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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

JOINT REPORT RE: MOTION FOR
APPROVAL OF PAGA SETTLEMENT PER
COURT ORDER OF JANUARY 6, 2022

Date: FEBRUARY 17, 2022
Time: 9:00 AM
Dept: CX 102

Counsel for Plaintiff REBECCA DALTON ("Plaintiff") and Defendants STUBRIK'S STEAKHOUSE, DENNIS RAINEY and CRAIG VOORTING ("Defendants") ("Plaintiff" and "Defendants" are collectively referred to as the "Parties") hereby submit this Joint Status Report. in compliance with the Court's Order of January 6, 2022.

The parties have met and conferred regarding their differences over the proposed Order Approving

1 PAGA settlement and the Notice to Aggrieved Employees, and have resolved their differences, resulting in
2 the contemporaneously filed Stipulation with the revised proposed Order and Notice, attached (and separately
3 submitted as a Proposed Order). This Report will outline the matters, not encompassed as Court required
4 changes, by the Court in its prior Order of December 9, 2021.
5

6 FACTUAL AND PROCEDURAL BACKGROUND

7 Plaintiff originally filed a complaint on or around January 8, 2021, and later filed a first amended complaint
8 on March 30, 2021, alleging the following causes of action against Defendants: (1) sexual harassment in
9 violation of the FEHA; (2) failure to provide meal and rest periods; (3) failure to pay wages; (4) violation of
10 Business & Professions Code § 17200; (5) violation of Labor Code § 202; and (6) recovery of wages and
11 penalties pursuant to the California Private Attorneys' General Act ("PAGA"), Labor Code § 2699(a) and (f).
12 The Parties participated in mediation on August 30, 2021, and were able to reach a complete settlement in this
13 matter. The Parties executed a Memorandum of Understanding ("MOU") on August 30, 2021, outlining the
14 terms and conditions of settlement.
15

16 Attached hereto as Exhibit 1 is the redline copy of the former Order with deletions in red and
17 struckout, and additions in yellow.
18

19 Attached hereto as Exhibit 2 is the revised proposed Order which has been approved by all parties.

20 RESOLVED DIFFERENCES ADDRESSED IN THE MEET AND CONFER PROCESS

21 1. The resolved differences included a resolution of the time period applying to the duration of
22 the PAGA claim and the employment period of the Aggrieved Employees. This time period is from December
23 20, 2019 (one year before the date of the PAGA letter) to August 30, 2021 (the date of the mediation and
24 settlement of claims)
25

26 2. The group of PAGA aggrieved employees will include all employees of the Defendants during
27 the PAGA period. This is 68 employees.
28

3. Because the PAGA group increased, Plaintiff has agreed to allot an additional \$1000.00 (for

1 a total of \$2000) to the PAGA claim, and to cover an additional \$150 administrator's cost, from her agreed
2 to maximum total settlement amount of \$85,000.00 (covering DFEH claims as well as individual non-PAGA
3 wage issues).

4 4. With this increase, the PAGA settlement is fair, adequate and reasonable, since Plaintiff's
5 investigation yielded limited evidence of a viable PAGA claim, as described in the Motion.
6

7 5. All modifications to the Order and Notice requested by the Court in the December 9, 2021
8 Ruling were completed, and have been reviewed by all counsel.

9 Dated: February 7, 2022

Dated: February 7, 2022

10 MMII-my electronic signature

11 William M. Crosby, Esq.
12 Maurice Mandel II, Esq.
Attorneys for Plaintiff Rebecca Dalton

Melissa Brandman- electronic signature
Klatte, Budensiek & Young-Agriesti, LLP
Summer Young-Agriesti
Melissa R. Brandman
Attorneys for Defendants
WFO, Ent. Group, Inc., Dennis Rainey,
and Craig Voorting

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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

**JOINT REPORT RE: MOTION FOR APPROVAL OF PAGA SETTLEMENT PER COURT ORDER
OF JANUARY 6, 2022**

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Attorneys for Defendants WFO Ent. Group, Inc.,
Craig Voorting, Dennis Rainey and Stubrik's
Steakhouse

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 7, 2022, California.

