

Carolyn Hunt Cottrell (SBN 166977)
Caroline N. Cohen (SBN 278154)
Kristabel Sandoval (SBN 323714)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Tel: (415) 421-7100; Fax: (415) 421-7105
ccottrell@schneiderwallace.com
ccohen@schneiderwallace.com
ksandoval@schneiderwallace.com

*Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*

FILED
Superior Court of California
County of Los Angeles

04/19/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: E. Sam Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

JILL TIZEKKER, on Behalf of the State of
California and Aggrieved Employees,

Plaintiffs,

v.

BEL-AIR BAY CLUB LTD., and DOES 1-
100 inclusive,
Defendant.

Case No. 20SMCV01006

**~~PROPOSED~~ ORDER APPROVING
PAGA SETTLEMENT AND JUDGMENT**

Hearing Date: April 7, 2022

Time: 8:30 AM

Department: P

1 Plaintiff filed an unopposed Motion to Approve Settlement Pursuant to Private Attorneys
2 General Act of 2004 (“PAGA”). The Court has reviewed the materials and information submitted
3 and HEREBY ORDERS, ADJUDGES, and DECREES as follows:

4 1. The Plaintiff in this Action, Jill Tizekker (“Plaintiff”), and Defendant Bel-Air Bay Club
5 Ltd. (“Defendant”) (collectively, “the Parties”), have agreed to a Settlement Agreement of
6 Representative Action under Labor Code Private Attorneys General Action (“Settlement Agreement”
7 or “Settlement”) that resolves the claims brought in the above-referenced action under the PAGA.
8 All defined terms contained herein shall have the same meanings as set forth in the Settlement
9 Agreement. A true and correct copy of the fully executed Settlement is attached hereto as **Exhibit 1**.

10 2. The Court hereby grants approval of the Settlement based on the terms set forth in the
11 therein.

12 3. The Settlement Agreement was executed by Plaintiff, Plaintiff’s counsel, Defendant,
13 and Defendant’s counsel. The Court finds that the Settlement is entitled to judicial approval and meets
14 all of the requirements for approval of a settlement under the PAGA, including that the Parties
15 complied with Labor Code § 2699(1)(2) by submitting a copy of the Settlement Agreement to the
16 California Labor and Workforce Development Agency (“LWDA”).

17 4. Pursuant to Labor Code § 2699(1)(2), the Court has reviewed the Settlement and finds
18 the settlement of the PAGA claims described therein to be fair, adequate and reasonable. The Court
19 also finds that the LWDA has not objected to the terms of the Settlement. The Court further finds that
20 no other objection to the Settlement has been received by the Court.

21 5. The Court approves and confirms the release and waiver of claims as provided for in
22 the Settlement Agreement. Pursuant to the California Supreme Court decision in *Arias v. Superior*
23 *Court* (2009) 46 Cal.4th 969, 986, “with respect to the recovery of civil penalties, nonparty employees
24 as well as the government [i.e., the State of California] are bound by the judgment in an action brought
25 under the [PAGA]” As defined in the Settlement Agreement, the non-party employees who are
26 covered and bound by this Settlement and its waiver and release provisions are all front-of-house and
27 back-of-house hourly employees of Defendant in California at any time between May 26, 2019
28

1 through the earlier of the date of approval of the Settlement by the Court or 60 days after the date on
2 which the MOU was signed by the last party to sign it, January 4, 2021, and excluding the period of
3 March 15, 2020 to June 18, 2020 when employees were furloughed due to COVID-19. (Settlement,
4 Section II.A.3.) The general release is only applicable to the named Plaintiff in exchange for her
5 Service Award, and is not applicable to Aggrieved Employees. (Settlement, Section II.E.2.)

6 6. The Court also finds that the requested attorneys' fees and costs, the named Plaintiff's
7 Service Award, and costs of administration as set forth in the Motion for Approval are reasonable
8 and hereby are approved. The Court approves Simpluris as the settlement administrator.

9 7. The Court orders that the Settlement shall be effectuated according to its terms. As
10 provided for in the Settlement Agreement, the settlement funds shall be tendered by Defendant to the
11 agreed-upon settlement administrator Simpluris within ten (10) calendar days after the Effective
12 Date.¹ (Settlement, Section II.D.1.)

13 8. The Settlement is not an admission by Defendant, nor is this Order a finding of the
14 validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement
15 Agreement, nor any document referred to herein, nor any action taken to carry out the Settlement,
16 may be construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession,
17 or liability whatsoever by or against Defendant.

