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 Retirement System of the Virgin Islands

17  
 18 **UNITED STATES DISTRICT COURT**  
 19 **NORTHERN DISTRICT OF CALIFORNIA**  
 20 **OAKLAND DIVISION**

21 IN RE WAGeworks, INC.,  
 22 SECURITIES LITIGATION

CASE NO. 4:18-CV-01523-JSW

~~[PROPOSED]~~ **FINAL JUDGMENT AND  
 ORDER**

**JUDGE: Hon. Jeffrey S. White**  
**DATE: August 20, 2021**  
**TIME: 9:00 A.M.**  
**DEPT: Courtroom 5**

1 WHEREAS, this matter came before the Court for a hearing pursuant to the Order of  
2 this Court entered on May 3, 2021 (the "Preliminary Approval Order"), on the application of the  
3 Settling Parties for approval of the Settlement set forth in the Stipulation and Agreement of  
4 Settlement (the "Settlement Agreement"), executed as of April 1, 2021 and filed with the Court  
5 on April 1, 2021;

6 WHEREAS, all capitalized terms used herein have the meanings set forth and defined in  
7 the Settlement Agreement;

8 WHEREAS, the Court has received declarations attesting to the mailing of the Notice  
9 and publication of the Summary Notice in accordance with the Preliminary Approval Order;

10 WHEREAS, due and adequate notice has been given to the Settlement Class as required  
11 by the Preliminary Approval Order, and the Court has considered all papers filed and  
12 proceedings in this Action and otherwise has been fully informed of the matters herein, and  
13 good cause appearing therefore;

14  
15 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

16 1. This Court has jurisdiction over the subject matter of this Action, including the  
17 terms and conditions of the Settlement Agreement and all exhibits thereto and the Plan of  
18 Allocation of the Net Settlement Fund, and over all parties to the Action and all Settlement  
19 Class Members.

20 2. The Court hereby finally certifies the following 1933 Act and 1934 Act Classes  
21 (collectively the "Settlement Class") for the purposes of Settlement only, pursuant to Rules  
22 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure:

23 (a) **1934 Act Class:** All persons and entities who purchased or otherwise  
24 acquired shares of WageWorks's publicly traded common stock in the open market  
25 between May 6, 2016 and March 1, 2018, inclusive (the "Class Period"), and were  
26 damaged thereby. Excluded from the 1934 Act Class are: the Defendants; the officers  
27 and directors of WageWorks, WageWorks' successor in-interest, HealthEquity, Inc.;  
28 members of Defendants' families and their legal representatives, heirs, successors, and

1 assigns, and any entity in which Defendants have or had a controlling interest. Also  
2 excluded from the 1934 Act Class are those persons and entities listed on Exhibit A  
3 hereto who submitted valid and timely requests for exclusion from the Settlement Class  
4 in accordance with the requirements set forth in the Notice.

5 (b) **1933 Act Class:** all persons and entities who purchased or otherwise acquired  
6 WageWorks Common Stock issued pursuant or traceable to the Registration Statement  
7 and Prospectus for WageWorks's public offering of Common Stock on June 19, 2017  
8 (the "Offering" or "June 2017 offering") and who were damaged thereby. Excluded from  
9 the 1933 Act Class are the Defendants, the officers and directors of WageWorks;  
10 WageWorks successor-in-interest, HealthEquity, Inc.; members of Defendants' families  
11 and their legal representatives, heirs, successors and assigns, and any entity in which  
12 Defendants have or had a controlling interest. Also excluded from the 1933 Act Class  
13 are those persons and entities listed on Exhibit A hereto who submitted valid and timely  
14 requests for exclusion from the Settlement Class in accordance with the requirements set  
15 forth in the Notice.  
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17 3. The Court hereby affirms its appointment of the Public Employees' Retirement  
18 System of Mississippi and the Government Employees' Retirement System of the Virgin  
19 Islands, as Class Representatives for the 1934 Act Class, and the Public Employees Retirement  
20 Association of New Mexico as the Class Representative for the 1933 Act Class (Class  
21 Representatives are referred to collectively as "Lead Plaintiffs"), and Barrack, Rodos & Bacine  
22 as Lead Counsel for the Settlement Class.

