex. A. The Court approves the consent-to-join form, and the Notice as amended by the
6 Court and attached to this Order as Exhibit A (“Amended Notice”). The Court also approves the
7 procedure for Class Members to participate in, to opt out of, and to object to the Second Amended
8 Settlement Agreement as set forth in the consent-to-join form and Amended Notice.

9 9. The Court directs the mailing of the consent-to-join form and Amended Notice by
10 first-class mail to the Class Members in accordance with the schedule set forth in the Second
11 Amended Settlement Agreement.

12 10. The Court appoints Trevor Johnson and Samantha Harmon as Class
13 Representatives for settlement purposes only.

14 11. Pursuant to Fed. R. Civ. P. 23(g), the Court appoints Bryan Schwarz Law as Class
15 Counsel for settlement purposes only.

16 12. The Court confirms Rust Consulting as the Claims Administrator, and preliminarily
17 approves settlement administration fees and expenses to the Claims Administrator not to exceed
18 \$20,000.

19 13. Plaintiffs shall file their motion for final approval by February 9, 2017. Plaintiffs
20 may file a reply brief in support of their motion for attorney’s fees and their motion for final
21 approval by February 16, 2017.

22 14. A final fairness hearing on the question of whether the proposed Second Amended
23 Settlement Agreement, attorneys’ fees to Class Counsel, and the Class Representative’s
24 enhancement payments should be finally approved as fair, reasonable, and adequate as to the
25 members of the Class is scheduled for February 23, 2017, at 1:30 p.m., at United States District
26 Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113,
27 Courtroom 8, 4th Floor.

1 **IT IS SO ORDERED.**

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3 Dated: September 23, 2016

Lucy H. Koh

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5 LUCY H. KOH
United States District Judge

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