18 9. The Court shall retain continuing jurisdiction over the Parties to this action to ensure
19 effectuation of the Settlement in accordance with the terms of the Settlement and this Order.
20 (Settlement, Section II.H.10.)

21 10. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry
22 of this Order. (Settlement, Section II.C.3.)

23 11. On April 7, 2022, the Court issued a Minute Order to this effect and found, in relevant
24 part:

25 a. In this private attorney general (PAGA) action (Lab. Code §2698) plaintiff, on
26 _____

27 ¹ "Effective Date" means the date that the Court enters an order granting the motion for approval if no
28 appeal is filed, or if an appeal is filed, the date the appeal is dismissed or denied and is no longer subject
to appellate review. (Settlement, Section II.A.5.)

1 behalf of herself and other aggrieved employees, alleges defendant committed
2 various Labor Code and wage/hour violations. The prevailing employee in a PAGA
3 action is entitled to attorney's fees and costs. Lab. Code §2699(a). Civil penalties
4 recovered by aggrieved employees are to be distributed 75 percent to the Labor and
5 Workforce Development Agency (LWDA) and 25 percent to aggrieved employees.
6 Lab. Code §2699(i). In class actions, as in PAGA actions, the custom and practice
7 is to award approximately one-third of a common fund as attorney's fees. E.g.,
8 Chavez v. Netflix (2008) 162 Cal.App.4th 43, 66.

9 b. The parties settled for \$200,000. The parties propose a distribution with \$78,283.74
10 to LWDA, \$66,666.66 for attorney's fees, \$14,345.02 for costs, \$10,000 to plaintiff
11 as an enhancement and \$26,094.58 to the remaining PAGA employees.

12 c. Plaintiff argues the settlement is fair and reasonable, providing evidence that
13 defendants' conduct could result in a recovery of \$621,008 at trial, but, considering
14 the risks of litigation, \$200,000 is reasonable. Cottrell decl. ¶¶42-57. Considering
15 these factors, the settlement is valid. Plaintiff shows that one-third as attorney's
16 fees is reasonable, and the remaining distributions comply with Lab. Code §2699
17 et seq. There is no opposition. GRANTED.

18 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

19
20 Dated: 04/19/2022



A handwritten signature in black ink, appearing to read "Elaine W. Mandel".

21 Hon. Elaine W. Mandel Elaine W. Mandel / Judge
22 Judge of the Superior Court
23
24
25
26
27
28

EXHIBIT 1

Carolyn Hunt Cottrell (SBN 166977)
Caroline N. Cohen (SBN 278154)
Kristabel Sandoval (SBN 323714)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Tel: (415) 421-7100; Fax: (415) 421-7105
ccottrell@schneiderwallace.com
ccohen@schneiderwallace.com
ksandoval@schneiderwallace.com

*Attorneys for Plaintiff, on behalf of the
State of California and Aggrieved Employees*

LEWIS BRISBOIS BISGAARD & SMITH LLP
KATHERINE C. DEN BLEYKER, SB # 257187
E-Mail: Katherine.DenBleyker@lewisbrisbois.com
633 West 5th Street, Suite 4000
Los Angeles, California 90071
Telephone: 213.250.1880
Facsimile: 213.250.7900

Attorneys for Defendant Bel-Air Bay Club

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

JILL TIZEKKER, on Behalf of the State of California and Aggrieved Employees,

Plaintiffs,

v.

BEL-AIR BAY CLUB LTD., and DOES 1-100
inclusive,

Defendant.

Case No. 20SMCV01006

Assigned to the Hon. Elaine W. Mandel

**SETTLEMENT AGREEMENT OF
REPRESENTATIVE ACTION UNDER
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT**

1 SETTLEMENT AGREEMENT

2 This Settlement Agreement of Representative Action under California Labor Code
3 Private Attorneys General Act is entered into between Plaintiff Jill Tizekker (“Plaintiff”), on
4 behalf of herself, the State of California, Aggrieved Employees (as defined below), and
5 Defendant Bel-Air Bay Club Ltd. (“Defendant”). Plaintiff and Defendant are collectively
6 referred to as “the parties.”

7 I. Factual Background

8 A. On May 12, 2020, Plaintiff sent a certified letter to the Labor Workforce
9 Development Agency (“LWDA”), notifying the LWDA that she intended to pursue a claim
10 against Defendant under the Labor Code Private Attorneys General Act (“PAGA”) based on
11 its alleged wage and hour violations (“PAGA Letter”). The LWDA did not respond to the
12 PAGA Letter or otherwise indicate that it intended to investigate Plaintiff’s allegations.

