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Attorneys for Plaintiff Lucio Rosas

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

LUCIO ROSAS, individually, and on behalf of
 other members of the general public similarly
 situated,

Plaintiff,

v.

DUKE'S SURF CITY PARTNERSHIP, A
 CALIFORNIA LIMITED PARTNERSHIP, a
 California limited partnership; TS ALOHA,
 INC., a Hawaii corporation; and DOES 1
 through 10, inclusive,

Defendants.

Case No.: 20STCV47431

Assigned to the Hon. Carolyn B. Kuhl
 Spring Street Courthouse

CLASS ACTION

**~~PROPOSED~~ AMENDED ORDER
 GRANTING MOTION FOR FINAL
 APPROVAL OF CLASS ACTION
 SETTLEMENT AND MOTION FOR
 ATTORNEYS' FEES, COSTS AND
 EXPENSES, AND A CLASS
 REPRESENTATIVE ENHANCEMENT
 PAYMENT**

Date: April 6, 2022
 Time: 10:30 a.m.
 Place: Department 12

FILED
 Superior Court of California
 County of Los Angeles

05/17/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: L. McGreené Deputy

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1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.
2. This Order hereby adopts and incorporates by reference the terms and conditions of the Joint Stipulation of Class Action Settlement and Release (collectively, “Settlement Agreement” or “Settlement”), together with the definitions and terms used and contained therein.
3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.
4. The Class Notice fully and accurately informed Class Members of all material elements of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.
5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.
6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendants or by any other Released
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants
21 or any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
24 whatsoever by or against Defendants or any of the other Released Parties.

25 10. Final approval shall be with respect to: All nonexempt or hourly paid employees of
26 Defendants who worked in California from December 11, 2016 through October 20, 2021, with the
27 exception of Luke S. Dillon, Gery Marinoff, and Daniella Torres, who have elected to opt out of the
28 Settlement Class.

1 11. Plaintiff Lucio Rosas is a suitable Class Representative and is hereby appointed the
2 Class Representative for the Settlement Class. The Court finds that Plaintiff's investment and
3 commitment to the litigation and its outcome ensured adequate and zealous advocacy for the Settlement
4 Class, and that his interests are aligned with those of the Settlement Class.

5 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
6 \$7,500 for his service on behalf of the Settlement Class, and for agreeing to a general release of all
7 claims arising out of his employment with Defendants.

8 13. The Court finds that the attorneys at Capstone Law APC have the requisite
9 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
10 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
11 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

12 14. The settlement of civil penalties under PAGA in the amount of \$40,000 is hereby
13 approved. Seventy-Five Percent (75%), or \$30,000, shall be paid to the California Labor and Workforce
14 Development Agency. The remaining Twenty-Five Percent (25%), or \$10,000, will be added to the Net
15 Settlement Amount.

16 15. The Court hereby awards \$300,000 in attorneys' fees and \$12,645 in costs and expenses
17 to Capstone Law APC. The Court finds that the requested award of attorneys' fees is reasonable for a
18 contingency fee in a class action such as this; i.e., one-third of the common fund created by the
19 settlement. The Court also finds that the fee award is appropriate in light of the benefit obtained for the
20 class and the efficiency with which class counsel conducted the litigation.

21 16. The Court approves settlement administration costs and expenses in the amount of
22 \$24,000 to Simpluris, Inc.

23 17. All Class Members were given a full and fair opportunity to participate in the Approval
24 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
25 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
26 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
27 shall be forever binding on all Participating Class Members. These Participating Class Members have
28 released and forever discharged the Released Parties for any and all Released Claims:

1 All claims, rights, demands, liabilities and causes of action, whether known or
2 unknown, that were asserted or that could have been asserted against the
3 Released Parties based on the facts alleged in the operative complaint during the
4 Class Period, including but not limited to, all claims under California Labor Code
5 §§ 201-204, 210, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198,
6 2802, any applicable California Industrial Welfare Commission Wage Order,
7 California Code of Regulations, tit. 8, § 11070(14), the California Unfair
8 Competition Law, California Business & Professions Code §§ 17200, et seq.,
9 and any remedies for any of the claims described herein, including, damages,
penalties, restitution, declaratory relief, equitable or injunctive relief, interest, and
attorneys' fees and costs. "Released Parties" means Defendants, and/or any of
their current and former parents, successors, predecessors, affiliates, subsidiaries
and related entities, including Duke's Malibu Partnership, LP; Waterfront
Restaurants Inc., a California S Corporation d/b/a Jake's Del Mar; Duke's La
Jolla, LLC; Sunnyside Resorts Inc., and any of their current or former officers,
directors, members, shareholders, managers, human resources representatives,
employees, agents, contractors, insurance carriers, representatives, or attorneys.

10 18. Additionally, all PAGA Members and the LWDA have released and forever discharged
11 the Released Parties for any and all Released PAGA Claims: All claims asserted through California
12 Labor Code §§ 2698, et seq., that arise out of or are related to the Released Claims during the PAGA
13 Period.

14 19. The Parties shall bear their own respective attorneys' fees and costs, except as otherwise
15 provided in the Settlement Agreement and approved by the Court.

16 20. Upon entry of Judgment, compensation to the Participating Class Members shall be
17 effected pursuant to the terms of the Settlement Agreement.

18 21. This Court shall retain jurisdiction with respect to all matters related to the
19 administration and consummation of the settlement, and any and all claims, asserted in, arising out of, or
20 related to the subject matter of the lawsuit, including but not limited to all matters related to the
21 settlement and the determination of all controversies relating thereto. Plaintiff shall file a declaration
22 from the Settlement Administrator regarding the completion of settlement administration activities no
23 later than January 6, 2023, as well as an amended judgment re cy pres distribution.

24 22. Plaintiff's Motion is hereby GRANTED, and the Court directs that a separate judgement
25 shall be entered.

26 **IT IS SO ORDERED.**

27 Dated: 05/17/2022



Carolyn B. Kuhl

Carolyn B. Kuhl / Judge

Hon. Carolyn B. Kuhl
Los Angeles County Superior Court Judge