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12 **Attorneys for Plaintiff REBECCA DALTON**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **FOR THE COUNTY OF ORANGE**

15 **COMPLEX JUSTICE CENTER**

16 **REBECCA DALTON, INDIVIDUALLY)**
17 **AND ON BEHALF OF OTHERS)**
18 **SIMILARLY SITUATED, AND ON)**
19 **BEHALF OF THE PEOPLE OF THE)**
20 **STATE OF CALIFORNIA, ROES 1-20,)**
21 **v.)**
22 **STUBRIK'S STEAKHOUSE, WFO, ENT.)**
23 **GROUP, INC.; DENNIS RAINEY; CRAIG)**
24 **VOORTING; DOES I through X, inclusive,)**
25 **Defendants.**

26 **CASE NO. 30-2021-01177894-CU-OE-CX**
27 **DATE FILED: January 8, 2021**
28 **COURTROOM: CX 102**
JUDGE: PETER WILSON

ORDER AND JUDGMENT APPROVING
PAGA SETTLEMENT, NOTICE TO
AGGRIEVED EMPLOYEES

Date: February 17, 2022
Time: 2:00 PM
Dept: CX 102

29 The Motion for Approval of PAGA Settlement, Notice to Aggrieved Employees, and Distribution
30 of the Gross Proceeds of Settlement by Plaintiff Rebecca Dalton came regularly on calendar on February
31 17, 2022, in Department CX 102, before the Honorable Peter Wilson, Judge. Appearing for the moving
32 party was counsel of record, Maurice Mandel II. Defendants appeared through counsel Klatte, Budensiek
33 & Young-Agriesti, LLP., Summer Young-Agriesti, Esq.

1 The case at issue includes a number of non-PAGA, individual claims by Plaintiff Rebecca Dalton
2 (Plaintiff) against her former employer, including claims arising under the California Fair Employment
3 and Housing Act (FEHA or FEHA claims); and wage claims under both the California Labor Code and
4 the California Unfair Competition Law (UCL), in a complaint filed January 8, 2021. Plaintiff filed a First
5 Amended Complaint (FAC), on March 29, 2021, which is the operative pleading, and which included an
6 additional Representative claim for violations of the California Labor Code pursuant to the California
7 Private Attorneys General Act (PAGA). Plaintiff's instant motion, and other associated filings followed.

8
9 Having considered the parties' Memorandum of Understanding (MOU) reached at Mediation on
10 August 30, 2021, the stipulation of the parties to this Order, the documents and evidence presented in
11 support hereof; and recognizing the disputed factual and legal issues involved in this case, the risks of
12 further prosecution, the benefits to be received by the State of California and the Aggrieved Employees
13 pursuant to the Settlement, the fair, reasonable, and adequate nature of the settlement, the Court hereby
14 makes a final ruling that the settlement is approved pursuant to Labor Code § 2699(l); and approves the
15 proposed PAGA payment, distribution of PAGA proceeds to Aggrieved Employees, Notice of PAGA
16 settlement to Aggrieved Employees, and payment to the settlement administrator, Phoenix Settlement
17 Administrators, as more fully ordered below..

18
19
20 Good cause appearing therefor, the Court hereby GRANTS Plaintiff's Motion for Settlement
21 Approval of Claims Brought under the Private Attorneys General Act and ORDERS as follows:

22 **IT IS ORDERED, ADJUDGED AND DECREED:**

23 1. Definitions:

24 a. "Aggrieved Employees" shall be defined as all persons employed by the Employer during
25 the time period of December 20, 2019 to August 30, 2021. There are about 68 such
26 Aggrieved Employees.

27
28 b. The "PAGA period" is from December 19, 2019 to August 30, 2021 for determination of

1 the Aggrieved Employees and the Released Claims.

- 2 c. The “Alleged PAGA Violations” are (a) failure to pay final wages (*Cal. Labor Code* §§
3 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to provide meal
4 breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to
5 furnish accurate wage statements; (g) failure to keep payroll records; and (h) imposing
6 chargebacks for credit card refusals and mistaken orders. (*Cal. Labor Code* § 221 and 223)
7 The PAGA penalties awarded based on the Alleged PAGA Violations will be herewith
8 referred to as the “Released Claims”.
9
10 d. “Defendant Releasees” means Defendants and their respective employees, agents, and
11 managing agents.
12
13 e. “Gross Settlement Amount” refers to the maximum settlement amount of **\$85,000.00**
14 agreed to by the parties at the mediation held on August 30, 2021 with an independent
15 mediator. The Gross Settlement amount includes all monies for payment of both Plaintiff’s
16 individual claims and the PAGA payments to the LWDA and the Aggrieved Employees.
17
18 f. “LWDA” means the Labor and Workforce Development Agency of the state of California.
19
20 g. “PAGA Notice” means the notice to the Aggrieved Employees submitted by Plaintiff and
21 approved by this Order.
22
23 h. “Gross PAGA settlement” means the \$2,000.00 paid by Defendants in settlement of the
24 PAGA claims, and includes the \$1500.00 to be paid to the LWDA, and the \$500.00 to be
25 paid to the Aggrieved Employees.
26
27 i. “Released Claims” means the penalties released by the Aggrieved Employees, described in
28 subparagraph “c” above.