13 B. After waiting the required 65 days without a response from the LWDA, on
14 July 30, 2020, Plaintiff filed a PAGA complaint against Defendant seeking penalties pursuant
15 to Labor Code sections 2699(a) and 2699(f) (the “Complaint”). In the Complaint, Plaintiff
16 alleges that Defendant is liable for civil penalties for (1) failing to compensate Plaintiff and
17 Aggrieved Employees for all hours worked; (2) failing to pay Plaintiff and Aggrieved
18 Employees all minimum wages owed; (3) failing to pay Plaintiff and Aggrieved Employees
19 all tip wages owed from service charge gratuity payments; (4) failing to reimburse Plaintiff
20 and Aggrieved Employees for necessary business expenses; and (5) failing to provide
21 Plaintiff and Aggrieved Employees accurate, itemized wage statements. On September 4,
22 2020, Defendant filed its Answer to Plaintiff’s Complaint, in which it asserted a general
23 denial to each and every allegation of the Complaint.

24 C. The parties agreed to participate in a private mediation for both the PAGA
25 claims and Plaintiff’s individual arbitrable California labor code and tort claims pursuant to a
26 separately served arbitration demand. For purposes of pre-mediation discovery, Defendant
27 produced over three hundred pages of documents, including written policies, practices, and
28 standards; job descriptions; onboarding and training documents; and Plaintiff’s personnel

1 file, including her time and pay records. The parties also engaged in a *Belaire-West* notice
2 process as to a sampling of the Aggrieved Employees to allow Plaintiff to investigate
3 Aggrieved Employees' work experiences with Defendant as they related to the PAGA claims
4 alleged in the Action. Additionally, Defendant took Plaintiff's deposition on May 24, 2021
5 and Plaintiff took a limited purpose deposition of Defendant's person most knowledgeable on
6 several topics on October 27, 2021.

7 F. On November 2, 2021, the parties participated in a private mediation before
8 Steven Rottman. The mediation was successful, and the parties reached an agreement in
9 principle during the mediation session. The parties fully executed a Memorandum of
10 Understanding on January 4, 2022, after several drafts and revisions. The negotiations
11 leading to settlement and to the terms of this agreement were at all times non-collusive and
12 conducted at arm's length.

13 G. Plaintiff and her counsel have conducted a thorough investigation into the
14 facts of the action for the benefit of Plaintiff and Aggrieved Employees. Based on that
15 investigation, Plaintiff and Plaintiff's Counsel are of the opinion that the settlement is fair,
16 reasonable, adequate, and in the best interests of the Aggrieved Employees and the State of
17 California.

18 H. Defendant denies it violated the law in any manner alleged in the Action (as
19 defined below). Nothing contained herein, nor the consummation of the settlement, is to be
20 construed or deemed an admission of liability or wrongdoing on the part of Defendant or any
21 of the Released Parties (as defined below).

22 II. Terms of Agreement

23 A. Definitions.

24 1. "Action" refers to the lawsuit filed in the Superior Court of California
25 for the County of Los Angeles entitled *Tizekker v. Bel-Air Bay Club Ltd.*, Case No.
26 20SMCV01006.

27 2. "Agreement" means this Settlement Agreement of Representative
28 Action under California Labor Code Private Attorneys General Act.

1 3. “Aggrieved Employees” are all front-of-house and back-of-house
2 hourly employees of Defendant in California at any time between May 26, 2019 through the
3 earlier of the date of approval of the Settlement by the Court or 60 days after the date on
4 which the MOU was signed by the last party to sign it, January 4, 2021, and excluding the
5 period of March 15, 2020 to June 18, 2020 when employees were furloughed due to COVID-
6 19.

7 4. “Court” is the Superior Court of California for the County of Los
8 Angeles.

9 5. “Effective Date” means the date that the Court enters an order granting
10 the motion for approval if no appeal is filed, or if an appeal is filed, the date the appeal is
11 dismissed or denied and is no longer subject to appellate review.

12 6. “Judgment” is the order and judgment approving the Settlement in the
13 Action. An order approving the Settlement shall function as a judgment for purposes of Code
14 of Civil Procedure Sections 577-579.

15 7. “LWDA” means the California Labor Workforce Development
16 Agency.

