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*Attorneys for Plaintiffs*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**IN AND FOR THE COUNTY OF VENTURA**

NICOLAS MONTALVO, on behalf  
of himself and all others similarly  
situated  
  
Plaintiffs,  
  
v.  
  
CALIFORNIA LUTHERAN  
UNIVERSITY,  
  
Defendant

Case No.: 56-2022-00563063-CU-BC-VTA

**NOTICE OF ENTRY OF ORDER**

Assigned to Hon. Benjamin F. Coats  
Dept: 43

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**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that on July 1, 2024, the Court entered an Order Granting Motion for Preliminary Approval of Class Action Settlement, a true and correct copy of which is attached hereto as **Exhibit A**.

DATED: July 3, 2024

**LEEDS BROWN LAW, P.C.**

By: /s/ Michael A. Tompkins  
Michael A. Tompkins

*Attorneys for Plaintiffs*

# EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA**

Superior Court of California, County of Ventura, Hall of Justice, Department 43

202200563063CUBC

Nicolas Montalvo vs. California Lutheran University

July 1, 2024

8:20 AM

Judge: Honorable Ben Coats  
Judicial Assistant: Marycela Clement  
CSR: None

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**APPEARANCES:**

Jon A Tostrud, counsel, present for Plaintiff(s) telephonically.

Vito Anthony Costanzo, counsel, present for Defendant(s).

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**NATURE OF PROCEEDINGS:** Motion for Preliminary Approval of Class Action Settlement

9:10 a.m. Court convenes in this matter.

Court proceedings were conducted using CourtCall.

Counsel have read the Court's written tentative ruling.

Matter submitted to the Court with argument.

The Court finds/orders:

The Court's tentative as modified is adopted as the Court's ruling as follows:

**Motion:** Plaintiff's Motion for Preliminary Approval of Class Action Settlement

**Ruling:** Subject to amending the Notice to clarify the issue of costs and expenses, the Court intends to grant preliminary approval and set the hearing for final approval. The Court approves the procedures set forth in the Settlement Agreement with respect to notice to the Class and objecting. Further, the Court preliminarily approves the attorney's fees, enhancements, and expenses sought, subject to final approval at a final approval hearing. A final approval hearing is set for November 1, 2024. Plaintiff's counsel to give notice.

The Court makes the following orders and findings:

1. Granting preliminarily approval of the Settlement in a form similar to Preliminary Approval Order submitted concurrently herewith;

2. Certifying the proposed Class, for settlement purposes only;
3. Appointing Plaintiff as “Class Representative”, for settlement purposes only;
4. Appointing Plaintiff’s Counsel (Michael A. Tompkins and Brett R. Choen of Leeds Brown Law, PC along with Jon Tostrud of Tostrud Law Group., PC) as Class Counsel, for settlement purposes only;
5. Approving the proposed Class Notice which is attached to the Settlement Agreement as Exhibit A to Exhibit 1 to the Decl.;
6. Approving the method and manner for providing notice and forms to the Class, as well as procedure/forms for requesting exclusion/opting out, making objections, and disputing the number of Class Member’s workweeks, as set forth in the Settlement Agreement;
7. Approving the schedule for sending of notices and forms to the Class per the Settlement Agreement; and
8. Setting a date and time for the Final Approval/Fairness Hearing as soon as possible to consider Final Approval of the Settlement.

There are more than 2900 class members, “All students who paid tuition and Mandatory Fees, or had tuition and fees paid on their behalf to CLU for the Spring 2020 semester.” Settlement fund of \$2,754,000, with each member paid a proportional share including by check, Venmo or Paypal. The release is narrowly tailored. The notice provisions are outlined, with costs of locating class members paid from the settlement fund. This is an opt-out agreement, with the opportunity to object. Any uncashed checks will be redistributed to CLU’s endowment for scholarships with no reverter to Defendant.

Approval of payment of service award to Plaintiff not to exceed \$10,000, attorneys’ fees of no more than 1/3 gross settlement fund (\$918,000) and reimbursement of reasonable litigation costs and expenses of \$50,000 (not including Settlement Claims Administrator cost). Counsel is not seeking approval of fees and costs now, but will as part of the final approval separately seek fees and costs. The Settlement Claims Administrator will be chosen as agreeable to Defendant.

The substantive terms of the proposed settlement appear within the “range of possible approval,” and therefore the Court grants Plaintiff’s request for preliminary approval of the settlement and (i) provisionally certifies the proposed Settlement Class as defined in the parties’ Settlement; (ii) grants preliminary approval of the Settlement; (iii) approves the procedures set forth in the

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Settlement Agreement with respect to notice to the Class and objecting; (iv) preliminarily approves the attorney's fees, enhancements, and expenses sought, subject to final approval at a final approval hearing; and (v) set a final approval hearing approximately 120 days out from the hearing on this motion (approximately, November 1, 2024).

