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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ANDREA MARQUEZ, individually, and on behalf of other members of the general public similarly situated;

Plaintiff,

v.

NIHON KOHDEN AMERICA, INC., a California corporation; and DOES 1 through 100, inclusive;

Defendants.

Case No.: 30-2021-01184495-CU-OE-CXC

Assigned for All Purposes to:
Honorable Randall J. Sherman
Department CX-105

CLASS ACTION

~~AMENDED [PROPOSED]~~ ORDER OF FINAL APPROVAL AND JUDGMENT

Hearing Date: December 15, 2023
Hearing Time: 10:00 a.m.
Hearing Place: Department CX-105

Complaint Filed: February 17, 2021
FAC Filed: December 30, 2022
Trial Date: None Set

1 This matter came before Honorable Randall J. Sherman in Department CX-105 of the
2 above-entitled Court, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701,
3 on Plaintiff Andrea Marquez’s (“Plaintiff”) Motion for Final Approval of Class Action
4 Settlement, Attorney Fees Award, Cost Award, and Class Representative Enhancement
5 Payment.

6 On July 14, 2023, the Court entered an Order Preliminarily Approving Class Action
7 Settlement (“Preliminary Approval Order”), thereby preliminarily approving the settlement of
8 the above-entitled case in accordance with the Joint Stipulation of Class Action and PAGA
9 Settlement and Amendment to the Joint Stipulation of Class Action and PAGA Settlement
10 (“Settlement Agreement,” “Settlement,” or “Agreement”), which, together with the exhibits
11 annexed thereto, sets forth the terms and conditions for settlement of this case.

12 Having reviewed the Settlement Agreement and duly considered the Parties’ papers and
13 oral argument, and good cause appearing:

14 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

15 All terms used herein shall have the same meaning as defined in the Settlement
16 Agreement as amended and the Preliminary Approval Order. This Court has jurisdiction over
17 the claims of the Class Members asserted in this proceeding and over all Parties to this case.
18 The Court finds the applicable requirements of Code of Civil Procedure section 382 and
19 California Rule of Court 3.769, *et seq.*, have been satisfied with respect to the Class and
20 Settlement Agreement. The Court makes final its earlier provisional certification of the Class
21 for settlement purposes, as set forth in the Preliminary Approval Order. The Class is defined to
22 include:

23 All current and former hourly-paid or non-exempt employees of Defendant
24 Vaco LLC who were assigned to work at Defendant Nihon Kohden America,
25 Inc. within the State of California during the time period from February 18,
2017 to January 27, 2022 (“Class,” “Class Members,” and “Class Period”).

26 In addition, Eligible Aggrieved Employees is defined to include:

27 The aggrieved employees eligible to recover settlement funds from the Private
28 Attorneys General Act of 2004 (“PAGA”) Payment shall consist of all current and

1 former hourly-paid or non-exempt employees of Defendant Vaco LLC who were
2 assigned to work at Defendant Nihon Kohden America, Inc. within the State of
3 California during the time period from February 18, 2021 to January 27, 2022
4 (“Eligible Aggrieved Employees” and “PAGA Period”).

5 The Notice of Class Action Settlement and Exclusion Form (collectively, known as the
6 “Notice Packet”) mailed to the Class Members: (1) fully and accurately informed the Class
7 Members of all material elements of the Settlement Agreement and of their opportunity to
8 participate in, object to or comment thereon, or to seek exclusion from the Settlement
9 Agreement; (2) was the best notice practicable under the circumstances; (3) was valid, due, and
10 sufficient notice to all Class Members; and (4) complied fully with the laws of California,
11 United States Constitution, due process, and other applicable law. The Notice Packet fairly and
12 adequately described the Settlement Agreement and provided the Class Members with adequate
13 instructions and a variety of means to obtain additional information.

14 The Court grants final approval of the Agreement, as reflected in the Agreement, and
15 finds the Agreement reasonable, adequate, and in the best interests of the Class. The Court
16 finds: (1) the Agreement was reached following meaningful discovery and investigation
17 conducted by Class Counsel; (2) the Agreement is the result of serious, informed, adversarial,
18 and arm’s-length negotiations between the Parties; and (3) the terms of the Agreement are fair,
19 adequate, and reasonable. The Court considered all the evidence presented, including evidence
20 regarding the strength of the case, risk, expense, and complexity of the claims presented, likely
21 duration of further litigation, amount offered in the Agreement, extent of investigation and
22 discovery completed, and experience and views of Class Counsel.

23 The Agreement is not an admission by Defendants, nor is this Order and Judgment a
24 finding of the validity of any allegations or of any wrongdoing by Defendants. Neither this
25 Order and Judgment, the Agreement, nor any document referred to herein, nor any action taken
26 to carry out the Agreement, may be construed as, or may be used as, an admission of any fault,
27 wrongdoing, omission, concession, or liability whatsoever by or against Defendants.

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1 A full opportunity was afforded to the Class Members to participate in the Final
2 Approval Hearing, and all Class Members and other persons wishing to be heard have been
3 heard. The Class Members had a full and fair opportunity to exclude themselves from the
4 Settlement. Accordingly, the Court determines all Class Members who did not submit requests
5 for exclusion to the Settlement Administrator are bound by this Order and Judgment.