17 8. “PAGA Recovery Period” is the period time between May 26, 2019
18 through the earlier of the date of approval of the Settlement by the Court or 60 days after the
19 date on which the MOU was signed by the last party to sign it, January 4, 2021, and
20 excluding the period of March 15, 2020 to June 18, 2020.

21 9. “Pay Periods” means, for each Aggrieved Employee, the number of
22 full or partial pay periods in which he or she was employed by Defendant during the PAGA
23 Recovery Period, according to Defendant’s time punch and payroll records.

24 10. “Plaintiff” is plaintiff Jill Tizekker.

25 11. “Plaintiff’s Counsel” is Schneider Wallace Cottrell Konecky LLP.

26 12. “Settlement” is the settlement set forth in this Agreement.

27 13. “Settlement Administrator” is Simpluris.

28 14. “Total Pay Periods” means the aggregate number of Pay Periods all

1 Aggrieved Employees worked during the PAGA Recovery Period.

2 15. "Defendant" is defendant Bel-Air Bay Club Ltd.

3 16. "Gross Settlement Fund" and/or "Gross Settlement Amount" mean the
4 total value of the PAGA Settlement, Two Hundred Thousand Dollars (\$200,000.00). This is
5 the maximum amount Defendant can be required to pay under the PAGA Settlement
6 Agreement, which includes: (1) the attorney fee award for attorneys' fees and costs, as
7 approved by the Court; (2) administration costs paid to the Settlement Administrator, as
8 approved by the Court; (3) the PAGA Payment to the LWDA and to eligible Aggrieved
9 Employees and (4) Plaintiff's Service Award, as approved by the Court. No portion of the
10 Gross Settlement Amount will revert to Defendant for any reason.

11 17. "Net Settlement Fund" and/or "Net Settlement Amount" mean the
12 Gross Settlement Amount less the Court-approved attorneys' fees and costs, Plaintiff's
13 Service Award, and settlement administration costs – the remaining amount wherein 75%
14 shall be paid to LWDA and 25% shall be distributed to Aggrieved Employees.

15 18. "Service Award" means the payment to Named Plaintiff Jill Tizekker
16 for her efforts in bringing and prosecuting this matter, and for her general release of claims.
17 The Service Award will not exceed Ten Thousand Dollars (\$10,000.00).

18 19. "Released Parties" means Defendant and its respective or former,
19 present, and future members, owners, parents and subsidiaries, and all of their current,
20 former, officers, directors members, managers, employees, consultants, partners,
21 shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers,
22 or legal representatives.

23 B. Monetary Consideration.

24 1. Plaintiff and Defendant agree that the Action shall be, and hereby is,
25 ended, settled, resolved, and concluded by agreement of Defendant to pay the Gross
26 Settlement Amount of Two Hundred Thousand Dollars (\$200,000.00) pursuant to the terms
27 and conditions of this Agreement and for the consideration set forth herein, including but not
28 limited to, a release of claims by Plaintiff and the Aggrieved Employees as set forth herein.

1 C. Approval Procedure.

2 1. Plaintiff will seek approval of the Settlement in the Superior Court of
3 California for the County of Los Angeles pursuant to Labor Code section 2699(1)(2), and will
4 provide a draft to Defendant's counsel for their review at least five (5) business days before
5 the filing deadline. The Parties will work in good faith to consider and implement any
6 proposed revisions to Plaintiff's motion for settlement approval. If Plaintiff does not timely
7 seek approval of the settlement, Defendant may seek such approval, provided that Defendant
8 provides a copy of the settlement approval papers to Plaintiff for review and comment before
9 filing.

10 2. Concurrent with the filing of the motion for settlement approval:

11 a. Plaintiff's Counsel will serve a copy of this Agreement and
12 Plaintiff's motion for settlement approval to the LWDA at the same time as they are
13 submitted to the Court, pursuant to Labor Code section 2699(1)(2).

14 b. Plaintiff's Counsel may move for an award of Attorneys' Fees
15 and Costs upon filing the motion for settlement approval, payable from the Gross Settlement
16 Amount. Plaintiff's Counsel's fees will be in the discretion of the Court but will not exceed
17 thirty-three and one-third percent (33 1/3%), or \$66,666.66 of the Gross Settlement Amount,
18 plus no more than \$16,000 in costs (with the latter amount being what Plaintiff's Counsel
19 represents is the reasonable out-of-pocket costs incurred by Plaintiff's Counsel in prosecuting
20 the Action). The parties agree that the Court's approval of Attorneys' Fees and Costs is not a
21 material condition of the Settlement and should be considered by the Court separate and apart
22 from the fairness, reasonableness, and adequacy of the Settlement. If the Court does not
23 approve the amount of attorneys' fees requested by Plaintiff, the difference between the
24 amount requested by Plaintiff and the amount approved by the Court will revert to the Net
25 Settlement Fund.

