

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MERCED

KALAINA A. DULA, an individual, on
behalf of herself, and on behalf of all
persons similarly situated,

Plaintiff,

v.

2 KINGS GAMING, INC., a California
corporation; and DOES 1-50, inclusive,

Defendants.

Case No: 20CV-02289

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Hearing Date: April 6, 2022
Hearing Time: 8:15 a.m.

Honorable Judge Brian McCabe
Department 8

Trial Date: Not Set
Action Filed: August 12, 2020

1 On April 6, 2022, a hearing was held on Plaintiff KALAINA A. DULA's ("Plaintiff")
2 Motion for Preliminary Approval of Class and PAGA Action Settlement. Zakay Law Group,
3 APLC appeared for Plaintiff. Fisher Phillips, LLP appeared for Defendant 2 KINGS GAMING,
4 INC. ("Defendant").

5 The Court having read and considered the papers on the motion, the arguments of counsel,
6 and the law, and good cause appearing therefore,

7 **IT IS ORDERED:**

8 1. This Order incorporates the defined terms in the Stipulation of Class Action and
9 PAGA Settlement (the "Agreement" or "Settlement"). Unless otherwise specified, all capitalized
10 terms in this Order shall have the same meaning given to those terms in the Agreement.

11 2. The Class is defined as all individuals who are or previously were employed by
12 Defendant in California and classified as non-exempt employees at any time during the Class
13 Period. The Class Period is the period of time from August 12, 2016 through January 8, 2022.
14 Pursuant to the Agreement, the Class is conditionally certified for settlement purposes only.

15 3. The Parties' Agreement is granted preliminary approval as it meets the criteria for
16 preliminary settlement approval. The Settlement falls within the range of possible approval as
17 fair, adequate and reasonable, and appears to be the product of arm's-length and informed
18 negotiations and to treat all Class Members fairly. Continued litigation would have been
19 expensive for both sides. The Parties acknowledge that litigating and trying this action may have
20 resulted in delay of any recovery, involved significant risk as to liability and certification, and led
21 to possible appeals. Class Counsel received the relevant information for the Class. Plaintiff has
22 adequately demonstrated that the Settlement did not occur until Plaintiff and Class Counsel
23 possessed sufficient information to evaluate the case and make an informed decision about
24 settlement.

25 4. The Parties' proposed notice plan is legally sound because individual notices will be
26 mailed to all Class Members whose identities are known to the Parties, and such notice is the best
27 notice practicable. The Parties' proposed Notice of Proposed Class Action Settlement ("Class
28 Notice") attached to the Agreement as Exhibit 1, sufficiently informs Class Members of the terms

1 of the Settlement, their rights under the Settlement, their rights to object to the Settlement, their
2 right to receive a Settlement Award or elect not to participate in the Settlement, the processes for
3 doing so, and the date and location of the Final Approval Hearing. The Class Notice also provides
4 notice that PAGA Members will receive payment from the Net PAGA Amount and will be bound
5 by and release all Released PAGA Claims, irrespective of whether they opt out of the Settlement.
6 Thus, the Court approves the Settlement Notice because it provides adequate notice to Class
7 Members.

8 5. Any Class Member who does not submit a valid request for exclusion will receive an
9 Individual Settlement Payment based upon the allocation formula in the Agreement. Class
10 Members who wish to exclude themselves from the Settlement must mail a signed Request for
11 Exclusion to the Settlement Administrator not later than 45 days after the Settlement
12 Administrator mails the Settlement Notice Packets to them. PAGA Members will receive
13 payment from the Net PAGA Amount and will be bound by and release all Released PAGA
14 Claims, irrespective of whether they opt out of the Settlement.

15 6. Any Class Member who elects not to participate in the Settlement has 45 days after
16 the mailing of the Class Notice to request exclusion from the Settlement pursuant to the
17 procedures set forth in the Class Notice. Any Class Member who wishes to object to the
18 Settlement, the proposed Class Counsel's Fees and Costs, and/or Class Representative Incentive
19 Payment will have the opportunity to do so at the Final Approval Hearing.

20 7. Class Counsel must file their application for Class Counsel's Fees and Costs
21 concurrently with their motion for final approval of the Settlement.

22 8. Simpluris is appointed to act as the Settlement Administrator, pursuant to the terms
23 set forth in the Settlement.

24 9. The JCL Law Firm, APC and Zakay Law Group, APLC are approved as Class
25 Counsel.

26 10. Plaintiff is approved as the representative of the Class.

27 11. Defendant is directed to provide the Settlement Administrator with the Class
28

1 Members' Class List as specified by the Agreement no later than 7 days after the date of entry of
2 this Order. Pursuant to the terms set forth in the Agreement, the Class List, its contents and any
3 files containing Class List shall remain strictly confidential for the Settlement Administrator's
4 eyes only, not to be disclosed to Plaintiff or to Class Counsel or to any Class Member.

5 12. The Class Notice attached as Exhibit 1 to the Agreement is approved. The
6 Settlement Administrator is directed to mail the approved Settlement Notice by first-class mail to
7 the Class Members at their last known address no later than 14 days after receipt of the Class List.

8 13. A Final Approval Hearing will be held on _____ at _____ in Department
9 14, to determine whether the Settlement should be granted final approval as fair, reasonable, and
10 whether there was adequate notice to the Class Members. The Court will hear all evidence and
11 argument necessary to evaluate the Settlement, and will consider the request for approval of Class
12 Counsel's Fees and Costs, Class Representative Incentive Payment, and Settlement
13 Administration Costs. Class Members and their counsel may support or oppose the Settlement
14 and the motion for an award of attorneys' fees and costs and the Class Representative Incentive
15 Payment, if they so desire, as set forth in the Class Notice.

16 14. Any Class Member may appear at the Final Approval Hearing in person or by his or
17 her own attorney and show cause why the Court should not approve the Settlement, or object to
18 the motion for an award of attorneys' fees and costs and the Class Representative Incentive
19 Payment.

20 15. The Court reserves the right to continue the date of the Final Approval Hearing
21 without further notice to Class Members. The Court retains jurisdiction to consider all further
22 applications arising out of or in connection with the Settlement.

23
24 DATED: _____

HON. BRIAN MCCABE
MERCED SUPERIOR COURT