JOINT REPORT RE: PAGA SETTLEMENT **4** **Dalton v Stubrik's Steakhouse, et al 30-2021-01177894-CU-OE-CX**

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25 **Defendants.**

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DATE FILED: January 8, 2021
COURTROOM: CX 102
JUDGE: PETER WILSON

ORDER AND JUDGMENT APPROVING
PAGA SETTLEMENT, NOTICE TO
AGGRIEVED EMPLOYEES REDLINE COPY

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

26 The Motion for Approval of PAGA Settlement Notice to Aggrieved Employees and Distribution of
27 the Gross Proceeds of Settlement by Plaintiff Rebecca Dalton came regularly on calendar on February 17,
28 2022, in Department CX 102, before the Honorable Peter Wilson, Judge. Appearing for the moving party
was counsel of record, Maurice Mandel II. Defendants appeared through counsel Klatte, Budensiek &
Young-Agriesti, LLP., Summer Young-Agriesti, Esq. The court notes the LWDA was timely served with

1 the moving papers and notice of this motion yet did not file any objections or opposition to this motion.

2 The case at issue includes a number of non-PAGA, individual claims by Plaintiff Rebecca Dalton
3 (Plaintiff) against her former employer, including claims arising under the California Fair Employment
4 and Housing Act (FEHA or FEHA claims); and wage claims under both the California Labor Code and
5 the California Unfair Competition Law (UCL), in a complaint filed January 8, 2021. Plaintiff filed a First
6 Amended Complaint (FAC), on March 29, 2021, which is the operative pleading, and which included an
7 additional Representative claim for violations of the California Labor Code pursuant to the California
8 Private Attorneys General Act (PAGA). Plaintiff's instant motion, and other associated filings followed.
9 In these papers, the parties established that the statutory requirements of a PAGA claim and settlement
10 were properly met (Mot. at pp 6-7), explained why the proposed settlement is fair and reasonable (*id.* at pp
11 8-17), and provided support for the requested proposed distributions.

12 Having considered the parties' Memorandum of Understanding (MOU) reached at Mediation on
13 August 30, 2021, the stipulation of the parties to this Order, the documents and evidence presented in
14 support hereof; and recognizing the disputed factual and legal issues involved in this case, the risks of
15 further prosecution, the benefits to be received by the State of California and the Aggrieved Employees
16 pursuant to the Settlement, the fair, reasonable, and adequate nature of the settlement obtained as a result
17 of good faith arm's-length negotiations between the parties, with the participation of an independent and
18 experienced employment mediator, the Court hereby makes a final ruling that the settlement is approved
19 pursuant to Labor Code § 2699(l); and approves the proposed PAGA payment, distribution of PAGA
20 proceeds to Aggrieved Employees, Notice of PAGA settlement to Aggrieved Employees, and payment to
21 the settlement administrator, Phoenix Settlement Administrators, as more fully ordered below..

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

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

1. Definitions:

- a. “Aggrieved Employees” shall be defined as all persons employed by the Employer ~~in the capacity of a server or bartender~~, during the time period of December 20, 2019 to August 30, 2021. ~~FAC ¶48 (p 15)~~ There are 68 such Aggrieved Employees.
- b. The “PAGA period” is from December 19, 2019 to August 30, 2021 for determination of the Aggrieved Employees and the Released Claims. ~~FAC ¶48 (p 15)~~
- c. The “Alleged PAGA Violations” are (a) failure to pay final wages (*Cal. Labor Code* §§ 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to provide meal breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to furnish accurate wage statements; (g) failure to keep payroll records; and (h) imposing chargebacks ~~on servers~~ for credit card refusals and mistaken orders. (*Cal. Labor Code* § 221 and 223) (“Released Claims”).
- d. “Defendant Releasees” means Defendants and their respective employees, agents, and managing employees.
- e. “Gross Settlement Amount” refers to the maximum settlement amount of \$85,000.00 agreed to by the parties at the mediation held on August 30, 2021 with an independent mediator. The Gross Settlement amount includes all monies for payment of both Plaintiff’s individual claims and the PAGA payments to the LWDA and the Aggrieved Employees.
- f. “LWDA” means the Labor and Workforce Development Agency of the state of California.
- g. “PAGA Notice” means the notice to the Aggrieved Employees submitted by Plaintiff and approved by this Order.
- h. “Gross PAGA settlement” means the ~~\$1000.00~~ \$2,000.00 paid by Defendants in settlement of the PAGA claims, and includes the ~~\$750.00~~ \$1500.00 paid to the LWDA, and the ~~\$250.00~~ \$500.00 paid to the Aggrieved Employees.