26 3. Within ten (10) calendar days after the date that the Court enters an
27 order granting the motion for approval, Plaintiff's Counsel will serve a copy of the Judgment
28 on the LWDA pursuant to Labor Code section 2699(1)(3).

1 4. Should the Court not approve the Settlement, the parties shall meet and
2 confer to negotiate and make reasonable efforts to address any issues raised by the Court in
3 order to obtain the Court's approval, except that Defendant will not be required under any
4 circumstances to increase the Gross Settlement Amount. If the parties cannot obtain approval
5 from the Court, then the parties shall be restored to their litigation positions as of November
6 2, 2021, and this Agreement shall be deemed null and void, shall be of no force or effect
7 whatsoever, and shall not be referred to or used in this or any other action.

8 D. Distribution.

9 1. Funding date. No later than ten (10) calendar days after the Effective
10 Date, Defendant will deliver to the Settlement Administrator via wire transfer the total sum
11 of Two Hundred Thousand Dollars (\$200,000.00), which amount shall be in full and final
12 satisfaction of the following: all payments to Aggrieved Employees, the payment to the
13 LWDA, Plaintiff's Counsel's attorneys' fees and costs as approved by the Court ("Attorneys'
14 Fees and Costs"), Plaintiff's Service Award, and the reasonable fees and costs of the
15 Settlement Administrator ("Settlement Administrator Costs"). Upon receipt of the Gross
16 Settlement Fund, the Settlement Administrator shall immediately place those funds into an
17 interest-bearing account pending distribution pursuant to this Agreement. Any interest earned
18 shall be added to the Gross Settlement Fund.

19 2. Transmission of Employment Data. No later than twenty (20) calendar days
20 after the Effective Date, Defendant will email the Settlement Administrator an electronic
21 spreadsheet containing, for each Aggrieved Employee, his or her name, last-known address
22 and/or telephone number, social security number, dates of employment, whether he or she
23 worked for the Upper Club Banquets Department, and number of pay periods worked during
24 the PAGA Recovery Period. Promptly after receiving it, the Settlement Administrator will
25 run the Aggrieved Employees' addresses through the U.S. Postal Service's National Change
26 of Address database. This Employment Data will be treated as confidential, disclosed only to
27 the Settlement Administrator, and used for Settlement purposes only.

28 3. Distribution of funds. No later than thirty (30) calendar days after the

Effective Date, the Settlement Administrator will pay by check or wire transfer: (1) the Attorneys' Fees and Costs to Plaintiff's Counsel; (2) Plaintiff's Service Award to Plaintiff; (3) the Settlement Administrator Costs to the Settlement Administrator; (4) 75% of the Net Settlement Fund to the LWDA; and (5) 25% of the Net Settlement Fund to the Aggrieved Employees, as set forth below. The Settlement Administrator will mail each settlement check, along with a letter explaining how the settlement payment was calculated, to each Aggrieved Employee. Plaintiff's counsel will prepare a draft of the communication to Aggrieved Employees for Defendant's counsel's review, and the communication shall be jointly agreed upon by the Parties. If any settlement check is returned as undeliverable, the Settlement Administrator will use reasonable skip-trace methods to locate a new address

4. No opt-outs or objections by Aggrieved Employees. Because this is a PAGA settlement and not a class action, the parties agree that Aggrieved Employees do not have the right to exclude themselves from the Settlement. Upon the Effective Date, Aggrieved Employees will be bound by the terms of the Settlement, including the release contained herein. There shall be no claims process for Aggrieved Employees to receive payment. The parties further agree that, absent an order by the Court granting leave to intervene, Aggrieved Employees do not have standing to object to the Settlement or appeal any Judgment.

