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Attorneys for Plaintiff MICHAEL HILLSTROM

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

MICHAEL HILLSTROM, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

v.

CONSTELLATION BRANDS, INC., a
Delaware Corporation; TPWC, INC., a
Delaware Corporation; ROBERT MONDAVI
WINERY, a California Corporation;
CONSTELLATION BRANDS U.S.
OPERATIONS, INC., a New York
Corporation; FRANCISCAN VINEYARDS,
INC., a Delaware Corporation;
CONSTELLATION WINES U.S., INC., a
corporation; and DOES 1-50, Inclusive,

Defendants.

Case No.: 22CV000006

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: April 19, 2024

Time: 9:30 a.m.

Judge: Hon. Cynthia P. Smith

Dept.: A

1 Plaintiff's motion for an order finally approving the Class Action and PAGA Settlement
2 Agreement ("Agreement") and Motion for Attorneys' Fees, Costs and Representative Service
3 Award duly came on for hearing on April 19, 2024, before the above-entitled Court. Zakay Law
4 Group, APLC, and the JCL Law Firm, APC, appeared on behalf of Plaintiff MICHAEL
5 HILLSTROM ("Plaintiff"). Seyfarth Shaw LLP appeared on behalf of Defendants
6 CONSTELLATION BRANDS, INC., a Delaware Corporation; and TPWC, INC., a Delaware
7 Corporation (hereinafter "Defendants").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of Napa ("Court"), Case No. 22CV000006, entitled
16 *Michael Hillstrom v. Constellation Brands, Inc. et. Al.* and over all Parties to this litigation, including
17 the Class.

18 **Preliminary Approval of the Settlement**

19 3. On November 30, 2023, the Court granted preliminary approval of a class-
20 wide settlement. At this same time the court approved certification of a provisional settlement class
21 for settlement purposes only. The Court confirms this Order and finally approves the settlement
22 and the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Class Notice was
25 mailed by first class mail to the Class Members at their last known addresses on December 21, 2023.
26 Mailing of the Class Notice to their last known addresses was the best notice practicable under the
27 circumstances and was reasonably calculated to communicate actual notice of the litigation and the
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1 proposed settlement to the members of the Class Members. The Court finds that the Class Notice
2 provided fully satisfies the requirements of California Rules of Court, rule 3.769.

3 5. The Response Deadline for opting out or objecting was February 5, 2024.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. Only two Class Members
6 requested exclusion. The names of the Class Members who opted out are Cathleen Gray and Valerie
7 Varachi.

8 **Fairness Of The Settlement**

9 6. The Agreement provides for a Gross Settlement Amount of \$2,500,000.00.
10 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
11 Cal.App.4th 1794, 1801.)

12 a. The settlement was reached through arms-length bargaining between
13 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
14 settlement.

15 b. The Parties' investigation and discovery have been sufficient to allow
16 the Court and counsel to act intelligently.

17 c. Counsel for all parties are experienced in similar employment class
18 action litigation and have previously settled similar class claims on behalf of employees claiming
19 compensation. All counsel recommended approval of the Settlement.

20 d. No objections were received. Only two requests for exclusion were
21 received.

22 e. The participation rate is high. Approximately 99.76% of Class
23 Members will be participating in the Settlement and will be sent settlement payments.

24 7. The consideration to be given to the Class Members under the terms of the
25 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
26 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the
27 Settled Class Claims and Settled PAGA Claims, given the uncertainties and risks of litigation and
28 the delays which would ensue from continued prosecution of the Action.

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Participating Class Members.

3 **PAGA Settlement Amount**

4 9. The Agreement provides for a payment of PAGA Settlement in the amount
5 of \$100,000.00. The Court has reviewed the PAGA Settlement mount and finds and determines that
6 the PAGA Settlement Amount and the allocation of \$75,000.00 to LWDA and \$25,000.00 to
7 Aggrieved Employees is fair and reasonable and complies with the requirements set forth in *Moniz*
8 *v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56.