1 i. “Released Claims” means those claims released by the Aggrieved Employees, described in
2 subparagraph “c” above.

3 2. The Court finds the applicable requirements of the California Code of Civil Procedure § 382
4 and California Rules of Court, Rule 3.769 have been satisfied with respect to the Settlement; the LWDA; and
5 the Aggrieved Employees.
6

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

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

10 5. The Court approves appointment of Phoenix Settlement Administrators (Phoenix) to serve as
11 the Claims Administrator.
12

13 6. The Court finds that the Notice of PAGA Settlement- 1. Fully and accurately informs the
14 Aggrieved Employees of all material terms of the Settlement, 2. Was the best notice practicable under the
15 circumstances, 3. Was valid, due and sufficient notice to all Aggrieved Employees, 4. Fully complied with
16 the laws of the State of California, the United States Constitution, due process and other applicable law. The
17 Notice of PAGA settlement is attached to this Order as **Exhibit 1**.
18

19 7. Pursuant to California law, the Court hereby grants Approval of the Settlement, as it pertains
20 to the PAGA claims, only, and finds it reasonable and adequate and in the best interests of the PAGA group
21 as a whole. More specifically, the Court finds:

22 a. The Settlement was reached following meaningful discovery and investigation conducted by
23 Representative Counsel,

24 b. The Settlement is the result of serious, informed, adversarial and arms length negotiations
25 between the Parties (assisted by an independent, neutral mediator), and
26

27 c. The terms of the Settlement are in all respects, fair, adequate and reasonable. In so finding,
28 the Court has considered all the Evidence presented, including evidence regarding the

1 strength of Plaintiffs' cases, the risk, expense and complexity of the claims presented, the
2 likely duration of further litigation, the monetary payments provided in the Settlement, the
3 extent of investigation and discovery completed, and the experience and views of Class
4 Counsel. The Court has further considered the fact that there have been no objections or
5 Opposition to the Settlement from the LWDA, and that the LWDA was provided notice of
6 this hearing and the moving papers.

7
8 8. The court concludes that the ~~\$1,000.00~~ **\$2000.00** gross PAGA settlement, plus the ~~\$150.00~~
9 **\$300.00** Administration fee, as approved, is fair, adequate and reasonable, and approves the following
10 specific awards:

- 11 a. The Court notes that Plaintiff Rebecca Dalton has waived an enhancement award for the
12 PAGA recovery;
- 13 b. The Court notes that costs of suit are not being paid from the PAGA settlement, but are being
14 paid out of Plaintiff's individual settlement;
- 15 c. The Court notes that the Plaintiff's attorneys have waived any claim for attorney's fees out of
16 the PAGA settlement;
- 17 d. ~~\$150.00~~ **\$300.00** to the Administrator, Phoenix Settlement Administrators, as requested; and
- 18 e. ~~\$750.00~~ **\$1500.00** to the LWDA for its share of the gross amount of ~~\$1000.00~~ **\$2,000.00**
19 PAGA penalties, as requested.
- 20 f. The aggrieved employees, numbering ~~25~~ **68**, shall receive a proportionate share of the
21 ~~\$250.00~~ **\$500.00** for PAGA penalties that is not paid to the LWDA; on a per capita basis.
22 The payment will be about ~~\$10.00~~ **\$0.74** per person. This shall be distributed by the
23 administrator, on information provided by the employer.
- 24 g. If **IRS** reporting of the distribution to the Aggrieved Employees is required, the amount paid
25 shall be reflected as a payment of penalties and not as wages.
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1 9. Any interest accumulated while funds were on deposit with the Settlement Administrator
2 shall be distributed proportionately.

