

**FILED**  
Clerk of the Superior Court

SEP 17 2019

By: R. Cersosimo, Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO, CENTRAL DIVISION

ELIZABETH SEGAL, individually, and on  
behalf of herself and others similarly situated,

Plaintiffs,

vs.

AQUENT, LLC, a Massachusetts corporation;  
and DOES 1 through 50 inclusive,

Defendants.

Case No: 37-2017-00043402-CU-OE-CTL

Judge: Hon. Richard S. Whitney  
Department: C-68

~~PROPOSED~~ ORDER GRANTING FINAL  
APPROVAL OF CLASS AND  
COLLECTIVE ACTION SETTLEMENT

Date Complaint Filed: November 9, 2017  
Trial Date: N/A  
Discovery Cutoff: N/A

1 **[PROPOSED] ORDER**

2 WHEREAS, on May 10, 2019, the Court preliminarily approved a class and collective action  
3 settlement agreement (“Settlement Agreement”) reached between Plaintiff Elizabeth Segal  
4 (“Plaintiff”) and Defendant Aquent LLC (“Defendant”);

5 WHEREAS, the Court approved a Notice of Settlement for mailing to the Class and  
6 Collective Members;

7 WHEREAS, counsel has informed the Court that pursuant to the May 10, 2019 order, the  
8 Court-appointed claims administrator sent the Notice of Settlement by first class United States mail,  
9 postage prepaid, to Class and Collective Members;

10 WHEREAS, the parties received no objections from the Class and Collective members, and  
11 only one Class member has opted out of the Settlement Class;

12 WHEREAS, the Parties, via counsel, appeared before this Court on September 13, 2019, at  
13 10:30 a.m. in accordance with the Court’s Order Granting Preliminary Approval, Plaintiffs’ Motion  
14 for Final Approval of Class Settlement and Motion for an Award of Attorneys’ Fees, Costs, and  
15 Service Award for the Class Representative; and

16 WHEREAS, the Motions were unopposed by Defendant, and the parties were represented by  
17 their attorneys of record.

18 After considering the papers filed in support of the motions, arguments of counsel, and the  
19 Court record as a whole, the Court hereby GRANTS Plaintiffs’ Motion for Final Approval of Class  
20 Settlement and Plaintiffs’ Motion for an Award of Attorneys’ Fees, Costs, and Service Award for  
21 the Class Representative as follows:

22 1. This Order incorporates by reference the definitions set forth in the Parties’  
23 Settlement Agreement.

24 2. The Court has jurisdiction over the subject matter of this proceeding and over all  
25 Parties to this proceeding, including all Class and Collective Members.

26 3. The Court approves the settlement of the above-captioned action as set forth in the  
27 Settlement Agreement and each of its releases and other terms, as fair, just, reasonable and  
28 adequate. The Parties are directed to perform in accordance with the terms set forth in the

1 Settlement Agreement and in the Judgment entered in this action.

2 4. The Court finds the Settlement Agreement is fair, adequate, and reasonable for the  
3 Settlement Class for the following reasons:

- 4 • The settlement was reached through arm's-length bargaining (not  
5 through fraud or collusion);
- 6 • Class Counsel's investigations and discovery were sufficient to allow  
7 Class Counsel and the Court to act intelligently;
- 8 • Class Counsel, Thomas D. Rutledge, is well experienced in similar  
9 class and representative action litigation;
- 10 • There were no objectors and only one opt-out to the settlement;
- 11 • The case was complex and there was a certain amount of risk of  
12 appeals after lengthy litigation if the case did not resolve in the  
13 manner in which it resolved; and
- 14 • The settlement amount represents a fair and reasonable settlement of  
15 the claims asserted in relationship to the potential risks of continuing  
16 to litigate the matter.