9 **Attorneys' Fees and Costs**

10 10. The Agreement provides for a payment for Attorneys' Fees and Costs in the
11 amount of up to Eight Hundred Sixty-Eight Thousand Three Hundred Thirty-Three Dollars and
12 Thirty-Three Cents (\$868,333.33). Subject to Court approval, the Attorneys' Fees and Costs
13 consists of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount, or Eight
14 Hundred Thirty-Three Dollars and Three Hundred Thirty-Three Dollars and Thirty-Three Cents
15 (\$833,333.33) and reimbursement of litigation expenses in the amount of Thirty-Five Thousand
16 Dollars and Zero Cents (\$35,000.00).

17 11. Attorneys' Fees and Costs of Eight Hundred Sixty-Eight Thousand Three
18 Hundred Thirty-Three Dollars and Thirty-Three Cents (\$868,333.33) comprised of attorneys' fees
19 in the amount of Eight Hundred Thirty-Three Dollars and Three Hundred Thirty-Three Dollars and
20 Thirty-Three Cents (\$833,333.33) and reimbursement of litigation expenses in the amount of Thirty-
21 Five Thousand Dollars and Zero Cents (\$35,000.00) is reasonable in light of the contingent nature
22 of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class
23 Counsel. The requested attorneys' fee award represents 1/3 of the common fund, which is
24 reasonable, and is supported by Class Counsel's lodestar.

25 **Enhancement Payment**

26 12. The Agreement provides for an Enhancement Payment of up to Twelve
27 Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) allocated to Plaintiff, subject to the
28 Court's approval. The Court finds that the amount of Twelve Thousand Five Hundred Dollars and

1 Zero Cents (\$12,500.00) is reasonable in light of the risks and burdens undertaken by Plaintiff in
2 this class action litigation.

3 **Settlement Administration Expenses**

4 13. The Agreement provides for Settlement Administration Expenses to be paid
5 in an amount not to exceed thirteen thousand dollars and zero cents (\$13,000.00). The Declaration
6 of the Administrator provides that the actual claims Settlement Administration Expenses were
7 \$12,700.00. The amount of this payment is reasonable in light of the work performed by the
8 Administrator.

9 **II.**

10 **ORDERS**

11 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

12 1. The Class is certified for the purposes of settlement only. The Settlement
13 Class is hereby defined to include:

14 All non-exempt employees who are or previously were employed by Defendants and
15 performed work in California during the Class Period (January 3, 2018, through and
16 including July 27, 2023).

17 2. There are 830 participating members of the Class. Every person in the Class
18 who did not opt out is a Settlement Class Member. After providing Notice to the Class, there are
19 two opt-outs to the Settlement. The names of the Class Members who opted out are Cathleen Gray
20 and Valerie Varachi.

21 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
22 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
23 this Order and the terms of the Agreement.

24 4. Defendants shall fund the Gross Settlement Amount on the Funding Date. In
25 exchange the Class Members shall release the “Released Parties” from the “Released Class Claims”
26 and the “Aggrieved Employees” shall release the “Released Parties” from the “Released PAGA
27 Claims.”

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1 a. The “Released Parties” means Defendants CONSTELLATION
2 BRANDS, INC. and TPWC, Inc. and their predecessors, successors, subsidiaries, parent companies,
3 other corporate affiliates, and assigns, and all of their owners, shareholders, members, officers,
4 directors, exempt employees, agents, servants, registered representatives, attorneys, insurers,
5 successors and assigns, and any other persons acting by, through, under or in concert with any of
6 them. The Released Parties does not include Constellation Brands U.S. Operations Inc., solely with
7 regard to the claims brought against it by the putative class in the pending action of Gregoria Cruz
8 v. Constellation Brands U.S. Operations, Inc., pending in the California Superior Court, County of
9 San Joaquin, Case No. STK-CV-UDE-2022-520.

