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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

IA BROWN, an individual, on behalf of herself, all others similarly situated, and the general public,

Plaintiff,

v.

AUDIOLOGY DISTRIBUTION, LLC, a Delaware limited liability company; CRAIG CAMERON, an individual; HEARX WEST, INC., A California corporation; STEVE MAHON, an individual; TINO SCHWEIGHOEFER, an individual; HEARX WEST LLC, a Delaware limited liability company; WS AUDIOLOGY (CALIFORNIA), PC, A California professional corporation; SIVANTOS, INC., a Delaware corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. CV 22-4271-DMG (MRWx)

**ORDER RE MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND COLLECTIVE ACTION
SETTLEMENT [37]**

On July 19, 2024, Plaintiff and proposed Class Representative Ia Brown moved for an order of preliminary approval of a proposed class and collective action settlement, seeking the following:

1. Preliminary approval of the proposed class and collective action settlement with

1 Defendants Audiology Distribution, LLC, HearX West, Inc., and HearX West,
2 LLC, herein, as set forth in the SETTLEMENT AGREEMENT AND RELEASE
3 OF CLAIMS (hereinafter “Agreement”);

- 4 2. Certification, for settlement purposes only, of the Federal Rule of Civil Procedure
5 Rule 23 Class described in the Agreement;
- 6 3. Approval of the Fair Labor Standards Act (“FLSA”) collective action settlement set
7 forth in the Agreement;
- 8 4. Appointment of the Cullen Law Firm, APC, and Paul T. Cullen as Class Counsel;
- 9 5. Appointment of CPT Group, Inc. as the Settlement Administrator;
- 10 6. Approval of the schedule for the dissemination of the Class Notice, as set forth
11 below; and
- 12 7. A date for the Final Approval Hearing.

13 The Court has read and considered the moving papers and evidence presented
14 therein, and finding good cause therefor, the Court **GRANTS** Plaintiff’s motion and rules
15 as follows:

16 The Court hereby **preliminarily approves** the proposed SETTLEMENT
17 AGREEMENT AND RELEASE OF CLAIMS executed by the parties and attached to the
18 Declaration of Paul T. Cullen as Exhibit 1 [Doc. # 41], filed in connection with Plaintiff’s
19 motion.

20 The Court **certifies for the purposes of settlement only**, (1) a nationwide collective
21 class for claims arising under the FLSA, but with excludes Defendants’ affected workers
22 in California, and (2) a California class, which has two subclasses. These classes are
23 defined as follows:

- 24 • FLSA Regular Rate Class: All non-exempt hourly paid employees, including
25 but not limited to Hearing Aid Dispensers and Hearing Aid Specialists,
26 employed by the Business Entity Defendants who also received commissions
27 and/or bonuses at any time between June 22, 2019 and July 19, 2024;
- 28 • California Regular Rate Class: All non-exempt hourly paid employees,
including but not limited to Hearing Aid Dispensers and Hearing Aid

1 Specialists, employed by the Business Entity Defendants, who also received
2 commissions and/or bonuses at any time between December 26, 2017 and
3 July 19, 2024;

- 4 ○ California Itemized Wage Statement Subclass: All California Regular
5 Rate Class Members who were employed at any time during the period
6 between December 26, 2020 and July 19, 2024;
- 7 ○ California Waiting Time Penalties Subclass: All California Regular
8 Rate Class Members who were employed at any time during the period
9 between December 26, 2018 and July 19, 2024.

10 The California Regular Rate Class, the California Itemized Wage Statement
11 Subclass, and the California Waiting Time Penalties Subclass are certified for
12 settlement purposes only pursuant to Federal Rule of Civil Procedure 23 as an “opt
13 out” class. The FLSA Regular Rate Class is preliminarily approved for settlement
14 purposes only under the FLSA, 29 U.S.C. § 216. As required by statute, FLSA
15 Class Members must “opt in.”

16 The Court **appoints** the Cullen Law Firm, APC, and Paul T. Cullen as Class
17 Counsel. The Court finds that the Cullen Law Firm and Paul T. Cullen are adequate
18 and qualified to act as Class Counsel and have no interests that are antagonistic to
19 the Class.

20 The Court hereby **appoints** Ia Brown as the Class Representative of the
21 certified classes, finding that she has no conflicts with the classes she seeks to
22 represent. She has demonstrated her understanding of and adherence to the
23 fiduciary duties she has undertaken as a proposed Class Representative.

24 The Court hereby **appoints** CPT Group, Inc. as the Settlement Administrator.

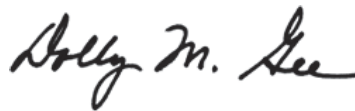
25 The Court hereby **preliminarily approves** the amount to be paid to resolve
26 this matter by way of settlement, *i.e.* \$1,800,000. The Court also preliminarily
27 approves the amounts allocated in the Settlement Agreement for attorneys’ fees,
28 reimbursement to Class Counsel of litigation costs, costs of settlement
administration, and a Class Representative service award.

The Court hereby sets the following schedule:

August 9, 2024	Defendant provides Settlement Administrator with Class Member information.
August 23, 2024	Deadline for Settlement Administrator to mail Class Notice.
September 23, 2024	Deadline to file Motion for Attorneys' Fees and to upload to the settlement website.
October 7, 2024	Response Deadline (opt-outs, objections, and disputes must be postmarked by this date). FLSA class members must opt-in by this date.
October 17, 2024	Declaration of Due Diligence by the Settlement Administrator detailing the mailing and response tracking process.
November 1, 2024	Deadline to file Motion for Final Approval and upload to the settlement website.
December 6, 2024 at 10:00 a.m.	Final Approval Hearing date.
Within 10 days of the Effective Date, as defined in the Agreement	Defendants to fund the Total Settlement Amount
Within 10 days of the Funding Date, as defined in the Agreement	Disbursement of funds to Class, Class Counsel, and Plaintiff

IT IS SO ORDERED.

DATED: July 19, 2024



DOLLY M. GEE
CHIEF UNITED STATES DISTRICT JUDGE