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11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SANTA CLARA

14 ROBERT CHERY, CINDY PHAM,
15 SAVANNA JACOBSEN, and ZAVEN
McCARTY, individuals, on behalf of
16 themselves and all others similarly situated,

17 Plaintiffs,

18 vs.

19 WARBY PARKER INC., a Delaware
corporation; WARBY PARKER RETAIL,
20 INC., a Delaware corporation; and DOES 1
through 50, inclusive,

21 Defendants.
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CASE NO. 23CV417693

Related Cases: 5:23-cv-01884-NC, 23CV421588

CLASS ACTION

[Assigned for all purposes to the Honorable
Theodore C. Zayner, Dept. 19]

**[REVIS~~ED~~ PROPOS~~ED~~] ORDER
GRANTING PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: June 18, 2025

Time: 1:30 p.m.

Dept.: 19

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8 CINDY PHAM, SAVANNA JACOBSEN, and ZAVEN McCARTY

~~PROPOSED~~ ORDER

The Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”) filed by Plaintiffs Robert Chery, Cindy Pham, Savanna Jacobsen and Zaven McCarty (“Plaintiffs”) came before this Court on June 18, 2025 at 1:30 p.m. Having reviewed Plaintiffs’ Motion, the Declarations of Matthew J. Matern, Vanessa M. Rodriguez, Jean-Claude Lapuyade, and Shani O. Zakay, and exhibits thereto, including the Class Action Settlement Agreement and Release (“Settlement” or “Agreement”) and the Amendment to Class Action Settlement Agreement and Release, the Declarations of Cindy Pham, Robert Chery, Savanna Jacobsen and Zaven McCarty, and for good cause appearing, the Court hereby finds and ORDERS as follows:

1. All defined terms contained herein shall have the same meanings as set forth in the Agreement.

2. The Court finds on a preliminary basis that the Settlement appears to be fair, adequate, and falls within the range of reasonableness, and therefore meets the requirements for preliminary approval.

3. The Court provisionally certifies, for settlement purposes only, the following Class:

All current and former nonexempt employees of Defendants who worked at Defendants’ retail locations in California at any time from March 13, 2019 through June 24, 2024.

4. The Court finds, for settlement purposes only, that the Class meets the requirements for certification under Code of Civil Procedure section 382 in that: (1) the class is so numerous that joinder is impractical; (2) there are questions of law and fact that are common to all Class Members which predominate over individualized issues; (3) Plaintiffs’ claims are typical of the claims of the Class Members; (4) Plaintiffs and Plaintiffs’ counsel will fairly and adequately protect the interests of the Class; and (5) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

5. The Court hereby approves the terms and conditions provided for in the Settlement. The parties are ordered to carry out the Settlement according to its terms.

6. The Court appoints, for settlement purposes only, Plaintiffs Cindy Pham, Robert

1 Chery, Savanna Jacobsen and Zaven McCarty as the Class Representatives.

2 7. The Court appoints, for settlement purposes only, Matern Law Group, PC, Zakay Law
3 Group, APLC, and JCL Law Firm, APC as Class Counsel. Class Counsel is authorized to act on
4 behalf of the Class with respect to all acts or consents required by, or which may be given, pursuant
5 to the Settlement, and such other acts reasonably necessary to finalize the Settlement and its terms.
6 Any Class Member may enter an appearance through his or her own counsel at such Class Member's
7 own expense. Any Class Member who does not enter an appearance or appear on his or her own
8 behalf will be represented by Class Counsel.

9 8. The Court hereby preliminarily approves the Settlement and the Gross Settlement
10 Amount of \$1,950,000.00. The Gross Settlement Amount shall cover the following items: (1) the
11 Individual Settlement Payments to Participating Class Members; (2) the Individual PAGA Payments
12 to Aggrieved Employees; (3) the LWDA Payment; (4) Class Counsel's Attorneys' Fees and Costs;
13 (5) the Class Representative Enhancement Payments; and (6) Settlement Administration Costs. The
14 employer payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount.