3 **ORDERS TO DEFENDANTS AND SETTLEMENT ADMINISTRATOR RE: DISTRIBUTIONS**

4
5 10. Based on the foregoing, it is hereby ORDERED that Defendants shall make the following
6 payments and reports, with respect to the PAGA settlement, only, the Court is not making Orders with
7 respect to the individual settlement:

- 8 a. A check payable to Phoenix Settlement Administrators in the amount of ~~\$150.00~~ \$300.00 for
9 administration fees and costs, within 10 days of service of this signed Order.
- 10 b. A check payable to Phoenix Settlement Administrators in the amount of ~~\$1,000.00~~ \$2,000.00
11 for distribution to the LWDA and the Aggrieved Employees for PAGA penalties, within 10
12 days of service of this signed Order.
- 13 c. Within ten (10) business days of service of this signed Order, Defendants shall provide the
14 Settlement Administrator with information for Aggrieved Employees. Defendant will in good
15 faith compile from its records a list of Aggrieved Employees that will be in a computer-
16 readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved
17 Employee's full name, last known mailing address, last known phone numbers, Driver's
18 license number if available, and Social Security number. Defendants shall have a continuing
19 obligation to comply with reasonable requests from the Settlement Administrator for
20 information to locate missing Aggrieved Employees.

21
22 11. Within twenty (20) days of receipt of the check and the list of Aggrieved Employees, Phoenix
23 shall mail each member of the settlement class a check in the amount of the per capita share of the ~~\$250.00~~
24 \$500.00 plus any accrued interest, representing 100% of the total payment to the member, along with a 1099
25 (if required by IRS regulations given the amount of the check). These checks shall remain negotiable for a
26 period of 180 days from the date of mailing.

1 12. It is hereby further Ordered that Phoenix shall issue a penalty payment to the LWDA in the
2 amount of ~~\$750.00.~~ \$1,500.00. The Penalty payment, shall be mailed to the Department of Industrial
3 Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA, 94102.

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

8 14. It is hereby further ORDERED that Phoenix- as Claims Administrator- shall issue a check to
9 itself in the amount of ~~\$150.00~~ \$300.00 for the services performed and costs incurred for sending notices to
10 the Settlement Class and administering the Settlement.

11 **JUDGMENT**

12
13 15. With this final approval of the Stipulation for Settlement and Releases, the Court hereby
14 enters JUDGMENT by which:

- 15 a. Each member of the Aggrieved Employees shall be conclusively determined to have given a
16 release of the claims of "Alleged PAGA violations" against the Defendant Releasees as set
17 forth in Section 1c, in the "Definitions" above, whether the check is cashed or not;
- 18 b. Plaintiff, as the PAGA Representative, shall be conclusively determined to have given a
19 release of any of the PAGA Representative Released Claims against the Defendant Releasees
20 as set forth in the Section 1c, in the "Definitions" above;
- 21 c. Plaintiff, as an individual claimant making claims against the Defendant Releasees, ~~other than~~
22 ~~any~~ only with respect to Plaintiff's PAGA claim, shall be conclusively determined to have
23 given a Personal Release of any and all rights that Plaintiff has or could have against
24 Defendants, pursuant to PAGA. "Personal Release" means the Plaintiff's irrevocable and
25 unconditional release, acquittal, and discharge of the Released Persons and all persons
26 and/or corporate entities acting by, through, under or in concert with any of them, or any of

1 them, from any and all complaints, claims, liabilities, obligations, promises, agreements,
2 controversies, damages, costs, losses, debts and expenses (including attorneys' fees and
3 costs actually incurred), arising in favor of Plaintiff pursuant to PAGA. of any nature
4 whatsoever, including but not limited to the release of any and all claims arising under any
5 of the following, as amended: the National Labor Relations Act ("NLRA"), Title VII of the
6 Civil Rights Act of 1964, Sections 1981 through 1988 of Title 42 of the United States
7 Code, the Employee Retirement Income Security Act of 1974 ("ERISA"), the Americans
8 with Disabilities Act of 1990 ("ADA"), the Fair Labor Standards Act ("FLSA"), the
9 Occupational Safety and Health Act ("OSHA"), the Consolidated Omnibus Budget
10 Reconciliation Act of 1985 ("COBRA"), the Genetic Information Nondiscrimination Act
11 ("GINA"), the Family and Medical Leave Act ("FMLA"), the Worker Adjustment and
12 Retraining Notification Act ("WARN"), the California Fair Employment and Housing Act
13 ("FEHA"), the Family and Medical Leave Act of 1993 ("FMLA") and the California
14 Family Rights Act ("CFRA"), the Private Attorneys' General Act ("PAGA"), the California
15 Worker Adjustment and Retraining Notification Act ("Cal-WARN"), the California
16 Business and Professions Code, including the Unfair Competition Law, Cal.Bus. & Prof.
17 Code § 17200, the California Minimum Wage Law, the Equal Pay Law for California, the
18 California Labor Code (including specifically, Section 132a) and California Wage Orders,
19 together with any alleged violation of the United States or any state Constitution, any local,
20 state or federal law, regulation or ordinance, and/or public policy, contract or tort or
21 common-law, any claim for injunctive or declaratory relief any violation of the penal code,
22 and any other claim whether cognizable at law or in equity having any bearing whatsoever
23 on Plaintiff's application for employment, employment with, or separation of employment
24 from the Defendant Releasees, which Plaintiff ever had, now has, or shall have, from the
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~~beginning of time to the date of the entry of this Order and Judgment. Any California Worker's Compensation in favor of Plaintiff is not released.~~