6 The Court considered no requests for exclusion were submitted by Class Members. The
7 Court also considered no objections were submitted by Class Members. Finally, the Court
8 considered no disputes were submitted by Class Members.

9 The plan of allocation and distribution of the Gross Settlement Amount is fair, adequate,
10 and reasonable, and is approved. It is ordered that Defendant Vaco LLC shall pay the Gross
11 Settlement Amount of \$150,000 in accordance with the methodology and terms set forth in the
12 Settlement Agreement.

13 It is ordered the Settlement Administrator shall distribute settlement payments to all
14 Class Members who did not submit valid and timely requests to exclude themselves from the
15 Settlement (“Participating Class Members”) according to the methodology and terms set forth in
16 the Settlement Agreement.

17 It is further ordered, pursuant to Code of Civil Procedure section 384, Participating
18 Class Members and Eligible Aggrieved Employees must cash or deposit their settlement checks
19 within one hundred eighty (180) calendar days after the settlement checks are mailed to them.
20 Uncashed settlement checks will be paid to the California State Controller’s Unclaimed
21 Property Division in accordance with California Unclaimed Property Law so that the
22 Participating Class Member and Eligible Aggrieved Employees will have his or her settlement
23 share available to him or her per the applicable claim procedure to request that money from the
24 State of California.

25 The Court finds the request for an award of attorneys’ fees of \$50,000 falls within the
26 range of reasonableness, and the results achieved justify the award sought. The requested
27 Attorney Fee Award is fair, reasonable, and appropriate, and is approved. It is hereby ordered
28 that the Settlement Administrator will issue payment of \$50,000 to Class Counsel as the

1 Attorney Fee Award according to the methodology and terms set forth in the Settlement.

2 Pursuant to the Settlement Agreement, Class Counsel can request reimbursement of
3 litigation costs and expenses of up to \$20,000. The Court finds the reimbursement of litigation
4 costs and expenses of \$14,324.13 incurred by Class Counsel is reasonable and is approved.
5 Thus, it is hereby ordered that the Settlement Administrator will issue payment of \$14,324.13 to
6 Class Counsel as the Cost Award for the reimbursement of litigation costs and expenses.

7 The Court finds the Class Representative Enhancement Payment ~~sought by~~ awarded to
8 Plaintiff for the time and effort she dedicated to and the risks and sacrifices she incurred for this
9 case is fair and reasonable. It is ordered that the Settlement Administrator will issue a payment
10 of \$5,000 to Plaintiff as the Class Representative Enhancement Payment.

11 It is further ordered that the Settlement Administrator shall pay itself \$6,750 as its
12 Administration Costs for the services performed and costs incurred pursuant to the notice and
13 administration process in accordance with the Settlement.

14 The Court finds the allocation of \$15,000 toward penalties under the PAGA is fair,
15 reasonable, and appropriate, and is approved. The Settlement Administrator shall distribute the
16 PAGA Payment as follows: seventy-five percent (75%) of the PAGA Payment (\$11,250) shall
17 be paid to the California Labor and Workforce Development Agency, and twenty-five percent
18 (25%) of the PAGA Payment (\$3,750) shall be distributed to Eligible Aggrieved Employees, on
19 a pro rata basis (“PAGA Payment”), according to the methodology and terms set forth in the
20 Settlement Agreement.

21 The Court hereby enters judgment by which Participating Class Members shall be
22 conclusively determined to have given a release of any Released Claims against the Released
23 Parties as set forth in the Settlement Agreement and Notice Packet.

24 Notice of entry of judgment shall be provided to the Class by the Settlement
25 Administrator by posting the judgment on the static website created for the Class.

26 Finally, the Court finds this case is fully and finally resolved by the Settlement
27 Agreement without a finding of liability by any party and that nothing herein is or should be
28 construed as an admission of liability by Defendants.

1 After entry of this Order and Judgment, pursuant to California Rules of Court, Rule
2 3.769(h), the Court shall retain continuing jurisdiction to construe, interpret, implement, and
3 enforce the Settlement Agreement, to hear and resolve any contested challenge to a claim for
4 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection
5 with the distribution of settlement benefits.

6 The Court sets a Final Report Hearing for September 20, 2024 at 10:00 a.m. in
7 Department CX-105. By sixteen (16) days before this hearing, Plaintiff shall file a compliance
8 status report. Pursuant to Code of Civil Procedure section 384, the compliance status report
9 shall specify the total amount paid to Participating Class Members and the residual of the
10 unclaimed settlement funds that will be paid to the entity identified as the recipient of such
11 funds in the Settlement Agreement.

12 This Court HEREBY ORDERS, ADJUDGES, AND DECREES judgment is hereby
13 entered in accordance with the terms of this Order and Judgment and the Agreement.

14
15 **IT IS SO ORDERED.**

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17 DATED: **December 21, 2023**


HONORABLE RANDALL J. SHERMAN
SUPERIOR COURT JUDGE