

31599448

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Edwin Kamarzarian (SBN 327830)
Julie Oh (SBN 341157)
MOON LAW GROUP, PC
725 S. Figueroa St., 31st Floor
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: ekamarzarian@moonlawgroup.com
E-mail: joh@moonlawgroup.com

Attorneys for Plaintiff Charles Howard Clark

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

CHARLES HOWARD CLARK, an individual;

Plaintiff,

vs.

POWERSTONE PROPERTY
MANAGEMENT, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

FEB 19 2025

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

Case No.: 30-2021-01212747-CU-OE-CXC

CLASS AND REPRESENTATIVE ACTION

[Hon. Lon F. Hurwitz, Dept. CX103]

**[AMENDED PROPOSED] ORDER AND
JUDGMENT GRANTING FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

*[Filed with (1) Plaintiff's Notice of Motion
and Memorandum of Points and Authorities,
(2) the Declaration of Kane Moon, (3) the
Declaration of Plaintiff and (4) the
Declaration of Nathalie Hernandez*

FINAL APPROVAL HEARING:

Date: January 31, 2025

Time: 1:30 p.m.

Dept.: CX103

Complaint Filed: July 29, 2021

Trial Date: Not set

PROPOSED ORDER AND JUDGMENT

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

On August 16, 2024, the Court entered an Amended Order which granted Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement, granted conditional class certification, approved the format of the Class Notice, and set a Final Approval Hearing (the "Preliminary Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the "Action") that was reached between Plaintiff Charles Howard Clark ("Plaintiff") and Defendant Powerstone Property Management, Inc. ("Defendant") (together with Plaintiff, the "Parties"), in accordance with the Amended and Restated Class Action and PAGA Settlement Agreement (the "Settlement"). The Settlement was attached as **Exhibit 1** to the Supplemental Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement that was filed on August 1, 2024, ROA 246.

The Court now has before it Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement, including a motion for payment of Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Class Representative Service Payment, Administration Expenses Payment, and PAGA Penalties, and whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class Members (collectively "Motion for Final Approval"), as well as a [Proposed] Order and Judgment.

Due and adequate notice having been given to Class Members, and the Court having reviewed the Settlement and duly considered Plaintiff's Motion for Final Approval, the supporting declarations and exhibits thereto, all other papers filed and proceedings had hereto, the record in this Action, and any oral argument, and good cause appearing,

THE COURT HEREBY ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

1. The Court, for purposes of this Order and Judgment, refers to all terms and definitions as set forth in the Settlement.
2. Plaintiff's Motion for Final Approval came before Department CX103 of this Court, the Honorable Lon F. Hurwitz presiding, on January 31, 2025.
3. The Court finds that the Settlement was made and entered into in good faith, the terms

1 of which are fair, reasonable, and adequate; was reached following meaningful discovery and
2 investigation conducted by Plaintiff and his counsel of record ("Class Counsel"); is the result of
3 serious, informed, adversarial, and arms-length negotiations between the Parties; and therefore,
4 meets the requirements for final approval. In so finding, the Court has considered all the evidence
5 presented, including evidence regarding the strength of Plaintiff's claims; the risk, expense, and
6 complexity of the claims presented; the likely duration of further litigation; the settlement amount
7 offered; the extent of investigation and discovery completed; and the experience and views of Class
8 Counsel. The Court has further considered the absence of any objections or requests for exclusion
9 from the Settlement. Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Final
10 Approval and **ORDERS** and **ENTERS JUDGMENT** in accordance with the terms herein.

11 4. The Court certifies, for settlement purposes only, the following Class (the "Class
12 Member" or "Settlement Class Member"): all persons employed by Defendant in California and
13 classified as non-exempt who worked for Defendant during the Class Period. The "Class Period"
14 means the period from July 26, 2017, to July 1, 2023. No Class Members submitted a Request for
15 Exclusion from the Settlement.

16 5. Notwithstanding the submission of a timely Request for Exclusion, Class Members
17 are still bound by the settlement and release of the PAGA Claims or remedies under the Judgment
18 pursuant to *Arias v. Superior Court* (2009) 46 Cal. 4th 969, as requests to be excluded from the
19 Settlement do not apply to the released PAGA Claims.

20 6. The Released PAGA Claims shall bind the following Aggrieved Employees: any
21 person employed by Defendant in California and classified as a non-exempt employee who worked
22 for Defendant during the PAGA Period. The "PAGA Period" means the period from July 23, 2020,
23 to July 1, 2023.

24 7. The Court finds that Plaintiff exhausted all administrative remedies required to bring
25 the PAGA claims asserted in this Action and is authorized to act as private attorney general with
26 respect to the PAGA Claims being released under the Settlement. The Court further finds that
27 pursuant to California Labor Code section 2699(1)(2), the California Labor and Workforce
28 Development Agency ("LWDA") has been given timely notice of the Settlement, has not objected,

1 and is therefore bound by this Order and Judgment.