- d. As part of the Personal Release of PAGA claims by Plaintiff, with respect to the released PAGA claims, the Plaintiff also waives the benefit of *Civil Code* §1542, which provides:

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

This individual Waiver and Release by Plaintiff Dalton excludes any rights that accrue to Plaintiff under the individual settlement agreement and release executed between Plaintiff and Defendants with respect to Plaintiff's individual claims in the Complaint or FAC.

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

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

Dated: _____

Hon. Peter Wilson, Judge

1 Superior Court of California
2 In and for the County of Orange
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Rebecca Dalton v. Stubrik's Steakhouse, et al.,

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

SIMID

Address

A settlement was reached between Plaintiff and Defendants in *Rebecca Dalton v. Stubrik's Steakhouse, et al.*,

CX) (the “Action”). On February 17, 2022, Judge Peter J. Wilson of the Superior Court of California, for the

Attorneys General Act of 2004 (“PAGA”). In reaching this settlement, Stubrik’s Steakhouse (“Stubrik’s”) made

expense, inconvenience, and interference with Stubrik's business operations, the parties have concluded that it is

This settlement affects certain employees and former employees of Stubrik's. You are receiving this Notice of

August 30, 2021 (“Claims Period”). Pursuant to the Settlement, enclosed is a check for your share of a portion of

this went to an agency of the State of California [the California Labor Workforce Development Agency

from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited

Fund in your name. If you are still employed by Stubrik's, your decision to cash the check will not affect your

The settlement includes a release, by you, of any and all claims pursuant to the California Labor Code § 2698

(PAGA), which were alleged based on the facts in the operative Complaint on behalf of Plaintiff and all

1 aggrieved employees during the Claims Period. The release is effective whether you cash your check or not. The
2 release includes all claims, rights, demands, liabilities and causes of action that arose during the PAGA Period
3 for civil penalties under ~~the~~ PAGA, based on the allegations pled by Plaintiffs in the Action: (a) failure to pay
4 final wages (*Cal. Labor Code* §§ 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to
5 provide meal breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to furnish
6 accurate wage statements; (g) failure to keep payroll records; and (h) imposing chargebacks ~~on servers~~ for credit
card refusals and mistaken orders. (“PAGA Released Claims”).

7
8 If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at
9 1.888.250.6810.

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On December 27, 2021, I served the foregoing document described as:

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

MMII-my electronic signature
Maurice Mandel II

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5 the California Unfair Competition Law (UCL), in a complaint filed January 8, 2021. Plaintiff filed a First
6 Amended Complaint (FAC), on March 29, 2021, which is the operative pleading, and which included an
7 additional Representative claim for violations of the California Labor Code pursuant to the California
8 Private Attorneys General Act (PAGA). Plaintiff's instant motion, and other associated filings followed.
9 In these papers, the parties established that the statutory requirements of a PAGA claim and settlement
10 were properly met (Mot. at pp 6-7), explained why the proposed settlement is fair and reasonable (*id.* at pp
11 8-17), and provided support for the requested proposed distributions.
12
13