5. Allocation of Funds to Aggrieved Employees; Calculation of Individual Settlement Payments. The Settlement Administrator will allocate 25% of the Net Settlement Fund to the Aggrieved Employees. Payments will be calculated and apportioned based on the number of Pay Periods an Aggrieved Employee worked during the PAGA Recovery Period. Specific calculations of individual payments will be made as follows:

- a. The Settlement Administrator will calculate the number of Pay Periods worked by each Aggrieved Employee ("Individual Pay Periods") during the PAGA Recovery Period, the amount to be paid per pay period, and the individual payments to eligible Aggrieved Employees.
- b. Defendant's pay period data will be presumed correct unless a particular

1 Aggrieved Employee proves otherwise to the Settlement Administrator by
2 credible evidence. All pay period disputes will be resolved and decided by the
3 Settlement Administrator, and the Settlement Administrator's decision on all
4 pay period disputes will be subject to Counsel's and the Court's review.

- 5 c. The payment to each Aggrieved Employee will be determined as follows: The
6 Settlement Administrator will calculate the total number of Pay Periods for the
7 entire group of Aggrieved Employees (as weighted, pursuant to this paragraph).
8 The Settlement Administrator will divide the 25% of the Net Settlement
9 Amount by the total number of pay periods (as weighted), resulting in the Pay
10 Period Value. The Settlement Administrator will multiply the Pay Period Value
11 by the number of pay periods worked by each Aggrieved Employee (as
12 weighted), to determine the payment to each Aggrieved Employee. To account
13 for the additional penalties relating to the underlying Labor Code § 351
14 allegations, the Individual Pay Periods for Aggrieved Employees who worked
15 for the Upper Club Banquets Department shall be multiplied by 2.0. (For
16 example, if an Aggrieved Employee worked in the Upper Club during the
17 PAGA Recovery Period and worked ten (10) pay periods, the Settlement
18 Administrator will multiply 10 pay periods by a multiplier of 2.0 for the
19 purposes of calculating the Pay Period Value and calculating his or her
20 individual payment as to those Pay Periods worked for the Upper Club
21 Banquets Department.)

22 7. Disputes over Employment Data. If any dispute arises concerning an
23 Aggrieved Employee's Individual Pay Periods and/or eligibility for a settlement payment,
24 Defendant agrees to cooperate with Plaintiff's Counsel and the Settlement Administrator to
25 investigate any such dispute. Aggrieved Employees who successfully dispute their Individual
26 Pay Periods or self-identify as Aggrieved Employees eligible for a settlement payment, will
27 be paid based on the Pay Period Value, to the extent possible, from uncashed check funds
28 after the expiration of settlement checks. Settlement checks will remain valid for 180 days

1 after mailing. If there are funds attributable to uncashed settlement checks after the 180-day
2 period, the Settlement Administrator shall redistribute them to all Aggrieved Employees who
3 cashed their checks. If funds still remain following the second distribution, the funds will be
4 remitted to the *cy pres* recipient that is approved by the Court. The parties propose Legal Aid
5 at Work as the *cy pres* recipient.

6 8. Tax Reporting. The entirety of the payments to the LWDA and the
7 Aggrieved Employees, including Plaintiff's Service Award, will be treated as civil penalties
8 for purposes of IRS reporting. No withholding shall be made in relation to the payments to
9 the Aggrieved Employees. Such payments shall be reported on the IRS Form 1099
10 Miscellaneous to each Aggrieved Employee, which shall be issued to each Aggrieved
11 Employee by the Settlement Administrator at the same time the settlement checks are issued
12 by the Settlement Administrator. All parties represent they have not received, and will not
13 rely on, advice or representations from other parties or their agents regarding the tax
14 treatment of payments under this Settlement.

15 E. Release

16 1. Aggrieved Employee Release: In exchange for the monetary
17 consideration recited in this Settlement, upon the Effective Date and performance of the
18 payment obligations in this Agreement, Plaintiff and Aggrieved Employees will fully and
19 finally release and discharge Defendant and its respective or former, present, and future
20 members, owners, parents and subsidiaries, and all of their current, former, officers, directors
21 members, managers, employees, consultants, partners, shareholders, joint venturers, agents,
22 predecessors, successors, assigns, accountants, insurers, or legal representatives ("Released
23 Parties") from all claims, rights, demands, liabilities, and causes of action for civil penalties
24 asserted under PAGA, or that could have been asserted, in the Complaint, which includes the
25 claims made for Defendant's alleged (1) failure to compensate Plaintiff and Aggrieved
26 Employees for all hours worked; (2) failure to pay Plaintiff and Aggrieved Employees all
27 minimum wages owed; (3) failure to pay Plaintiff and Aggrieved Employees all tip wages
28 owed from service charge gratuity payments; (4) failure to reimburse Plaintiff and Aggrieved

1 Employees for necessary business expenses; (5) failure to provide Plaintiff and Aggrieved
2 Employees accurate, itemized wage statements; and (6) failure to pay Plaintiff and Aggrieved
3 Employees all wages at separation of employment (the “PAGA Released Claims”). The
4 Judgment entered by the Los Angeles Superior Court shall have *res judicata* effect as to each
5 Aggrieved Employee with respect to the PAGA Released Claims.