23 4. This Court finds that:

24 (a) the distribution of the Notice, the publication of the Summary Notice, and the  
25 notice methodology (together the "Notice Program") all were implemented in accordance with  
26 the terms of the Settlement Agreement and the Court's Preliminary Approval Order, and:

27 (b) the Notice Program constituted the best practicable notice to Settlement Class  
28 Members under the circumstances of the Action;

1 (c) the Notice Program was reasonably calculated, under the circumstances, to  
2 apprise Settlement Class Members of: (i) the proposed Settlement of this class action; (ii) their  
3 right to exclude themselves from the Settlement Class; (iii) their right to object to any aspect of  
4 the proposed Settlement; (iv) their right to appear at the Settlement Hearing, either on their own  
5 or through counsel hired at their own expense, if they are not excluded from the Settlement  
6 Class; and (v) the binding effect of the proceedings, rulings, orders, and judgments in this  
7 Action, whether favorable or unfavorable, on all persons who are not excluded from the  
8 Settlement Class;

9 (d) the Notice Program was reasonable and constituted due, adequate, and sufficient  
10 notice to all persons entitled to be provided with notice;

11 (e) the Notice Program fully satisfied all applicable requirements of the Federal  
12 Rules of Civil Procedure (including Rules 23(c) and (d)), the United States Constitution  
13 (including the Due Process Clause), Section 21D(a)(7) of the Securities Exchange Act of 1934,  
14 15 U.S.C. §78u-4(a)(7), as amended by the Private Securities Litigation Reform Act of 1995  
15 (the "PSLRA"), the Securities Act of 1933, the Rules of the Court, and any other applicable law;  
16 and  
17

18 (f) the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. §  
19 1715, to the extent applicable, have been satisfied.

20 5. In light of the benefits to the Settlement Class, the complexity, expense, and  
21 possible duration of further litigation against the Defendants, and the risks of establishing  
22 liability and damages, pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court  
23 hereby fully and finally approves the Settlement as set forth in the Settlement Agreement, and  
24 finds that the Settlement is, in all respects fair, reasonable and adequate, and in the best interests  
25 of Lead Plaintiffs, the Settlement Class, and the Settlement Class Members. This Court further  
26 finds the Settlement was the result of arm's-length negotiations between experienced counsel  
27 representing the interests of Lead Plaintiffs, the Settlement Class, and the Defendants. The  
28

1 Settlement shall be consummated in accordance with the terms and provisions of the Settlement  
2 Agreement.

3           6.       The Lead Plaintiffs' Consolidated Class Action Complaint, filed in this Action on  
4 May 16, 2019, is hereby dismissed with prejudice. The Settling Parties are to bear their own  
5 costs, except as otherwise provided in the Settlement Agreement or this Judgment.

6           7.       Upon the Effective Date, Lead Plaintiffs and each and every Settlement Class  
7 Member (other than those listed in Exhibit A hereto) on behalf of themselves and each of their  
8 respective heirs, agents, representatives, attorneys, subsidiaries, affiliates, executors, trustees,  
9 administrators, predecessors, successors, assigns, any trust of which any Lead Plaintiffs or  
10 Settlement Class Member is the settlor or is for the benefit of a member of their immediate  
11 family, and any entity acting on behalf of a Lead Plaintiffs or Settlement Class Member, in their  
12 capacity as a Lead Plaintiff or Settlement Class Member, shall: (i) be deemed to have fully,  
13 finally and forever waived, released, discharged and dismissed each and every one of the  
14 Released Claims, as against each and every one of the Released Defendants Parties; (ii) be  
15 barred and enjoined from commencing, instituting, prosecuting or maintaining any of the  
16 Released Claims against any of the Released Defendants Parties; and (iii) be deemed to have  
17 covenanted not to sue any Released Defendant Party on the basis of any Released Claims or,  
18 unless compelled by operation of law, to assist any person in commencing or maintaining any  
19 suit relating to any Released Claim against any Released Defendant Party. The foregoing  
20 release is given regardless of whether such Lead Plaintiffs or Settlement Class Members have:  
21 (i) executed and delivered a Proof of Claim; (ii) received the Notice; (iii) participated in the  
22 Settlement Fund; (iv) filed an objection to the Settlement, the proposed Plan of Allocation, or  
23 any application by Lead Counsel for attorneys' fees and expenses; or (v) had their claims  
24 approved or allowed. Nothing contained herein shall, however, bar any action or claim to  
25 enforce the terms of the Settlement Agreement or this Judgment.  
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27           8.       Upon the Effective Date, the Defendants, on behalf of themselves and each of  
28 their respective heirs, agents, representatives, attorneys, affiliates, executors, trustees,