2. The Court approves Plaintiff Rebecca Dalton to serve as representative of the PAGA
group.

1 3. The Court appoints and approves the law firms of William M. Crosby, Esq.; and Maurice
2 Mandel II, Esq., to serve as Representative Counsel for the represented PAGA group.

3 4. The Court approves appointment of Phoenix Settlement Administrators (Phoenix) to serve
4 as the Claims Administrator.

5 5. The Court finds that the Notice of PAGA Settlement- fully and accurately informs the
6 Aggrieved Employees of all material terms of the Settlement, is valid, due and sufficient notice to all
7 Aggrieved Employees, and fully complies with the laws of the State of California, the United States
8 Constitution, due process and other applicable law. The Notice of PAGA settlement is attached to this
9 Order as **Exhibit 1**.

10 6. Pursuant to California law, the Court hereby grants Approval of the Settlement, as it
11 pertains to the PAGA claims, only, and finds it reasonable and adequate and in the best interests of the
12 PAGA group as a whole.

13 7. The court concludes that the **\$2000.00** gross PAGA settlement, plus the \$300.00
14 Administration fee, as approved, is fair, adequate and reasonable, and approves the following specific
15 awards:

- 16 a. **\$300.00** to the Administrator, Phoenix Settlement Administrators, as requested; and
17 b. **\$1500.00** to the LWDA for its share of the gross amount of \$2,000.00 PAGA penalties, as
18 requested.
19 c. The aggrieved employees, numbering about 68 shall receive a proportionate share of the
20 **\$500.00** for PAGA penalties that is not paid to the LWDA; on a per capita basis. The
21 payment will be about **\$7.35** per person. This shall be distributed by the administrator, on
22 information provided by the employer.
23 d. If IRS reporting of the distribution to the Aggrieved Employees is required, the amount
24 paid shall be reflected as a payment of penalties and not as wages.
25
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1 8. Any interest accumulated while funds were on deposit with the Settlement Administrator
2 shall be distributed proportionately.
3

4 **ORDERS TO DEFENDANTS AND SETTLEMENT ADMINISTRATOR RE: DISTRIBUTIONS**
5

6
7 9. Based on the foregoing, it is hereby ORDERED that Defendants shall make the following
8 payments and reports, with respect to the PAGA settlement, only:

- 9 a. A check payable to Phoenix Settlement Administrators in the amount of **\$300.00** for
10 administration fees and costs, within 10 days of service of this signed Order.
11
12 b. A check payable to Phoenix Settlement Administrators in the amount of **\$2,000.00** for
13 distribution to the LWDA and the Aggrieved Employees for PAGA penalties, within 10
14 days of service of this signed Order.
15
16 c. Within ten (10) business days of service of this signed Order, Defendants shall provide the
17 Settlement Administrator with information for Aggrieved Employees. Defendant will in
18 good faith compile from its records a list of Aggrieved Employees that will be in a
19 computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each
20 Aggrieved Employee's full name, last known mailing address, last known phone numbers,
21 Driver's license number if available, and Social Security number. Defendants shall have a
22 continuing obligation to comply with reasonable requests from the Settlement
23 Administrator for information to locate missing Aggrieved Employees.
24

25 10. Within twenty (20) days of receipt of the amount of \$2,000 and the list of Aggrieved
26 Employees, Phoenix shall mail each member of the settlement class a check in the amount of the per
27 capita share of the **\$500.00** plus any accrued interest, representing 100% of the total payment to the
28 member, along with a 1099 (if required by IRS regulations given the amount of the check). These checks

1 shall remain negotiable for a period of 180 days from the date of mailing.

2 11. It is hereby further Ordered that Phoenix shall issue a penalty payment to the LWDA in the
3 amount of **\$1,500.00**.

4 12. Any settlement checks issued to the Aggrieved Employees, which are not cashed within
5 180 days, shall be voided and the funds delivered to the State Controller's Office Unclaimed Property
6 Fund in the names of the applicable payees.