6 2. Plaintiff’s Service Award and Release: Subject to Court approval and the
7 execution of a general release in favor of the Released Parties, Plaintiff may receive a Service
8 Award in an amount not to exceed Ten Thousand Dollars (\$10,000), to be paid from the
9 Gross Settlement Fund, in addition to her PAGA settlement payment as an Aggrieved
10 Employee under this Agreement. Should the Court does not approve this amount, the
11 difference between the agreed amount and the amount approved by the Court will revert to
12 the Net Settlement Amount, for distribution to the LWDA.

13 (a) The Parties intend this payment to constitute a service payment in
14 consideration for Plaintiff’s litigation efforts, and the work and time Plaintiff put into this
15 Action as an Aggrieved Employee Representative.

16 (b) The Service Award is also provided in consideration for Plaintiff’s
17 willingness to provide a full general release. Plaintiff, upon the Effective Date, for herself
18 and for her heirs, assignees, executors, administrators, agents, and successors, past and
19 present (collectively, “Plaintiff’s Affiliates”), fully and finally release and discharge
20 Defendant and the Released Parties from any and all known or unknown claims, demands,
21 actions or causes of action whatsoever that now exist or that may arise in the future, based
22 upon acts, events or omissions occurring from the beginning of time to the date of the
23 Memorandum of Understanding signed by the parties on January 4, 2022, including but not
24 limited to any and all claims whatsoever arising out of or pertaining in any way to Plaintiff’s
25 employment with Defendant and her separation from employment with Defendant. Plaintiff
26 will dismiss her individual claims with prejudice.

27 (a) Plaintiff understands and for valuable consideration hereby expressly
28 waives all of the rights and benefits of Section 1542 of the California Civil Code, which section

1 reads as follows:

2 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
3 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT
4 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
5 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
6 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
7 DEBTOR OR RELEASED PARTY.

8 (b) Plaintiff understands this release does not apply to any claims or
9 rights that may arise after the date that Plaintiff signed this release; the consideration for this
10 release; vested rights under Defendant's ERISA-covered benefit plans, if any, as applicable
11 on the date Plaintiff signs this agreement and, any claims for which the controlling law
12 clearly states may not be released by private agreement. Plaintiff is not waiving, releasing, or
13 giving up any claim for workers' compensation benefits, vested pension or savings plan
14 benefits, or other claims under the California Labor Code or federal law that may not be
15 waived as a matter of law. Plaintiff acknowledges, however, that she has no workers'
16 compensation claim pending at the time of signing this Agreement. Nothing in this
17 Agreement shall be construed to prohibit Plaintiff from filing a charge or cooperating with
18 any investigation by any federal, state, or local government agency (including without
19 limitation the United States Department of Labor, the Equal Employment Opportunity
20 Commission, the Securities and Exchange Commission, the Department of Justice, and/or the
21 National Labor Relations Board).

22 (c) Because the Service Award represents a payment to Plaintiff for
23 services to the Aggrieved Employees, and not wages, taxes will not be withheld from the
24 Service Award. No Party has made any representation to Plaintiff regarding the taxability of
25 any Service Award. The Settlement Administrator will report the Service Award on a 1099
26 form, which it will provide to the Plaintiff and the pertinent taxing authorities, as required by
27 law.

28 F. Non-Admission of Liability.

1 1. The Parties enter into this Settlement to resolve the dispute that has arisen between
2 them and to avoid the burden, expense and risk of continued litigation. In entering into this
3 Settlement, Defendant does not admit, and specifically denies, that it violated any federal, state, or
4 local law; violated any regulations or guidelines promulgated pursuant to any statute or any other
5 applicable laws, regulations or legal requirements; breached any contract; violated or breached any
6 duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
7 respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor
8 any of the negotiations connected with it, will be construed as an admission or concession by
9 Defendant of any such violations or failures to comply with any applicable law. Except as necessary
10 in a proceeding to enforce the terms of this Settlement, this Settlement Agreement and its terms and
11 provisions will not be offered or received as evidence in any action or proceeding to establish any
12 liability or admission on the part of Defendant or to establish the existence of any condition
13 constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

14 G. No Public Comment.

15 1. Plaintiff and Plaintiff's counsel agree that neither Plaintiff nor Plaintiff's
16 counsel shall issue any press release to the news media or social media, or communicate in any way
17 with any news media or social media, concerning the Settlement or the litigation.