The Settlement Administrator is to commence Class Notice within 14 days of Defendant's providing the class list to the administrator, Objection and Exclusion deadline is 60 days after Notice Date, counsel to file a Motion for Attorneys Fees, reimbursement of expenses, and service payments by 21 days prior to the objection/exclusion deadline, the Motion for Final Approval to be filed by 16 court days prior to the Final Fairness Hearing, replies due within 5 court days of the hearing, and the Final Fairness Hearing to be at least 110 days from June 20, 2024.

The notice process to be conducted by the unnamed/not-yet-selected Claims Administrator uses reasonable efforts to provide both electronic and direct mail notice to class members. All of the required information is provided in the Notice; nature of the action, essential terms, binding effect if not excluded, process to object or exclude, information about service award and attorneys fees and expenses and how to make inquiries (whether with counsel or the Court). However, the Notice does not make clear that attorneys' fees/costs of up to \$918,000 and also litigation costs and expenses of up to \$50,000 will be sought. The Notice provides the amount of the proposed service award, and attorneys' fees, but does not state that up to \$50,000 in litigation costs are anticipated.

The Notice states:

*“Class Counsel will ask the Court to approve payment of no more than nine hundred eighteen thousand dollars (\$918,000.00), which represents ? of the Gross Settlement Fund, for fees, costs, and disbursements incurred in connection with this action. The fees would pay Class Counsel for all work that they have performed in this action including filing briefs, investigating the facts, attending court conferences, participating in settlement discussions, and negotiating and overseeing the settlement.”*

It is unclear whether costs and expenses would be paid from the \$918k. The Notice should clearly state that in addition to the \$918,000 in attorneys' fees and costs and the \$10,000 service award to Plaintiff, that the Court may be asked to award up to \$50,000 in litigation costs and expenses and an amount TBD for Settlement Claims Administrator costs.

With that minor modification to the notice, the motion is granted.

Hearing Final Approval is scheduled for 11/01/2024 at 08:30 AM in Department 43 at Hall of Justice.

The 07/23/2024 8:35 AM Status Conference Re: Settlement in Department 43 is vacated.

Notice to be given by Mr. Tompkins.

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**PROOF OF SERVICE**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF VENTURA**

CASE NAME: *Nicolas Montalvo, et al. v. California Lutheran University*  
CASE NO: 56-2022-00563063-CU-BC-VTA

JUDGE: Hon. Benjamin F. Coats Dept: 43

**PROOF OF SERVICE**

I, the undersigned, declare that I am employed with the law firm of Leeds Brown Law, P.C., located at One Old Country Road, Suite 347, Carle Place, NY 11514. I am over the age of eighteen and I am not party to this action.

On July 3, 2024, I served the following document(s):

- **NOTICE OF ENTRY OF ORDER**

On the interested parties in this action:

Vito A. Costanzo (SBN 132754).  
**HOLLAND & KNIGHT LLP**  
400 South Hope Street, 8<sup>th</sup> Floor  
Los Angeles, CA 90071  
Tel: (213) 896-2400  
Vito.costanzo@hklaw.com

*Attorneys for Defendant*

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5 Thomas J. McKenna  
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7 **EGLESTON**  
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10 Tel: (212) 983-1300  
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14 Michael A. Tompkins\*  
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17 Carle Place, New York 11514  
18 bcohen@leedsbrownlaw.com  
19 516-873-9550  
20 \*Admitted Pro Hac Vice

21 *Attorneys for Plaintiffs*

22  **(BY MAIL)**

- 23  I deposited such envelope in the mail at New York, NY. The envelope  
24 was mailed with postage thereon fully prepaid.
- 25  I am readily familiar with the business practice of my place of  
26 employment in respect to the collection and processing of  
27 correspondence, pleadings and notices for mailing with the United  
28 States Postal Service. The foregoing sealed envelope was placed for  
collection and mailing this date consistent with the ordinary business  
practice of my place of employment, so that it will be picked up this  
date with postage thereon fully prepaid at New York, NY, in the  
ordinary course of such business.

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**(BY ELECTRONIC MAIL)** I caused the above document(s) to be transmitted to the office(s) of the addressee(s) listed above by electronic mail at the email address(es) set forth below:

**(BY FACSIMILE)** At the time of transmission, I was at least 18 years of age and not a party to this legal proceeding. I transmitted the above-referenced documents by facsimile machine, pursuant to California Rules of Court, Rule 2006. The facsimile machine I used complied with Rule 2003 and no error was reported by the machine. Pursuant to Rule 2006, I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

**(BY PERSONAL SERVICE)** I caused delivery of such envelope by hand to the offices of the addressee.

I declare, under penalty of perjury under the laws of the State of New York, that the above is true and correct.

Executed on July 3, 2024, at New York, New York.

/s/ Michael A. Tompkins  
Michael A. Tompkins