15 9. The Court finds that, on a preliminary basis, the Settlement appears to be within the
16 range of reasonableness of a settlement that could ultimately be given final approval by this Court. It
17 appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as to
18 all potential Class Members when balanced against the probable outcome of further litigation relating
19 to classwide liability and damages issues. It also appears that significant investigation, research, and
20 court proceedings have been conducted so that counsel for the parties are able to reasonably evaluate
21 their respective positions. It appears to the Court that settlement at this time will avoid substantial
22 additional costs by all parties, as well as avoid the delay and risks that would be presented by the
23 further prosecution of the action. It also appears that settlement has been reached as a result of
24 intensive, serious, and non-collusive, arms-length negotiations, including a mediation with the
25 Honorable Angela Bradstreet (Ret.).

26 10. The Court approves, as to form and content, the revised Notice of Class Action
27 Settlement And Hearing Date For Final Court Approval ("Class Notice"), attached as Exhibit C to the
28 Declaration of Vanessa M. Rodriguez, on the condition that the following language regarding the

1 final approval hearing be added to the notice:

2 Class members may appear at the final approval hearing in person or remotely
3 using the Microsoft Teams link for Department 19 (Afternoon Session), and
4 should review the remote appearance instructions beforehand:
5 https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml
6 Class members who wish to appear remotely are encouraged to contact class
7 counsel at least three days before the hearing, if possible, so that potential
8 technology or audibility issues can be avoided or minimized.

9 11. The Court finds that the notice plan is the best means practicable under the
10 circumstances for providing notice to the Class Members and, when completed, shall constitute due
11 and sufficient notice of the class action, proposed settlement, and the final approval hearing to all
12 persons entitled to such notice in full compliance with Code of Civil Procedure section 382, Civil
13 Code section 1781, California Rules of Court, rules 3.766 and 3.769, the California and United States
14 Constitutions, and other applicable laws.

15 12. The Court appoints Apex Class Action, LLC as the Administrator. The Court hereby
16 directs the Administrator to disseminate the approved Class Notice according the procedures set forth
17 in the Agreement.

18 13. Any Class Member may choose to be excluded from the Settlement as provided in the
19 Agreement and Class Notice and by following the instructions for requesting exclusion. Any person
20 who timely and properly requests to be excluded from the Settlement will not be bound by the
21 Agreement or have any right to object, appeal, or comment thereon. Any request for exclusion must
22 be signed by each such Class Member and must otherwise comply with the requirements delineated
23 in the Class Notice. Class Members who have not requested exclusion by submitting a valid and
24 timely request before the expiration of the Response Deadline shall be bound by all determinations of
25 the Court, the Settlement, and the Judgment.

26 14. A Final Approval Hearing will be held before this Court on February 25, 2026 at 1:30
27 p.m. in Department 19 of the Santa Clara County Superior Court located at 161 North First Street,
28 San Jose, California 95113, to determine all necessary matters concerning the Agreement, including
whether the Agreement is fair, adequate, and reasonable and should be finally approved by the Court
and whether a Judgment should be entered herein. At the same time, a hearing on Class Counsel's

1 Attorneys' Fees and Costs and the Class Representative Enhancement Payments shall also be held.

2 15. Any Class Member may appear at the Final Approval Hearing and object to the
3 Settlement or express his or her views regarding the Settlement, and may present evidence and file
4 briefs or other papers that may be proper and relevant to the issues to be heard and determined by the
5 Court as provided in the Class Notice.

6 16. Pending the Final Approval Hearing, all proceedings in this action, other than
7 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this
8 Order, are stayed.

9 **IT IS SO ORDERED.**

10 DATED: June 24, 2025
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12 HON. THEODORE C. ZAYNER
13 Judge of the Superior Court
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