18 H. Miscellaneous.

19 1. The parties agree to fully cooperate with each other to accomplish the
20 terms of this Agreement, including but not limited to executing such documents as may be
21 reasonably necessary to implement the terms of the Settlement.

22 2. The parties agree that the terms and conditions of this Agreement are
23 the result of lengthy, intensive, arm's-length negotiations between the parties and that this
24 Agreement shall not be construed in favor of or against any of the parties by reason of their
25 participation in the drafting of this Agreement.

26 3. This Agreement shall be subject to and governed by the laws of the
27 State of California and subject to the continuing jurisdiction of the Superior Court of
28 California for the County of Los Angeles, which shall have authority to enforce all terms of

1 this Settlement.

2 4. This Agreement may not be changed, altered, or modified, except in
3 writing and signed by counsel for the parties and approved by the Court.

4 5. This Agreement contains the entire agreement between the parties
5 concerning the subject matter hereof and supersedes all prior and contemporaneous
6 agreements and understandings, whether oral or written.

7 6. This Agreement shall be binding upon and inure to the benefit of the
8 parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

9 7. This Agreement may be executed in counterparts.

10 8. Each person signing below warrants that he or she has the authority to
11 enter into this Agreement on behalf of the party or entity for which that person signs.

12 9. Should the release provisions of this Agreement, found in Section E,
13 be declared, or be determined by any court of competent jurisdiction to be illegal, invalid, or
14 unenforceable, this Agreement will be null and void. However, the parties shall meet and
15 confer to negotiate and make reasonable efforts to address any issues relating to the release
16 raised by the Court in order to obtain the Court's approval. Should any other provision of this
17 Agreement be declared or be determined by any court of competent jurisdiction to be illegal,
18 invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts,
19 terms, or provisions shall not be affected thereby, and the illegal, unenforceable, or invalid
20 part, term, or provision shall be deemed not to be a part of this Agreement.

21 10. The Court will retain jurisdiction to enforce the settlement, pursuant to
22 California Code of Civil Procedure section 664.6.

1 IN WITNESS WHEREOF, the parties and their counsel have caused this Agreement
2 to be executed:

3
4 Dated: 03 / 02, 2022



Jill Tizekker

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6
7 Dated: _____, 2022

BEL-AIR BAY CLUB LTD.

8
9 Signature: _____

10 Title: _____
11

12 APPROVED AS TO FORM:

13
14
15 Dated: March 3, 2022

SCHNEIDER WALLACE
COTTRELL KONECKY LLP



Carolyn Hunt Cottrell
Caroline N. Cohen
Kristabel Sandoval

*Attorneys for Plaintiff Jill Tizekker, on behalf of
the State of California and Aggrieved Employees*

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23 Dated: _____, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

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26 _____
Katherine C. Den Bleyker

27 *Attorneys for Defendant*
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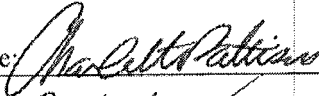
1 IN WITNESS WHEREOF, the parties and their counsel have caused this Agreement
2 to be executed:

3
4 Dated: _____, 2022

Jill Tizekker

5
6
7 Dated: March 3, 2022

BEL-AIR BAY CLUB LTD.

8
9 Signature: 

10 Title: Controller

11
12 APPROVED AS TO FORM:

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14
15 Dated: _____, 2022

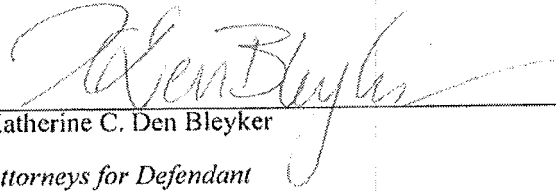
SCHNEIDER WALLACE
COTTRELL KONECKY LLP

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17
18 _____
19 Carolyn Hunt Cottrell
20 Caroline N. Cohen
21 Kristabel Sandoval

22 *Attorneys for Plaintiff Jill Tizekker, on behalf of
23 the State of California and Aggrieved Employees*

24 Dated: 2/23, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

25
26 
27 Katherine C. Den Bleyker

28 *Attorneys for Defendant*