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8 **SUPERIOR COURT OF STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ORANGE—CIVIL COMPLEX CENTER**

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11 In re WATERMARK WAGE AND HOUR
12 CASES

13 Coordination Proceedings Special Title
(C.R.C. Rule 3.550)

14 *Included Actions:*

15 *Daniel Carillo-Salazar v. Watermark Services*
16 *IV, LLC, et al.,*
17 Orange County Superior Court
Case No. 30-2020-01126766-CU-OE-CXC

18 *Evanina Alaniz v. Watermark Retirement*
19 *Communities LLC, et al.,*
20 Los Angeles County Superior Court
Case No. 20STCV16386

21 *Katherine Greene v. Watermark Retirement*
22 *Properties, Inc., et al.,*
23 Monterey County Superior Court
Case No. 20CV002422
24

) Case No.: JCCP 5176

) Assigned for all purposes to:
) Hon. William Claster
) Dept. CX104

) **[PROPOSED] ORDER AND JUDGMENT**
) **GRANTING MOTION FOR FINAL**
) **APPROVAL OF CLASS ACTION**
) **SETTLEMENT**

) Date: September 8, 2023
) Time: 9:00 am
) Place: Department CX104

) Action Filed: January 27, 2020
) Trial Date: None Set

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28 **[PROPOSED] ORDER AND JUDGMENT GRANTING MOTION FOR FINAL**
APPROVAL OF CLASS ACTION SETTLEMENT

1 THIS MATTER is before the Court on Plaintiffs Motion for Final Approval of Class
2 Action Settlement and his Motion for an Order Awarding Attorneys' Fees and Costs to
3 Plaintiffs' Counsel and Enhancement Fee to the Class Representatives. In accordance with the
4 Final Approval Order, Class Members have been given notice of the terms of the Settlement,
5 including had an opportunity to object to it, comment on it, participate in it, and/or exclude
6 themselves from it. Having considered the proposed Settlement, the award of attorneys' fees and
7 costs and the service award to the class representatives, and the argument at the final approval
8 hearing held on September 8, 2023, the Court pursuant to Code of Civil Procedure § 382, hereby
9 grants Plaintiffs' motion.

10 **I. FACTUAL BACKGROUND**

11 On January 27, 2020, Plaintiff Daniel Carillo-Salazar filed a Class Action Complaint in
12 the Orange County Superior Court, Case No. 30-2020-01126766-CU-OE-CXC, alleging
13 violations of the California Labor Code and applicable wage orders for the following claims: (1)
14 failure to provide meal periods; (2) failure to provide rest breaks; (3) failure to provide and
15 maintain accurate itemized wage statements; as well as an additional claim for (4) unlawful
16 business practices under Business and Professions Code section 17200 et. seq. in order to extend
17 the claims back four years to January 27, 2016. On May 5, 2020, Plaintiff filed an Amended
18 Class Action Complaint for the following claims: (1) failure to pay minimum wages; (2) failure
19 to pay overtime wages; (3) failure to provide meal periods; (4) failure to provide rest breaks; (5)
20 failure to provide and maintain accurate itemized wage statements; (6) failure to pay timely
21 wages upon termination; (7) violation of the Labor Code Private Attorneys General Act of 2004
22 (PAGA); (8) unlawful business practices; as well as an additional claim (9) for successor
23 corporation liability. On November 11, 2022, Mr. Carillo-Salazar submitted a Second Amended
24 Complaint adding an additional claim for failure to pay necessary business expenses.
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26 On April 29, 2020, Plaintiff Evanina Alaniz filed a wage and hour class action in the
27 Superior Court of California for the County of Los Angeles against Defendants, Case No.
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20STCV16386 (*Alaniz* Action). The *Alaniz* Action alleged similar claims as the *Carillo* Action. On November 10, 2020, Katherine Greene filed a wage and hour class action against Defendants alleging similar claims as the *Carillo* Action.

On July 17, 2020, Ms. Alaniz filed a petition to coordinate the proceedings in the *Carillo*, *Alaniz* and *Greene* Actions. On September 10, 2021, the Orange County Superior Court granted the petition for coordination.

After the parties engaged in discovery, Defendants agreed to mediate the case and participated in a mediation on January 4, 2022. Thereafter, Defendants entered into a signed Stipulation of Class Action Settlement setting forth the terms of the proposed Settlement, which is before the Court. In reaching the proposed Settlement, Defendants did not (and do not) concede that it has violated the California Labor Code or the Business and Professions Code, and Defendants continue to deny the allegations contained in Plaintiffs' complaints.

Plaintiffs have moved this Court for final approval of the Settlement and has submitted documents in support thereof. No opposition was filed to Plaintiffs' motion, and no Class Member objected to the Settlement. Plaintiffs' motion came on for hearing before this Court on September 8, 2023 at 9:00 a.m.