14 Having considered the parties' Memorandum of Understanding (MOU) reached at Mediation on
15 August 30, 2021, the stipulation of the parties to this Order, the documents and evidence presented in
16 support hereof; and recognizing the disputed factual and legal issues involved in this case, the risks of
17 further prosecution, the benefits to be received by the State of California and the Aggrieved Employees
18 pursuant to the Settlement, the fair, reasonable, and adequate nature of the settlement obtained as a result
19 of good faith arm's-length negotiations between the parties, with the participation of an independent and
20 experienced employment mediator, the Court hereby makes a final ruling that the settlement is approved
21 pursuant to Labor Code § 2699(l); and approves the proposed PAGA payment, distribution of PAGA
22 proceeds to Aggrieved Employees, Notice of PAGA settlement to Aggrieved Employees, and payment to
23 the settlement administrator, Phoenix Settlement Administrators, as more fully ordered below..
24
25

26 Good cause appearing therefor, the Court hereby GRANTS Plaintiff's Motion for Settlement
27 Approval of Claims Brought under the Private Attorneys General Act and ORDERS as follows:
28

IT IS ORDERED, ADJUDGED AND DECREED:

1. Definitions:
 - a. “Aggrieved Employees” shall be defined as all persons employed by the Employer during the time period of December 20, 2019 to August 30, 2021. There are 68 such Aggrieved Employees.
 - b. The “PAGA period” is from December 19, 2019 to August 30, 2021 for determination of the Aggrieved Employees and the Released Claims.
 - c. The “Alleged PAGA Violations” are (a) failure to pay final wages (*Cal. Labor Code* §§ 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to provide meal breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to furnish accurate wage statements; (g) failure to keep payroll records; and (h) imposing chargebacks for credit card refusals and mistaken orders. (*Cal. Labor Code* § 221 and 223) (“Released Claims”).
 - d. “Defendant Releasees” means Defendants and their respective employees, agents, and managing agents.
 - e. “Gross Settlement Amount” refers to the maximum settlement amount of **\$85,000.00** agreed to by the parties at the mediation held on August 30, 2021 with an independent mediator. The Gross Settlement amount includes all monies for payment of both Plaintiff’s individual claims and the PAGA payments to the LWDA and the Aggrieved Employees.
 - f. “LWDA” means the Labor and Workforce Development Agency of the state of California.
 - g. “PAGA Notice” means the notice to the Aggrieved Employees submitted by Plaintiff and approved by this Order.
 - h. “Gross PAGA settlement” means the \$2,000.00 paid by Defendants in settlement of the PAGA claims, and includes the \$1500.00 paid to the LWDA, and the \$500.00 paid to the Aggrieved Employees.

1 i. “Released Claims” means those claims released by the Aggrieved Employees, described in
2 subparagraph “c” above.

3 2. The Court finds the applicable requirements of the California Code of Civil Procedure §
4 382 and California Rules of Court, Rule 3.769 have been satisfied with respect to the Settlement; the
5 LWDA; and the Aggrieved Employees.

6 3. The Court approves Plaintiff Rebecca Dalton to serve as representative of the PAGA
7 group.

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

10 5. The Court approves appointment of Phoenix Settlement Administrators (Phoenix) to serve
11 as the Claims Administrator.

12 6. The Court finds that the Notice of PAGA Settlement- 1. Fully and accurately informs the
13 Aggrieved Employees of all material terms of the Settlement, 2. Was the best notice practicable under the
14 circumstances, 3. Was valid, due and sufficient notice to all Aggrieved Employees, 4. Fully complied with
15 the laws of the State of California, the United States Constitution, due process and other applicable law.
16 The Notice of PAGA settlement is attached to this Order as **Exhibit 1**.

17 7. Pursuant to California law, the Court hereby grants Approval of the Settlement, as it
18 pertains to the PAGA claims, only, and finds it reasonable and adequate and in the best interests of the
19 PAGA group as a whole. More specifically, the Court finds:

20 a. The Settlement was reached following meaningful discovery and investigation conducted
21 by Representative Counsel,

22 b. The Settlement is the result of serious, informed, adversarial and arms length negotiations
23 between the Parties (assisted by an independent, neutral mediator), and

24 c. The terms of the Settlement are in all respects, fair, adequate and reasonable. In so finding,

1 the Court has considered all the Evidence presented, including evidence regarding the
2 strength of Plaintiffs' cases, the risk, expense and complexity of the claims presented, the
3 likely duration of further litigation, the monetary payments provided in the Settlement, the
4 extent of investigation and discovery completed, and the experience and views of Class
5 Counsel. The Court has further considered the fact that there have been no objections or
6 Opposition to the Settlement from the LWDA, and that the LWDA was provided notice of
7 this hearing and the moving papers.
8