1 administrators, predecessors, successors and assigns shall: (i) be deemed to have fully, finally  
2 and forever waived, released, discharged and dismissed each and every one of the Released  
3 Defendants' Claims, as against each and every one of the Released Plaintiff Parties; (ii) be  
4 barred and enjoined from commencing, instituting, prosecuting or maintaining any of the  
5 Released Defendants' Claims against any of the Released Plaintiffs Parties; and (iii) be deemed  
6 to have covenanted not to sue any Released Plaintiffs Party on the basis of any Released  
7 Defendants' Claim or, unless compelled by operation of law, to assist any person in  
8 commencing or maintaining any suit relating to any Released Defendants' Claim against any  
9 Released Plaintiffs Party. Nothing contained herein shall, however, bar any action or claim to  
10 enforce the terms of the Settlement Agreement or this Judgment.

11           9. All Persons whose names appear on Exhibit A hereto are hereby excluded from  
12 the Settlement Class, are not bound by this Judgment, and may not make any claim with respect  
13 to or receive any benefit from the Settlement.

14           10. Neither the Settlement Agreement nor the terms of the Settlement Agreement  
15 shall be offered or received into any action or proceeding for any purpose, except: (i) in an  
16 action or proceeding arising under the Settlement Agreement or arising out of this Judgment;  
17 (ii) in any action or proceeding where the releases provided pursuant to the Settlement  
18 Agreement may serve as a bar to recovery; or (iii) in any action or proceeding to determine the  
19 availability, scope, or extent of insurance coverage (or reinsurance related to such coverage) for  
20 the sums expended for the Settlement and defense of the Action.

21           11. This Judgment, the Settlement Agreement, and any of their respective  
22 provisions, and any negotiations, proceedings or agreements relating to the Settlement  
23 Agreement and the Settlement, and any matters arising in connection with settlement  
24 negotiations, proceedings or agreements, and all acts performed, or documents executed,  
25 pursuant to or in furtherance of the Settlement Agreement, shall not be offered or received  
26 against the Released Parties for any purpose, and in particular, do not:  
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1 (a) constitute, and shall not be offered or received against the Released  
2 Defendants Parties as evidence of, or construed as, or deemed to be evidence of any  
3 presumption, concession or admission by the Released Defendants Parties with respect to the  
4 truth of any fact alleged by Lead Plaintiffs and the Settlement Class or the validity of any claim  
5 that has been or could have been asserted in the Action or in any action or other proceeding,  
6 including but not limited to the Released Claims, or of any liability, damages, negligence, fault  
7 or wrongdoing of the Released Defendants Parties;

8 (b) constitute, and shall not be offered or received against the Released  
9 Defendant Parties as evidence of a presumption, concession or admission of any fault,  
10 misrepresentation or omission with respect to any statement or written document approved or  
11 made by the Released Defendants Parties, or against the Released Defendants Parties, Lead  
12 Plaintiffs or any other members of the Settlement Class as evidence of any infirmity in the  
13 claims or defenses that have been or could have been asserted in the Action;

14 (c) constitute, and shall not be offered or received against the Released  
15 Parties, as evidence of a presumption, concession or admission with respect to any liability,  
16 damages, negligence, fault, infirmity or wrongdoing, or in any way referred to for any other  
17 reason against any of the Released Parties, in any other civil, criminal or administrative action  
18 or proceeding, other than such proceedings as may be necessary to effectuate the provisions of  
19 the Settlement Agreement or this Judgment;