The Court, having fully considered Plaintiff's notice of motion and motion, the memorandum of points and authorities in support thereof, the declarations in support thereof, the Settlement Agreement itself, and the oral argument presented to the Court, HEREBY ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:

II. ORDER GRANTING FINAL APPROVAL TO CLASS ACTION SETTLEMENT

The Court finds that certification of the following Class, for settlement purposes only, is appropriate under the California Code of Civil Procedure:

The "Class" or "Class Members" is defined as:

[PROPOSED] ORDER AND JUDGMENT GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

all current and former non-exempt employees who are or were employed by Defendants in California at any time during the Class Period [January 27, 2016 through May 31, 2022] (individually referred to as “Nonexempt Class”).

The Court finds that the Class defined above meets ascertainability, numerosity, commonality, and predominance requirements that justify certification, and that resolution of this matter through a class action settlement is superior to other available methods.

The Court finds further that:

(1) Plaintiff Daniel Carillo-Salazar and Plaintiff Evanina Alaniz are adequate and typical Class Representatives and appoints them as Class Representatives; and

(2) Plaintiffs’ Counsel has adequately represented the Class and its appointment as Class Counsel is confirmed.

Accordingly, the Court certifies the Class described above for settlement purposes only.

The Court has reviewed the terms of the Settlement and finds that the Settlement is fair, adequate, and reasonable when balanced against the possible outcome of further litigation relating to class certification, liability, and damages. The Court finds further that settlement at this time will avoid substantial additional costs and will avoid the delay and risks presented by continued prosecution of the litigation. The Court also finds that the settlement has been reached after arm’s length negotiations between the parties. The terms of the operative settlement agreement shall be incorporated herein and consistent with this Order and Judgment.

Following notice that was sent to the Class Member by first class mail, no Class member objected to any of the terms of the Settlement and two Class Members opted out. The name of the individual that opted out is Susan M. Haddad. Such non-opposition to the settlement is evidence of the settlement’s fairness, adequacy, and reasonableness. Taking into account (1) the value of the \$2,400,000.00 cash settlement, (2) the risks inherent in continued litigation, (3) the complexity, expense, and likely duration of the litigation in the absence of settlement, (4) the experience and views of Class Counsel, and (5) the positive reaction of Class Members, the

1 Court finds that the settlement is fair, adequate, reasonable, and deserves this Court's final
2 approval.

3 **III. CLASS RELEASE**

4 Other than the rights created by this Settlement Agreement upon the Effective Date,
5 Plaintiffs and each Settlement Class Member who has not provided a timely and valid Exclusion
6 Request, shall fully release and discharge the Released Parties from any and all claims, causes of
7 action, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys'
8 fees, penalties, and damages (including but not limited to liquidated, exemplary, punitive, and
9 statutory damages), whether suspected or unsuspected, contingent or accrued, known or
10 unknown, that have been pled or could have been pled based upon the factual allegations and
11 issues set forth in the Actions, for any acts occurring during the Class Period, including, claims
12 for failure to pay minimum wages; failure to pay overtime, double time or other premium pay;
13 failure to provide meal periods; failure to provide paid rest periods; failure to provide compliant
14 pay stubs and itemized wage statements; failure to timely pay wages to terminated and resigning
15 employees; failure to maintain accurate records; failure to properly pay all wages owed at the
16 correct time; failure to include compliant notice of the employer entity; claims for alleged
17 violations of California Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226, 226.3,
18 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and their subparts, and
19 applicable IWC Wage Orders; derivative claims for civil penalties under the Labor Code
20 Attorneys General Act of 2004, Labor Code sections 2698, et seq.; derivative claims for unfair,
21 unlawful, and fraudulent business practices under the California Business and Professions Code
22 sections 17200, et seq., and/or any other unfair competition law; any other state or federal
23 statute, rule, or regulation that could have been pled based upon the factual allegations and issues
24 set forth in the Actions; and all related remedies of any nature whatsoever, including claims for
25 restitution and other equitable relief, injunctive relief, statutory damages, liquidated damages,
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exemplary damages, punitive damages, waiting-time penalties, statutory penalties, civil penalties, attorneys' fees, costs, and expenses ("Released Claims").

IV. PAGA RELEASE

Upon entry of final judgment, all Aggrieved Employees release all PAGA claims based On any and all Labor Code violations released in section 5.01 which occurred during the PAGA Period, regardless of whether PAGA Group Members opt out of the Class Settlement.

V. OPT OUTS

Following notice that was sent to the Class Member by first class mail, no Class member objected to any of the terms of the Settlement and 1 opted-out of this settlement. The name of the Class Member that opted out is; (1) Susan M. Haddad.