9 8. The court concludes that the **\$2000.00** gross PAGA settlement, plus the \$300.00
10 Administration fee, as approved, is fair, adequate and reasonable, and approves the following specific
11 awards:
12

- 13 a. The Court notes that Plaintiff Rebecca Dalton has waived an enhancement award for the
14 PAGA recovery;
- 15 b. The Court notes that costs of suit are not being paid from the PAGA settlement, but are
16 being paid out of Plaintiff's individual settlement;
- 17 c. The Court notes that the Plaintiff's attorneys have waived any claim for attorney's fees out
18 of the PAGA settlement;
- 19 d. **\$300.00** to the Administrator, Phoenix Settlement Administrators, as requested; and
- 20 e. **\$1500.00** to the LWDA for its share of the gross amount of \$2,000.00 PAGA penalties, as
21 requested.
22
- 23 f. The aggrieved employees, numbering 68 shall receive a proportionate share of the **\$500.00**
24 for PAGA penalties that is not paid to the LWDA; on a per capita basis. The payment will
25 be about **\$0.74** per person. This shall be distributed by the administrator, on information
26 provided by the employer.
27
- 28 g. If IRS reporting of the distribution to the Aggrieved Employees is required, the amount

1 paid shall be reflected as a payment of penalties and not as wages.

2 9. Any interest accumulated while funds were on deposit with the Settlement Administrator
3 shall be distributed proportionately.
4

5
6 **ORDERS TO DEFENDANTS AND SETTLEMENT ADMINISTRATOR RE: DISTRIBUTIONS**
7

8 10. Based on the foregoing, it is hereby ORDERED that Defendants shall make the following
9 payments and reports, with respect to the PAGA settlement, only, the Court is not making Orders with
10 respect to the individual settlement:
11

- 12 a. A check payable to Phoenix Settlement Administrators in the amount of **\$300.00** for
13 administration fees and costs, within 10 days of service of this signed Order.
- 14 b. A check payable to Phoenix Settlement Administrators in the amount of **\$2,000.00** for
15 distribution to the LWDA and the Aggrieved Employees for PAGA penalties, within 10
16 days of service of this signed Order.
- 17 c. Within ten (10) business days of service of this signed Order, Defendants shall provide the
18 Settlement Administrator with information for Aggrieved Employees. Defendant will in
19 good faith compile from its records a list of Aggrieved Employees that will be in a
20 computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each
21 Aggrieved Employee's full name, last known mailing address, last known phone numbers,
22 Driver's license number if available, and Social Security number. Defendants shall have a
23 continuing obligation to comply with reasonable requests from the Settlement
24 Administrator for information to locate missing Aggrieved Employees.
25

26
27 11. Within twenty (20) days of receipt of the check and the list of Aggrieved Employees,
28 Phoenix shall mail each member of the settlement class a check in the amount of the per capita share of

1 the **\$500.00** plus any accrued interest, representing 100% of the total payment to the member, along with a
2 1099 (if required by IRS regulations given the amount of the check). These checks shall remain
3 negotiable for a period of 180 days from the date of mailing.

4
5 12. It is hereby further Ordered that Phoenix shall issue a penalty payment to the LWDA in the
6 amount of **\$1,500.00**. The Penalty payment, shall be mailed to the Department of Industrial Relations,
7 Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA, 94102.

8 13. Any settlement checks issued to the Aggrieved Employees, which are not cashed within
9 180 days, shall be voided and the funds delivered to the State Controller's Office Unclaimed Property
10 Fund in the names of the applicable payees.

11
12 14. It is hereby further ORDERED that Phoenix- as Claims Administrator- shall issue a check
13 to itself in the amount of **\$300.00** for the services performed and costs incurred for sending notices to the
14 Settlement Class and administering the Settlement.

