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9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN DIEGO

12 ARI GOLD, as an aggrieved employee pursuant
to the Private Attorneys General Act ("PAGA"),

13 Plaintiff,

14 vs.

15 BENIHANA NATIONAL CORP., a Delaware
16 corporation; BENIHANA BEVERLY HILLS
CORP., a Florida corporation; BENIHANA
17 CARLSBAD CORP., a Delaware corporation;
BENIHANA DOWNEY CORP., a Florida
18 corporation; BENIHANA ENCINO CORP., a
California corporation; BENIHANA
19 INTERNATIONAL, INC., a Delaware
corporation; BENIHANA MARINA CORP., a
20 California corporation; BENIHANA
MONTEREY CORPORATION, a Delaware
21 corporation; BENIHANA OF PUENTE HILLS
CORP., a Delaware corporation; BENIHANA
22 ONTARIO CORP., a Delaware corporation;
BENIHANA SANTA ANITA CORP., a
23 Delaware corporation; BENIHANA SUNRISE
CORPORATION, a Delaware corporation; and
24 DOES 1 through 10, inclusive,

25 Defendants

Case No.: 37-2016-00022320-CU-OE-NC

Assigned for all purposes to Judge Earl H. Maas III,
Dept. N-28

**~~PROPOSED~~ 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: July 23, 2021
Time: 1:30 p.m.
Place: Department N-28

FILED
Clerk of the Superior Court
AUG 17 2021
By: N. McKinley, Deputy

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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. In light of the above findings, the Court overrules the objections of Class Members Jorge
20 A. Ramirez and Angel Sandoval-Rivera.

21 10. The Settlement Agreement is not an admission by Defendants or by any other released
22 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendants or
23 any other released party. Neither this Order, the Settlement Agreement, nor any document referred to
24 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
25 as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
26 Defendants or any of the other released parties.

27 11. Final approval shall be with respect to: All current and former non-exempt employees
28 of Defendants in the State of California during the period from June 26, 2014 through December 31,

1 2020.

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

6 13. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
7 \$10,000 for his service on behalf of the Settlement Class, and for agreeing to a general release of all
8 claims arising out of his employment with Defendants.

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

13 15. The settlement of civil penalties under PAGA in the amount of \$100,000 is hereby
14 approved. Seventy-Five Percent (75%), or \$75,000, shall be paid to the California Labor and Workforce
15 Development Agency. The remaining Twenty-Five Percent (25%), or \$25,000, will be added to the Net
16 Settlement Amount.

17 16. The Court hereby awards \$750,000 in attorneys' fees and \$46,945 in costs and expenses
18 to Capstone Law APC. The Court finds that the requested award of attorneys' fees is reasonable for a
19 contingency fee in a class action such as this; i.e., one-third of the common fund created by the
20 settlement. Counsel have also established the reasonableness of the requested award of attorneys' fees
21 via their lodestar crosscheck, and the Court finds that the rates and hours billed are fair and reasonable.

22 17. The Court approves settlement administration costs and expenses in the amount of
23 \$33,000 to Simpluris, Inc.

24 18. All Class Members were given a full and fair opportunity to participate in the Approval
25 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
26 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
27 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
28 shall be forever binding on all Class Members who did not timely and properly opt out of the settlement.

1 These Class Members have released and forever discharged the Defendants for any and all Released
2 Claims.

3
4 **IT IS SO ORDERED.**

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6 Dated: 8-17-21



Hon. Earl H. Maas, III
San Diego County Superior Court Judge