17 5. The Court further finds that the requested attorneys' fees, costs, litigation expenses,  
18 and Service Award for the class representative are reasonable. In particular, Class Counsel and his  
19 office spent a significant amount of time litigating and investigating this matter; novel and difficult  
20 questions were presented in this case; skill was necessary to perform the legal services properly;  
21 Class Counsel were precluded from handling other matters while they were obliged to handle this  
22 matter; the customary fees charged in matters of this type are customary and reasonable; the fees  
23 were contingent on the outcome; Class Counsel obtained a fair and reasonable settlement; and  
24 Thomas D. Rutledge and his office are very experienced in handling wage and hour class actions.  
25 Moreover, the costs are reasonable, as they represent court and filing fees, mediator's fees, class  
26 notice fees, etc., which are fair and reasonable under the circumstances. Finally, the Service Award  
27 for the class representative is reasonable because she assisted Class Counsel in briefing, discovery,  
28 mediation, and settlement discussions in this case.

1           6.       The parties and Claims Administrator shall comply with all aspects of the Settlement  
2 Agreement, a copy of which is attached as Exhibit 1 to the Declaration of Thomas D. Rutledge in  
3 support of Plaintiffs' Motion for Final Approval of The Class Settlement.

4           7.       Solely for purposes of effectuating the Settlement Agreement, this Court certifies a  
5 Settlement Class as those terms are defined in and by the terms of the Settlement Agreement and the  
6 Court deems this definition sufficient for purposes of California Rules of Court 3.765(a) and 3.771.  
7 The Court thus certifies the following Settlement Class for settlement purposes only: "All  
8 individuals whom Defendant employed in California as remote talent employees at any time from  
9 November 9, 2013 through May 10, 2019."

10          8.       The Court also certifies a collective under the Fair Labor Standards Act as follows:  
11 "All individuals whom Defendant employed in California as remote talent employees at any time  
12 from November 9, 2014 through May 10, 2019."

13          9.       In certifying the Settlement Class for settlement purposes, the Court finds that all the  
14 requirements for certification of a settlement class are satisfied based upon the allegations in the  
15 operative Complaint and the evidence provided to the Court. With respect to the Settlement Class  
16 and for purposes of approving the settlement only and for no other purpose, this Court finds and  
17 concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of all  
18 members is impracticable; (b) there are questions of law or fact common to the Class and there is a  
19 well-defined community of interest among members of the Class with respect to the subject matter  
20 of the non-exempt claims in the Action; (c) the claims of the Plaintiff are typical of the claims of the  
21 members of the Class; (d) the Plaintiff has fairly and adequately protected the interests of the  
22 members of the Class and is an adequate Class Representative; (e) a class action is superior to other  
23 available methods for an efficient adjudication of this controversy; and (f) Class Counsel, is  
24 qualified to serve as counsel for the Plaintiff in his individual and representative capacity and for  
25 the Class.

26          10.       The Court finds that the dissemination of the Notice of Settlement as provided for in  
27 the May 20, 2019 order granting preliminary approval of the settlement constituted the best notice  
28 practicable under the circumstances to all persons within the definition of the Class, and fully met

1 the requirements of California law and due process under the United States Constitution. The  
2 distribution of the Notice of Settlement has been completed in conformity with the preliminary  
3 approval order. Based on evidence and the material submitted in conjunction with the Final  
4 Approval Hearing, the actual notice to the Class was adequate. Class Members were afforded the  
5 opportunity to exclude themselves or object. No Class Member objected or and only one Class  
6 Member submitted a Request for Exclusion from the settlement.

7 11. This Order is not a finding of liability, culpability, negligence, or wrongdoing on the  
8 part of the Defendant.