15 **JUDGMENT**

16 15. With this final approval of the Stipulation for Settlement and Releases, the Court hereby
17 enters JUDGMENT by which:

- 18
19 a. Each member of the Aggrieved Employees shall be conclusively determined to have given
20 a release of the claims of "Alleged PAGA violations" against the Defendant Releasees as
21 set forth in Section 1c, in the "Definitions" above, whether the check is cashed or not;
- 22 b. Plaintiff, as the PAGA Representative, shall be conclusively determined to have given a
23 release of any of the PAGA Representative Released Claims against the Defendant
24 Releasees as set forth in the Section 1c, in the "Definitions" above;
- 25
26 c. Plaintiff, as an individual claimant making claims against the Defendant Releasees, only
27 with respect to Plaintiff's PAGA claim, shall be conclusively determined to have given a
28 Personal Release of any and all rights that Plaintiff has or could have against Defendants,

1 pursuant to PAGA. “Personal Release” means the Plaintiff’s irrevocable and unconditional
2 release, acquittal, and discharge of the Released Persons and all persons and/or corporate
3 entities acting by, through, under or in concert with any of them, or any of them, from any
4 and all complaints, claims, liabilities, obligations, promises, agreements, controversies,
5 damages, costs, losses, debts and expenses (including attorneys’ fees and costs actually
6 incurred), arising in favor of Plaintiff pursuant to PAGA.
7

- 8 d. As part of the Personal Release of PAGA claims by Plaintiff, with respect to the released
9 PAGA claims, the Plaintiff also waives the benefit of *Civil Code* §1542, which provides:

10 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
11 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
12 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
13 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
14 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE***
15 ***DEBTOR OR RELEASED PARTY***

16 This individual Waiver and Release by Plaintiff Dalton excludes any rights that accrue to
17 Plaintiff under the individual settlement agreement and release executed between Plaintiff and
18 Defendants with respect to Plaintiff’s individual claims in the Complaint or FAC.
19

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

24 17. The court sets a Final Accounting Hearing for December 2 , 2022 at 9:00 A.M., to confirm that
25 distribution efforts are fully completed, including the distribution of uncashed class member checks after
26 180 days to the State Controller’s Office Unclaimed Property Fund in the names of the applicable
27 payees, that the Administrator’s work is complete, and that the court’s file thus may be closed. Plaintiff
28 will submit to the Court a final report at least 5 court days prior to the final accounting, including the

1 actual amounts paid to aggrieved employees and the other amounts distributed under the settlement,
2 including uncashed checks.

3
4 Dated: _____

5
6 _____
7 Hon. Peter Wilson, Judge
8 Superior Court of California
9 In and for the County of Orange
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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 A settlement was reached between Plaintiff and Defendants in *Rebecca Dalton v. Stubrik's Steakhouse, et al.*,
12 filed in the Superior Court of California for the County of Orange (Case Number: 30-2021-01177894-CU-OE-
13 CX) (the "Action"). On February 17, 2022, Judge Peter J. Wilson of the Superior Court of California, for the
14 County of Orange issued an Order approving the Settlement, which was brought, in part, pursuant to the Private
15 Attorneys General Act of 2004 ("PAGA"). In reaching this settlement, Stubrik's Steakhouse ("Stubrik's") made
16 no admission of liability and denied the truth of the allegations in the Complaint. However, to avoid additional
17 expense, inconvenience, and interference with Stubrik's business operations, the parties have concluded that it is
18 in the best interests of the parties to settle.

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

28 The settlement includes a release, by you, of any and all claims pursuant to the California Labor Code § 2698
(PAGA), which were alleged based on the facts in the operative Complaint on behalf of Plaintiff and all
aggrieved employees during the Claims Period. The release is effective whether you cash your check or not. The

1 release includes all claims, rights, demands, liabilities and causes of action that arose during the PAGA Period
2 for civil penalties under PAGA, based on the allegations pled by Plaintiffs in the Action: (a) failure to pay final
3 wages (*Cal. Labor Code* §§ 202 and 203); (b) false time entries (*Cal. Labor Code* § 206.5); (c) failure to provide
4 meal breaks; (d) failure to provide rest breaks; (e) failure to pay overtime wages; (f) failure to furnish accurate
5 wage statements; (g) failure to keep payroll records; and (h) imposing chargebacks for credit card refusals and
6 mistaken orders. (“PAGA Released Claims”).

7 If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at
8 1.888.250.6810.

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On December 27, 2021, I served the foregoing document described as:

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

The LWDA by electronically submitting the document on the LWDA website.

Executed this December 27, 2021, California.

MMII-my electronic signature
Maurice Mandel II