

1 **S. BRETT SUTTON, 143107**
 brett@suttonhague.com
 2 **JARED HAGUE, 251517**
 jared@suttonhague.com
 3 **SUTTON HAGUE LAW CORPORATION, P.C.**
 4 5200 N. Palm Avenue, Suite 203
 Fresno, California 93704
 5 Telephone: (559) 325-0500
 6 Facsimile: (559) 981-1217

7 Attorneys for Plaintiffs and the Class

8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**

10 * * *

11 JULIAN SMOTHERS, ET AL.,

12 Plaintiffs,

13 vs.

14 NORTHSTAR ALARM SERVICES, LLC,

15 Defendant(s).

Case No. 2:17-CV-00548-KJM-KJN

**[PROPOSED] ORDER GRANTING: 1)
 PLAINTIFFS' MOTION FOR FINAL
 APPROVAL OF JOINT STIPULATION
 FOR CLASS SETTLEMENT; AND 2)
 PLAINTIFFS' MOTION FOR
 ATTORNEYS' FEES, COSTS AND
 ENHANCEMENT AWARD**

16 Date: December 20, 2019

17 Time: 10:00 a.m.

18 Courtroom: 3

19 Judge: Hon. Kimberly J. Mueller

1 The Motions of Plaintiffs JULIAN SMOTHERS and ASA DHADDA (hereinafter
2 “Plaintiffs”) for Final Approval of Joint Stipulation for Class Settlement (“the Settlement”) and
3 Approval of Attorneys’ Fees, Costs and Enhancement Award came on for hearing in Courtroom
4 3 of this Court on December 20, 2019 at 10:00 a.m. The Court, having considered all pleadings
5 and papers on file herein, the argument of counsel, and the entire record in this action, and for
6 good cause shown, IT IS HEREBY ORDERED as follows:

7 1. The parties originally submitted their proposed settlement on or about February
8 23, 2018. (ECF No. 39). The Court previously issued an Order on January 22, 2019 (ECF No.
9 55), finding that the California Class, as defined by the prior Joint Stipulation of Class Action
10 Settlement and Release (ECF No. 39-2), satisfied the requirements of FRCP 23 and that the
11 FLSA Group, as also defined by the aforementioned Stipulation (ECF No. 39-2), satisfied the
12 requirements for preliminary certification of a collective pursuant to 29 U.S.C. section 216(b).

13 2. The Court’s January 22, 2019 Order appointed Counsel for Plaintiffs as Class
14 Counsel for the California Class and FLSA Group, and Plaintiffs Julian Smothers and Asa
15 Dhadda as class representatives. (ECF No. 55).

16 3. For reasons specified therein, the Court’s January 22, 2019 Order denied
17 preliminary approval of the prior Joint Stipulation of Class Action Settlement and Release and
18 invited the parties to address the issues identified by the Court. (ECF No. 55).

19 4. On or about April 9, 2019, Class Counsel filed a Renewed Motion for Preliminary
20 Approval of Joint Stipulation for Class Settlement, along with the First Amended Joint
21 Stipulation of Class Action Settlement and Release. (ECF No. 60). On August 12, 2019 the
22 Court granted preliminary approval of the Settlement and directed the issuance of notice to the
23 potential Settlement Class Members in conformance with the Settlement. (ECF No. 70).

24 5. The Court, having considered the Plaintiffs’ Motion for Final Approval of Joint
25 Stipulation for Class Settlement and Motion for Attorneys’ Fees, Costs and Enhancement Award,
26 and moving papers submitted in support thereof, finds that the First Amended Joint Stipulation
27 of Class Action Settlement and Release (the “Settlement”) is a fair and reasonable resolution of a
28 bona fide dispute.

1 6. In accordance with the August 12, 2019 Preliminary Approval Order, potential
2 Class Members have been given notice of the terms of the Settlement and the opportunity to
3 object as well as to submit any dispute concerning the basis for their estimated individual
4 settlement shares. The California Class Members have been given notice and the opportunity to
5 exclude themselves from the Settlement. The FLSA Group Members have been given notice and
6 the opportunity to opt in to the Settlement.