VI. PLAINTIFF'S REQUEST FOR ATTORNEYS' FEES AND COSTS

Plaintiffs' Counsel has moved for awards of (1) attorneys' fees and costs to Plaintiff's Counsel; and (2) a service award to the Class Representatives, notice of which were given to all Class Members pursuant to the Court's Preliminary Approval Order. The Court read argument regarding Plaintiff's request for fees and service payments.

Based upon all papers filed with the Court, oral argument at the hearing, the Court's observation and assessment of the performance of Plaintiff's Counsel throughout this litigation, the resulting settlement recovery, and good cause appearing therefor, the Court finds that payment of attorneys' fees in the amount of \$800,000.00 of the GSA and costs in the amount of \$23,096.20 for all past and remaining work and costs until the completion of this matter, in accordance with the terms of the Settlement, is fair and reasonable under the circumstances.

This amount shall be paid by Defendants according to the terms of the Joint Stipulation of Settlement and Release of Class Action Settlement attached as Exhibit A to the Declaration of Armond M. Jackson in Support of Motion for Final Approval of Class Action Settlement filed on August 16, 2023.

1 **VII. SERVICE AWARD TO THE CLASS REPRESENTATIVE**

2 Plaintiff seeks service awards to the class representatives, Daniel Carillo-Salazar, in the
3 amount of \$10,000.00 and Evanina Alaniz, in the amount of \$5,000.00 as compensation for the
4 time, effort, and risk they spent to enable the Class Members to receive this recovery.

5 The Court notes that California and federal courts regularly approve service awards to
6 compensate the class representative for the services they provide to the class, the time and effort
7 they invest on behalf of others, and the risks that they incur during the course of class action
8 litigation.

9 Class Representatives Daniel Carillo-Salazar and Evanina Alainz performed a service to
10 Class members, including bringing this action, producing relevant documents, and making
11 themselves available to and working with Plaintiff's Counsel throughout the action. In light of
12 these services, the service award to the class representatives is appropriate. Although the
13 proposed service award was disclosed to the Class in the Notice, no class member objected to it.
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15 For the foregoing reasons, the Court finds that the service award of \$10,000.00 to
16 Plaintiff Daniel Carillo-Salazar and \$5,000.00 to Plaintiff Evanina Alainz is fair and reasonable
17 considering their service to Class Members.

18 **VIII. CLAIMS ADMINISTRATION COSTS**

19 Plaintiffs seek costs for the claims administrator in the amount of \$25,000.00 for all work
20 regarding distribution to the class members, LWDA and counsel for Plaintiff. This amount shall
21 be paid by Defendants according to the terms of the Joint Stipulation of Settlement and Release
22 of Class Action Settlement attached as Exhibit A to the Declaration of Armond M. Jackson in
23 Support of Motion for Final Approval of Class Action Settlement filed on August 16, 2023. For
24 the foregoing reasons, the Court finds that the administration costs of \$25,000.00 is fair and
25 reasonable considering its service to Class Members.

26 **IX. PAYMENT TO LABOR AND WORKFORCE DEVELOPMENT AGENCY**

27 The Claims Administrator shall pay the LWDA \$18,000.00 (representing 75% of the
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1 \$24,000.00 PAGA component of the Settlement Agreement).

2 **X. JUDGMENT FINALITY**

3 Without affecting the finality of this Judgment in any way, the Court shall retain
4 jurisdiction with respect to the implementation and enforcement of the terms of the Settlement
5 Agreement, and the Court shall retain jurisdiction over the Parties and the members of the Class
6 to enforce the terms, conditions and obligations of the Settlement Agreement.

7 This judgment is intended to be a final disposition of the above-captioned action in its
8 entirety with prejudice, and is intended to be immediately appealable. The court shall have and
9 retain continuing jurisdiction over this action and the parties and Class members, including after
10 entry of this Order, to the fullest extent necessary to interpret, enforce and effectuate the terms
11 and intent of the Settlement Agreement and this Order. The notice of final judgment will be
12 posted on the claims administrator website.

13 The Court orders class counsel to file a final report summarizing all distributions made
14 pursuant to the approved settlement, supported by declaration. The Court shall set a hearing for a
15 final report. Plaintiff's counsel shall submit a final report at least 10 days prior to the final report
16 hearing.

17 This Court shall have continuing jurisdiction pursuant to CCP section 664.6 and CRC
18 Rule 3.769(h). The Judgment will be posted on the Settlement Administrator's website for at
19 least 180 days.
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21 Dated:

JUDGE OF THE SUPERIOR COURT

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23 By: _____
24 The Honorable Judge William Cluster
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