2 8. The deadline to submit a request for exclusion or to submit an objection to the
3 Settlement was December 2, 2024, for the Class Members.

4 9. No requests for exclusion were received. Accordingly, all 265 Class Members remain
5 in the Class.

6 10. All Class Members had an opportunity to object to the Settlement. No written
7 objections were received.

8 11. The Court Approved Notice of Class Action and PAGA Action Settlement (the "Class
9 Notice"), which was attached as **Exhibit A** to the Settlement and provided to the Class pursuant to
10 the plan for distribution described under the Settlement, conformed with the requirements of rules
11 3.766 and 3.769 of the California Rules of Court, and constituted the best notice practicable under
12 the circumstances, by providing individual and adequate notice of the proceedings and of the matters
13 set forth therein to Class Members. The Class Notice fully satisfied the requirements of due process
14 and provided the Class Members with adequate instructions and a variety of means to obtain
15 additional information.

16 12. A full opportunity has been afforded to Class Members to participate in the Final
17 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard
18 and/or had an opportunity to be heard. Class Members have had a full and fair opportunity to exclude
19 themselves from, or object to, the Settlement. Accordingly, the Court determines that all Class
20 Members who did not submit a timely request to opt-out ("Participating Class Members") are bound
21 by this Order and Judgment.

22 13. Release of Claims. Effective on the date Defendant fully funds the entire Gross
23 Settlement Amount and all employer payroll taxed owed on the Wage Portion of the Individual Class
24 Payments, Plaintiff, Settlement Class Members, Aggrieved Employees, and Class Counsel will
25 release the class and PAGA claims against all Released Parties as follows:

- 26 a. **Released Parties**. "Released Parties" means Defendant and any parent,
27 subsidiary, affiliate, predecessor or successor entity, and all agents, employees,
28 contracting parties, joint employers, officers, directors and attorneys thereof.

(Settlement, ¶ 1.41.)

b. **Released Class Claims.** “Released Class Claims” All Participating Class Members, on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including, e.g., any and all claims arising under California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; failure to keep adequate records; and unfair business practices arising under California Business and Professions Code section 17200 et seq. Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the Plaintiff’s PAGA Notice. Except as set forth in the Released PAGA Claims below, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. (Settlement, ¶¶ 1.39, 5.2.)

c. **Released PAGA Claims.** “Released PAGA Claims” All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from

1 all claims for PAGA penalties that were alleged, or reasonably could have been
2 alleged, based on the PAGA Period facts stated in the Operative Complaint and/or
3 the Plaintiff's PAGA Notice, including any claim for PAGA penalties based on
4 alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5,
5 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the
6 applicable Industrial Welfare Commission Wage Orders based on any alleged
7 failure to pay minimum wage; failure to pay overtime compensation; failure to pay
8 paid time off wages; failure to provide meal periods; failure to authorize and permit
9 rest periods; failure to indemnify necessary business expenses; failure to timely pay
10 final wages; failure to timely pay wages during employment; failure to provide
11 accurate wage statements; and/or failure to keep adequate records. (Settlement, ¶¶
12 1.40, 5.3.)

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

15 15. The Court finds that the Gross Settlement Amount of \$270,000, the Net Settlement
16 Amount, and the methodology used to calculate Individual Class Payments and Individual PAGA
17 Payments to Participating Class Members and Aggrieved Employees, respectively, are fair and
18 reasonable. Thus, Court authorizes the Administrator to calculate and pay individual settlement
19 shares in accordance with the terms of the Settlement.

20 16. Defendant shall fully fund the Gross Settlement Amount, no later than sixty (60) days
21 after the Court signs the Preliminary Approval Order. Defendant will be responsible for the
22 employee's share of payroll taxes, separate and apart from the Gross Settlement Amount. This amount
23 shall be held in trust by the Settlement Administrator until after the Effective Date, as that term is
24 defined in the Settlement.

25 17. Within fourteen (14) days of the Effective Date, the Administrator will mail checks
26 for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
27 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
28 Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class

1 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative
2 Service Payments shall not precede disbursement of Individual Class Payments and Individual
3 PAGA Payments.

4 18. A total amount of \$20,000.00 shall be allocated as the "PAGA Penalties," payable
5 from the Gross Settlement Amount, for resolution of the PAGA Claims and distributed as follows:
6 75% (\$15,000.00) to the LWDA and 25% (\$5,000.00) to Aggrieved Employees.

7 19. The Court finds Plaintiff has adequately represented the Class and therefore confirms
8 the appointment of Plaintiff as the Class Representative, for settlement purposes only. In addition to
9 any recovery that Plaintiff is eligible to receive as a Participating Class Member and Aggrieved
10 Employee, a service payment to Plaintiff in the amount of \$7,500.00 (the "Class Representative
11 Service Payment") shall be paid to Plaintiff, payable from the Gross Settlement Amount, for his role
12 and service as the Class Representative, for the risks and work attendant to that role, and for his
13 general release of claims and waiver of section 1542 rights.