20 (d) constitute, and shall not be construed against the Released Parties, as an  
21 admission or concession that the consideration to be given hereunder represents the amount  
22 which could be or would have been recovered after trial; and

23 (e) constitute, and shall not be construed as or received in evidence as, an  
24 admission, concession or presumption against Lead Plaintiffs or any other members of the  
25 Settlement Class or any of them that any of their claims are without merit or infirm, that a  
26 Settlement Class should not be certified, or that damages recoverable under the Complaint  
27 would not have exceeded the Settlement Amount.  
28

1           12. A separate order shall be entered regarding Lead Counsel's application for  
2 attorneys' fees and reimbursement of expenses as allowed by the Court. A separate order shall  
3 be entered regarding the proposed Plan of Allocation for the Net Settlement Fund. Such orders  
4 shall in no way disturb or affect this Judgment and shall be considered separate from this  
5 Judgment.

6           13. This Court finds that Lead Plaintiffs and Lead Counsel adequately represented  
7 the Settlement Class under Rules 23(a)(4) and (g) of the Federal Rules of Civil Procedure for  
8 the purpose of negotiating, entering into, and implementing the Settlement and at all times  
9 during the pendency of this Action.

10           14. This Court finds that during the course of the litigation, Lead Plaintiffs, Lead  
11 Counsel, Defendants, and Defendants' Counsel at all times complied with the requirements of  
12 Rule 11 of the Federal Rules of Civil Procedure.

13           15. Upon the Effective Date the Court hereby permanently bars, extinguishes, and  
14 discharges to the fullest extent permitted by law any and all claims for contribution or  
15 indemnification (or any other claim, however denominated on whatsoever theory, for which the  
16 injury claimed is that Person's alleged liability to Plaintiffs or any Settlement Class Member)  
17 among and against the Released Defendants' Parties arising out of the Action and the claims  
18 that were asserted or could have been asserted therein (the "Bar Order"), *provided however*, that  
19 nothing in this Bar Order or Judgment constitutes or reflects a waiver, release or discharge of  
20 any rights or claims of Defendants against their insurers, or their insurers' subsidiaries,  
21 predecessors, successors, assigns, affiliates, or representatives or any right of indemnification or  
22 contribution that any Individual Defendant may have under contract or otherwise.

23           16. The Settling Parties are hereby authorized, without further approval of the Court,  
24 to unanimously agree to and adopt in writing such amendments, modifications, and expansions  
25 of the Settlement Agreement and all exhibits attached thereto, provided that such amendments,  
26 modifications, and expansions of the Settlement Agreement are done in accordance with the  
27 terms of Paragraph 8.8 of the Settlement Agreement, are not materially inconsistent with this  
28



1 Judgment, and do not materially limit the rights of Settlement Class Members under the  
2 Settlement Agreement.


3 17. Without further order of the Court, the Settling Parties may agree to reasonable  
4 extensions of time to carry out any of the provisions of the Settlement Agreement.

5 18. In the event that the Settlement does not become effective in accordance with the  
6 terms of the Settlement Agreement, then this Judgment shall be rendered null and void to the  
7 extent provided by and in accordance with the Settlement Agreement and shall be vacated, and  
8 in such event, all orders entered and releases delivered in connection herewith shall be null and  
9 void to the extent provided by and in accordance with the Settlement Agreement.

10 19. Without affecting the finality of this Judgment in any way, this Court hereby  
11 retains continuing jurisdiction over: (a) implementation of the Settlement and any award or  
12 distribution from the Settlement Fund, and interest earned thereon; (b) disposition of the Net  
13 Settlement Fund; (c) hearing and determining applications for attorneys' fees, costs, interest and  
14 reimbursement of expenses in the Action; and (d) all Settling Parties for the purpose of  
15 construing, enforcing and administering the Settlement.  
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17 20. The provisions of this Judgment constitute a full and complete adjudication of  
18 the matters considered and adjudged herein, and the Court determines that there is no just  
19 reason for delay in the entry of judgment. The Clerk is hereby directed to immediately enter this  
20 Judgment.  
21

22 **SO ORDERED** this 20th day of August, 2021.

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25 JEFFREY S. WHITE  
26 United States District Judge  
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