7 7. The Court, having received and considered the Plaintiffs' Motion for Final
8 Approval of Joint Stipulation for Class Settlement and Motion for Attorneys' Fees, Costs and
9 Enhancement Award, and moving papers submitted in support thereof, and the evidence and
10 argument received by the Court at the hearing, the Court grants final approval of the Settlement
11 and hereby orders and adjudges as follows:

12 a. That certification of the Settlement Class solely for purposes of the
13 Settlement is appropriate in that: 1) the Settlement Class is ascertainable and so numerous that
14 joinder of all Class Members is impracticable; 2) the Settlement Class raises common questions
15 of law and fact which predominate over individual questions; 3) Plaintiffs' claims are typical of
16 the claims of the Settlement Class; 4) Plaintiffs and their counsel have fairly and adequately
17 represented and protected the interests of the Settlement Class; and 5) a class and collective
18 action and class and collective-wide resolution via class and collective settlement procedures is
19 superior to other available methods for the fair and efficient adjudication of the controversy;

20 b. That the Settlement, and the obligations of the Parties set forth therein, is
21 fair, reasonable, and is an adequate settlement of this case and is in the best interests of the
22 Settlement Class in light of the factual, legal, practical, and procedural considerations raised by
23 this case. This Court hereby approves the Settlement set forth in the First Amended Joint
24 Stipulation of Class Action Settlement and Release and directs the Parties to effectuate the
25 Settlement according to its terms. The First Amended Joint Stipulation of Class Action
26 Settlement and Release is hereby deemed incorporated herein as if expressly set forth, and has
27 the full force and effect of an order and judgment of this Court;

28 //

1 c. That named Plaintiffs Julian Smothers and Asa Dhadda do not have any
2 conflicts that would preclude them from continuing to serve as Class Representatives, and that
3 their appointment comports with the requirements of due process;

4 d. That Class Counsel do not have any conflicts that would preclude them
5 from acting as Class Counsel and that they meet the requirements for appointment as Class
6 Counsel and the requirements of due process; and

7 e. That the Parties have executed the Notice Plan incorporated by reference
8 into the Preliminary Approval Order (ECF No. 70). Having found that the Parties and their
9 counsel took extensive efforts to locate and inform all Settlement Class Members of the
10 Settlement, and given that no Settlement Class Members have filed any objections to the
11 Settlement or appeared at the Final Approval Hearing to object to the Settlement, the Court finds
12 and orders that no additional notice is necessary.

13 8. This Order shall be binding on Plaintiffs and California Class Members, as no
14 member of the California Class sought to be excluded from the Settlement. This Order shall be
15 binding on Plaintiffs and those members of the FLSA Group who affirmatively indicated their
16 intention to release their claims under the FLSA by timely submitting an FLSA Opt-In Form in
17 the manner described by the Settlement. These individuals are referred to herein as Participating
18 Class Members. The Participating Class Members hereby do and shall be deemed to have fully,
19 finally, and forever released, settled, compromised, relinquished and discharged any and all of
20 the Released Parties (as defined in the Settlement) of and from any and all Released Claims (as
21 defined in the Settlement).

22 9. The Settlement is not an admission by Defendant, nor is this final approval order
23 and judgment a finding of the validity of any claims in the Action, or of any wrongdoing by
24 Defendant. Neither this final approval order and judgment, the Settlement, any document
25 referred to herein, any exhibit to any document referred to herein, any action taken to carry out
26 the Settlement, nor any negotiations or proceedings related to the Settlement is to be construed
27 as, or deemed to be evidence of, an admission or concession with regard to the denials or
28 defenses of Defendant, and shall not be offered in evidence in any action or proceeding against

1 the Parties hereto in any Court, administrative agency or other tribunal for any purpose
2 whatsoever other than to enforce the provisions of this Order and judgment.

3 10. The funding of the Settlement shall be carried out in accordance with the terms of
4 the Settlement, and the Settlement Administrator shall thereafter effect the distribution of the
5 Settlement Payments in the manner set forth in the Settlement. No person shall have any claim
6 against Defendant, Class Counsel, Defendant's counsel, or any other agent designated by
7 Plaintiffs or Defendant based upon the distribution of Settlement Payments made substantially in
8 accordance with the Settlement or further orders of the Court.

9 11. The Court approves as fair and reasonable an award of Class Counsel's Fees in
10 the amount of \$380,100.54 and an award of Costs in the amount of \$13,822.30.

11 12. The Court approves as fair and reasonable an award of Settlement Administrator's
12 costs in the amount of \$30,000.

13 13. The Court approves as fair and reasonable an Enhancement Award in the amount
14 of \$10,000 to Plaintiff Julian Smothers and an Enhancement Award in the amount of \$10,000 to
15 Plaintiff Asa Dhadda, for a combined total of \$20,000.

16 14. The Court finds and determines that the payment to be made to the California
17 Labor and Workforce Development Agency to satisfy alleged Labor Code violations pursuant to
18 the California Labor Code's Private Attorneys General Act of 2004 ("PAGA") in the sum of
19 \$37,500 equating to 75% of the allocation of \$50,000 to Plaintiffs' claims under PAGA is fair
20 and reasonable.

21 15. The Court hereby enters final judgment in the action in accordance with the terms
22 of the Settlement.

23 IT IS SO ORDERED.

24
25 Dated: _____

26 _____
27 The Honorable Judge Kimberly J. Mueller
28 Eastern District of California
District Judge