10 b. The “Released Class Claims” are defined as All Settlement Class
11 Members on behalf of themselves and their respective former and present representatives, agents,
12 attorneys, heirs, administrators, successors and assigns release the Released Parties from any and
13 all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs,
14 expenses, attorney’s fees, damages, restitution, actions or causes of action of whatever kind or
15 nature, contingent or accrued, and irrespective of theory of recovery, that were or could have been
16 brought based on the facts or claims alleged in any version of the complaints filed in the Action or
17 PAGA Notices, arising during the Class Period, except for claims for PAGA penalties which are
18 separately released herein below. The released claims include, but are not limited to, claims for
19 failure to pay sick time pay at the correct rate, failure to provide meal periods, failure to authorize
20 and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal
21 and rest periods, failure to pay or properly compensate meal or rest break premiums, failure to
22 furnish accurate wage statements, failure to pay final wages upon separation of employment, claims
23 related to payment of wages based on failure to properly calculate the regular rate of pay, failure to
24 reimburse business expenses, claims derivative and/or related to these claims, liquidated damages,
25 conversion of wages, and claims under the UCL (Business and Professions Code Section 17200 et
26 seq.) arising from the Labor Code violations released herein. This release excludes claims brought
27 against Constellation Brands U.S. Operations, Inc. by the putative class in the pending action of
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Gregoria Cruz v. Constellation Brands U.S. Operations, pending in the California Superior Court, County of San Joaquin, Case No. STK-CV-UDE-2022-5208.

c. The “PAGA Members” are defined as all current and former non-exempt employees of Defendant in the state of California at any time during the PAGA Period.

d. The “Released PAGA Claims” are defined as All PAGA Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns and the State of California are deemed to release, the Released Parties from all claims for penalties under PAGA during the PAGA Period that were or could have been alleged in the Action based on the facts or claims alleged in any version of the complaint or enumerated in the LWDA Letter irrespective of the underlying theory of recovery supporting the claim for PAGA penalties. This release excludes claims brought against Constellation Brands U.S. Operations, Inc. by the putative class in the pending action of Georgia Cruz v. Constellation Brands U.S. Operations, pending in the California Superior Court, County of San Joaquin, Case No. STK-CV-UDE-2022-5208.

5. Class Counsel are awarded attorneys’ fees in the amount of Eight Hundred Sixty-Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$868,333.33) comprised of attorneys’ fees in the amount of Eight Hundred Thirty-Three Dollars and Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$833,333.33)(“Attorneys’ Fees”) and litigation expenses in the amount of litigation expenses in the amount of Thirty-Five Thousand Dollars and Zero Cents (\$35,000.00). Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff, or members of the Class.

6. The payment of the Service Award to the Plaintiff in the amount of \$12,500.00 is approved.

7. The payment of \$12,700.00 to the Administrator for Settlement Administration Expenses is approved.

8. The PAGA Settlement Amount of \$100,000.00 is hereby approved as fair, reasonable, adequate, and adequately protects the interests of the public and the LWDA. Further,

1 the Court finds that Plaintiff and Class Counsel negotiated the PAGA Settlement Amount at arms-
2 length, absent of any fraud or collusion.

3 9. Final Judgment is hereby entered in this action. The Final Judgment shall
4 bind each Settlement Class Member.

5 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
6 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General Act
7 ("PAGA").

8 11. The Court further finds and determines that Class Counsel satisfied California
9 Labor Code § 2699(l)(2) by giving the LWDA notice of the proposed Settlement of claims arising
10 under the Private Attorney General Act ("PAGA") on November 1, 2023, and again on March 26,
11 2024.

12 12. The Court orders Class Counsel to comply with California Labor Code §
13 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court's
14 entry of this Order.

15 13. The Agreement is not an admission by Defendants, nor is this Final Approval
16 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by
17 Defendants. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
18 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
19 admission by or against Defendant of any fault, wrongdoing, or liability whatsoever. The entering
20 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
21 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
22 to the denials or defenses by Defendants and shall not be offered in evidence in any action or
23 proceeding against Defendants in any court, administrative agency or other tribunal for any purpose
24 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and
25 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
26 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
27 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
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Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the claims being released by the Settlement.

14. Notice of entry of this Final Approval Order and Judgment shall be given to Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment to individual Class Members and the Final Approval Order and Judgment shall be posted on Administrator's website as indicated in the Class Notice.

15. After entry of Final Judgment, the Court shall retain jurisdiction to construe, interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with the distribution of settlement benefits.

16. If the Settlement does not become final and effective in accordance with the terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment, and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

IT IS SO ORDERED.

DATED: _____, 2024

Hon. Cynthia P. Smith
JUDGE OF THE SUPERIOR COURT