7 13. It is hereby further ORDERED that Phoenix- as Claims Administrator- shall issue a check
8 to itself in the amount of **\$300.00** for the services performed and costs incurred for sending notices to the
9 Settlement Class and administering the Settlement.

10 14. After entry of this Final Approval Order and Judgment, pursuant to California Rules of
11 Court, Rule 3.769(h), this Court shall retain jurisdiction to construe, interpret, implement and enforce the
12 Settlement and to supervise and adjudicate any issues regarding the distribution of the Settlement benefits.

13 15. The court sets a Final Accounting Hearing for December 2 , 2022 at 9:00 A.M., to confirm
14 that distribution efforts are fully completed, including the distribution of uncashed class member checks
15 after 180 days to the State Controller's Office Unclaimed Property Fund in the names of the applicable
16 payees, that the Administrator's work is complete, and that the court's file thus may be closed. Plaintiff
17 will submit to the Court a final report at least 5 court days prior to the final accounting, including the
18 actual amounts paid to aggrieved employees and the other amounts distributed under the settlement,
19 including uncashed checks.

20 Dated: _____
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25 _____
26 Hon. Peter Wilson, Judge
27 Superior Court of California
28 In and for the County of Orange

1 **EXHIBIT 1- NOTICE TO AGGRIEVED EMPLOYEES**

2 **Re: NOTICE OF SETTLEMENT**

3 ***Rebecca Dalton v. Stubrik's Steakhouse, et al.,***

4 Superior Court of California for the County of Orange

5 Case No. 30-2021-01177894-CU-OE-CX

6 Date: February 17, 2022

7 SIMID

8 Name

9 Address

10 Dear Name:

11
12 A settlement was reached between Plaintiff and Defendants in *Rebecca Dalton v. Stubrik's Steakhouse, et al.*, filed
13 in the Superior Court of California for the County of Orange (Case Number: 30-2021-01177894-CU-OE-CX) (the
14 "Action"). On February 17, 2022, Judge Peter J. Wilson of the Superior Court of California, for the County of
15 Orange issued an Order approving the Settlement, which was brought, in part, pursuant to the Private Attorneys
16 General Act of 2004 ("PAGA"). In reaching this settlement, Stubrik's Steakhouse ("Stubrik's") made no admission
17 of liability and denied the truth of the allegations in the Complaint. However, to avoid additional expense,
18 inconvenience, and interference with Stubrik's business operations, the parties have concluded that it is in the best
19 interests of the parties to settle.

20
21 This settlement affects certain employees and former employees of Stubrik's. You are receiving this Notice of
22 Settlement because you worked for Stubrik's and at some point between December 20, 2019 to August 30, 2021
23 ("Claims Period"). Pursuant to the Settlement, enclosed is a check for your share of a portion of the civil penalties.
24 The total PAGA settlement was \$2,000.00; pursuant to law, \$1,500.00 of this went to an agency of the State of
25 California [the California Labor Workforce Development Agency ("LWDA")] and \$500.00 was distributed to the
26 68 employees on a per capita basis. Your check will remain valid for 180 days from the date of issuance. If you do
27 not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with
28

1 the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still
2 employed by Stubrik's, your decision to cash the check will not affect your employment.

3
4 The settlement includes a release, by you, of any and all claims pursuant to the California Labor Code § 2698
5 (PAGA), which were alleged based on the facts in the operative Complaint on behalf of Plaintiff and all aggrieved
6 employees during the Claims Period. The release is effective whether you cash your check or not. The release
7 includes all claims, rights, demands, liabilities and causes of action that arose during the PAGA Period for civil
8 penalties under PAGA, based on the allegations pled by Plaintiffs in the Action: (a) failure to pay final wages
9 (*Cal. Labor Code* §§ 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to provide meal
10 breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to furnish accurate wage
11 statements; (g) failure to keep payroll records; and (h) imposing chargebacks for credit card refusals and mistaken
12 orders. ("PAGA Released Claims").
13

14
15 If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at
16 1.888.250.6810; DO NOT CONTACT THE COURT.
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I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is PO BOX 411, NEWPORT BEACH, CA, 92662. My email address is MMANDEL2@AOL.COM

On February 17, 2022, I served the foregoing document described as:

on interested parties in this action by ELECTRONIC SERVICE, addressed as follows:

The counsel for the parties have an agreement for the electronic service of this document, service electronically is authorized by CRC 2-251 (b 1 B), or electronic service is otherwise permitted by law.

Executed this February 17, 2022, California.

MMII-my electronic signature
Maurice Mandel II