14 20. The Court confirms the appointment of Kane Moon and Edwin Kamarzarian of Moon
15 Law Group, PC, as Class Counsel, for settlement purposes only, as they are experienced in wage and
16 hour class action litigation, have no apparent conflicts of interest with Plaintiff, other Class Members,
17 or the Administrator, and have adequately represented Class interests. From the Gross Settlement
18 Amount, payments in the Amount of \$90,000.00 for reasonable attorneys' fees ("Class Counsel Fees
19 Payment"), and of \$12,496.79, for reimbursement of out-of-pocket costs ("Class Counsel Litigation
20 Expenses Payment") shall be paid to Class Counsel. The Court finds that these amounts are
21 reasonable considering the benefits provided to the Class.

22 21. The Court confirms the appointment of ILYM Group, Inc. as the Settlement
23 Administrator, who has fulfilled its initial notice and reporting duties. From the Gross Settlement
24 Amount a payment in the amount of \$8,250.00 ("Administration Expenses Payment") shall be paid
25 to Administrator for settlement administration.

26 22. Pursuant to California Code of Civil Procedure section 384, following the expiration
27 of the 180-day check-cashing deadline, should there be any uncashed checks, the Administrator
28 shall transmit those amounts to the California Controller's Unclaimed Property Fund in the name

1 of each Class Member and/or Aggrieved Employee who failed to cash their settlement check prior
2 to the void date.

3 23. In accordance with California Rule of Court 3.771(b), the Administrator will post
4 copies of the Operative Complaint, Settlement Agreement, Class Notices, Order Granting
5 Plaintiff's Motion for Preliminary Approval of Class and PAGA Action Settlement, and the Order
6 and Judgment Granting Final Approval of Class and PAGA Action Settlement on a website
7 maintained by the Administrator for a period of not less than ninety (90) calendar days after the
8 Judgment is entered.

9 24. This Order and Judgment is intended to be a final disposition of the Action in its
10 entirety and are intended to be immediately appealable.

11 25. The terms and obligations set forth in the Settlement are deemed part of this Order
12 and Judgment, and the Parties and the Administrator are ordered to carry out the Settlement
13 according to its terms and provisions.

14 26. Following entry of the Judgment, and without affecting the finality thereof, pursuant
15 to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h), the Court
16 shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the
17 terms of the Settlement and all orders and directives entered in connection therewith.

18 27. The Settlement is finally approved but is not an admission by Defendant of the
19 validity of any claims in this Action, or of any wrongdoing by Defendant or of any violation of
20 law. Neither the Settlement nor any related document shall be offered or received in evidence in
21 any civil, criminal, or administrative action or proceeding other than such proceedings as may be
22 necessary to consummate or enforce the Settlement.

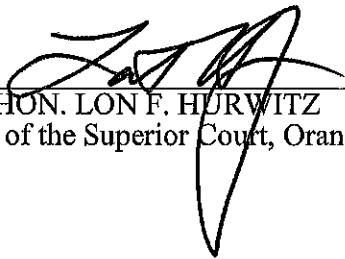
23 28. The Court sets a Final Accounting Hearing for **July 31, 2025, at 1:30 p.m.** in
24 Department CX103 of the Superior Court of California, County of Orange, located at 751 West
25 Santa Ana Boulevard, Santa Ana, CA 92701. Class Counsel are ordered to file a final report and
26 declaration by the Settlement Administrator regarding settlement distribution no later than nine (9)
27 court days prior to the Final Accounting Hearing.

28 //

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

FEB 19 2025
DATE: _____



THE HON. LON F. HURWITZ
Judge of the Superior Court, Orange County

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 725 South Figueroa Street, 31st Floor
7 Los Angeles, California 90017. On February 4, 2025, I served the foregoing document described
8 as:

9 **[AMENDED PROPOSED] ORDER AND JUDGMENT GRANTING FINAL APPROVAL**
10 **OF CLASS ACTION AND PAGA SETTLEMENT**

11 X by E-mailing ____ the original X a true copy to the following:

12 JAMES RUMM
13 **KENNEDY, MCCARTHY & RUMM, LLP**
14 9210 IRVINE CENTER DRIVE,
15 IRVINE, CA 92618
16 (949) 705-6611 (MAIN)
17 (949) 889-2341 (DIRECT)
18 JRUMM@KMRLAWYERS.COM

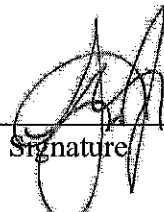
19 **ATTORNEYS FOR DEFENDANT POWERSTONE PROPERTY MANAGEMENT, INC**

20 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California,
21 by e-mail delivery on the parties listed herein at their most recent known e-mail address or
22 e-mail of record in this action.

23 X (State) I declare under penalty of perjury under the laws of the State of California
24 that the above is true and correct.

25 Executed on February 4, 2025, at Los Angeles, California.

26 Janelle Jickain
27 Name

28 
Signature