9 12. Each Settlement Class Member's executors, administrators, representatives, agents,  
10 heirs, successors, assigns, trustees, spouses, or guardians—has released each Released Party from  
11 any claim of liability that was or could have been asserted in this Action based on or arising out of  
12 the facts alleged in this Action, including, without limitation any claims under state law, claims for  
13 unpaid wages, claims for reporting time pay, claims for missed meal or rest breaks, claims for meal  
14 or rest break penalties, claims for unreimbursed employee business expenses, claims for liquidated  
15 damages, claims for unlawful deductions from wages, claims for sick pay violations, claims for  
16 background check violations, claims for record-keeping violations, civil penalties, wage-statement  
17 penalties, and "waiting time" penalties, and claims under the applicable Wage Order and Labor  
18 Code sections 201, 201.3, 202, 203, 204b, 210, 216, 218, 218.5, 218.6, 225.5, 226, 226.3, 226.6,  
19 246-248.5, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802,  
20 2804, 2810.3, and 2810.5 as well as claims under Business and Professions Code section 17200 *et*  
21 *seq.*, and Labor Code section 2698 *et seq.* based on alleged violations of these Labor Code  
22 provisions. This release applies to any claims arising during the Settlement Period for Class  
23 Members, which is from November 9, 2013 through entry of this order ("California Released  
24 Claims").

25 As to the California Released Claims only, each Settlement Class Member waives all rights  
26 provided by California Civil Code section 1542, which states:

27 A general release does not extend to claims that the creditor or releasing party  
28 does not know or suspect to exist in his or her favor at the time of executing the

1 release and that, if known by him or her, would have materially affected his or her  
2 settlement with the debtor or released part.

3 13. The Class Representative generally releases claims against each Released Party. This  
4 general release includes claims arising from the Class Representative's relationship with Defendant,  
5 including, without limitation, claims for unpaid wages and liquidated damages, under the Fair Labor  
6 Standards Act, claims for discrimination, harassment, or retaliation pursuant to Title VII of the Civil  
7 Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair Employment and Housing  
8 Act, California Gov't Code Section 12900 *et seq.*, and claims for violation of public policy. This  
9 general release by the Class Representative also includes a waiver of rights under California Civil  
10 Code Section 1542, which states:

11 A general release does not extend to claims that the creditor or releasing party  
12 does not know or suspect to exist in his or her favor at the time of executing the  
13 release and that, if known by him or her, would have materially affected his or her  
14 settlement with the debtor or released part.

15 14. The Court approves terms of the FLSA Released Claims and finds them to be fair,  
16 just, reasonable and adequate and that the opt-in procedures were adequate and complied with the  
17 law.

18 15. Each Collective Member—and each Collective Member's executors, administrators,  
19 representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—has released each  
20 Released Party from any claim of liability that was or could have been asserted in this Action under  
21 the Fair Labor Standards Act upon cashing his or her settlement check for the FLSA Released  
22 Claims Amount, including for unpaid minimum or overtime wages or liquidated damages.  
23 Collective Members who do not cash or deposit a settlement check do not release any FLSA claim.  
24 This release applies to any claims arising during the Settlement Period for Collective Members,  
25 which is from November 4, 2013 through entry of this order.

26 16. Settlement Class Members and Collective Members are hereby enjoined from  
27 prosecuting any claims or administrative proceedings (including filing any claims with the  
28 California Division of Labor Standards Enforcement) regarding the California Released Claims or  
the FLSA Released claims.

1           17. Defendant shall pay the Gross Settlement Amount of \$160,000.00 to a Qualified  
2 Settlement Fund for distribution to Class and Collective Members, Plaintiff Elizabeth Segal, the  
3 Class Counsel Award, and the California Labor & Workforce Development Agency portion of the  
4 PAGA payment, in the amount and manner specified in the Class and Collective Action Settlement  
5 Agreement, including the \$18,000 payment to the Settlement Administrator (Phoenix Settlement  
6 Administrators) for administration costs.

7           18. Any portion of the California Released Claims Amount that is either not claimed or  
8 that is attributable to a settlement check that was issued but not cashed within 180 days following  
9 the date that it originally was sent shall be donated to Hire Heroes USA, a cy pres beneficiary in  
10 Defendant's name. Hire Heroes USA's mission is dedicated to creating job opportunities for U.S.  
11 military veterans and their spouses.

12           19. The Court retains jurisdiction over the interpretation, enforcement, and  
13 implementation of the settlement.

14           **IT IS SO ORDERED.**

15  
16 Dated: \_\_\_\_\_

9-17-19



Hon. Richard S. Whitney  
Judge of the Superior Court of California  
County of San Diego