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17 Attorneys for Plaintiff Ronghui Lee
18 and the Certified Class

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN BERNARDINO**

14 LEE, RONGHUI, an individual California
15 resident on behalf of himself and all others
16 similarly situated,

17 Plaintiff,

18 vs.

19 HUNGRYPANDA US INC., a Delaware
20 corporation; and DOES 1-10, inclusive,

21 Defendant.

) Case No. CIVSB2126633

) **DECLARATION OF JOSEPH R.**
) **BECCERRA IN SUPPORT OF PLAINTIFF'S**
) **MOTION FOR PRELIMINARY**
) **APPROVAL OF CLASS AND PAGA**
) **ACTION SETTLEMENT; APPOINTMENT**
) **OF SETTLEMENT ADMINISTRATOR;**
) **APPROVAL OF CLASS NOTICE**
) **PACKET; SETTING OF FINAL**
) **APPROVAL HEARING**

) Date: August 1, 2024

) Time: 8:30 a.m.

) Judge: Hon. Jessica Morgan

) Dept.: S-26

) Action Filed: September 2, 2021

) Trial Date: None

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DECLARATION OF JOSEPH BECERRA

I, Joseph Becerra, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts of the State of California, and before this Court. I am a partner at Becerra Law Firm, attorneys of record for plaintiff Ronghui Lee and the Certified Class. I have responsibility for the handling of this matter along with my co-counsel Torey Joseph Favarote of the Gleason & Favarote LLP. I have personal knowledge of the facts stated herein and would and could testify competently thereto if sworn as a witness.

2. This is a wage and hour class action prosecuted brought by Ronghui Lee (hereinafter referred to as "Plaintiff" or "Lee") against his former employer Hungry Panda US Inc. ("HungryPanda" or "Defendant") for numerous violations of the California Labor Code.

3. As an overview, Defendant is a delivery service company similar to Uber Eats and Doordash, but specifically tailored to the Chinese community. In its business endeavor, Defendant engaged Plaintiff and the Class of approximately 3,323 "Drivers" or "Contractors" to make food deliveries to Defendant's customers from restaurants and grocery stores via Defendant's mobile phone application. Defendant classified such drivers as independent contractors, and the gravamen of the lawsuit is that such Drivers were misclassified and should have been classified as employees and subject to the protections and benefits of the wage and hour provisions of the California Labor Code and IWC Wage Orders. The Settlement reached is calculated based on the number of workweeks worked by each Class Member during the Class Period. Each Class Member's Individual settlement share will be based proportionally on the number of "weeks worked" or "workweeks" during the Class Period. The Class is made up of approximately 3,323 Class Members who worked approximately 44,095 workweeks during the Class Period of September 2, 2017 through May 9, 2023, in California.

4. Prior to the denial of Defendant's motion to set aside the default in this matter, Plaintiff propounded and Defendant responded to (1) Form Interrogatories – General; (2) Form Interrogatories – Employment Law; (3) Special Interrogatories; (4) Requests for Production of Documents; (5) Requests for Admissions. Following the denial of Defendant's motion to aside

1 default, Defendant refused to participate in the discovery process requiring Plaintiff to subpoena
2 Defendant as a non-party. Plaintiff subpoenaed the Class Contact information and after
3 Defendant's motion to quash was denied by the Court, Defendant produced the contact
4 information. Over the course of the last 3 years, the bulk of Plaintiff's investigation into the
5 allegations in the Complaint consisted of interviewing class members and obtaining documentary
6 evidence from them regarding the claims at issue. Class Counsel's office, via a Chinese speaking
7 staff member, conducted dozens of interviews, obtained numerous payroll documents, and
8 investigated various occurrences throughout the litigation including as to Defendant's policies and
9 practices as experienced by the Class Members and Defendant's conduct throughout the Class
10 Period. While the process was slow given the language barriers, the investigation was successful
11 in identifying numerous violations and assisted in obtaining certification of the Class.

12 5. In addition to this vital information that formed the basis to which Class Counsel
13 assessed the strengths and weaknesses of the case and the potential damages to the Class,
14 Defendant provided its legal basis for its position that the Order denying its motion to set aside the
15 default would prevail on appeal. The issue of the default was also a substantial risk factor
16 associated with analyzing the advantages and disadvantages of reaching a negotiated resolution on
17 behalf of the Class. Finally, the issue of Defendant's financial condition was a major risk factor for
18 the Class. Defendant is a start-up, niche, food delivery company with very few tangible assets.
19 Therefore, to establish its financial condition and the benefit to the Class of the Settlement,
20 Defendant, as part of this Settlement and Motion for Preliminary Approval, agreed to file the
21 following financial documents with the Court, under seal: (1) California and Federal tax returns for
22 the last two years; (2) profit and loss statements for the last two years; (3) balance sheets for the
23 last two years. Defendant's accountants will also provide certified copies of the documents to
24 Class Counsel's accountant and/or financial expert.

25 6. Hungry Panda will pay \$1,500,000.00 (the "Gross Settlement Fund") to settle the
26 Action on a class-wide basis for the approximately 3,323 Class Members. (Settlement, ¶ 21.) The
27 total number of Class Member work weeks settled under the Settlement Agreement totals
28 approximately 44,095 (Settlement is calculated per work week worked during the Class Period).

1 (Settlement, ¶ 21.)

2 7. From the Gross Settlement Fund will be paid (a) \$938,000 in *pro rata* awards to the
3 Class Members based on the number of workweeks worked between September 2, 2017 and May
4 9, 2023 (the “Net Settlement Amount”) (b) a payment of \$150,000 for PAGA penalties with 75%
5 (\$112,500) going to the LWDA for its share of the civil penalties and \$37,500 (25%) going to
6 Class Members; (c) Class Representative Payment to Plaintiff in the amount of \$10,000.00 (as
7 approved by the Court) to compensate him for her services to the Class in pursuing in the Action and
8 the risk he assumed on behalf of the absent Class Members; (d) Class Counsel Attorneys’ Fees of
9 \$500,000 (33.33% of the Gross Settlement Fund as approved by the Court) to compensate them for
10 their services to the Class in prosecuting the Action and securing the Settlement, and Class
11 Counsels’ litigation expenses of up to \$25,000 (as approved by the Court); (v) a payment to the
12 Settlement Administrator, ILYM Group, Inc. for its reasonable fees and expenses incurred in
13 administering the Settlement, which are estimated at approximately \$27,000.00; (vi) any other fees
14 or expenses (other than attorneys’ fees and expenses) incurred in implementing the terms and
15 conditions of Settlement and securing the judgment from the Court pursuant to the Settlement.
16 None of the Gross Settlement Amount will revert to Defendant. (Settlement, ¶¶ 11, 21, 24, 28, 39.)

17 8. This case was settled through arms-length negotiation. Though cordial and
18 professional, the settlement negotiations have been adversarial and non-collusive in nature. The
19 Settlement reached is the product of substantial effort by the parties and their counsel after almost
20 three years of very hard-fought litigation. While Plaintiff believes that he has a good probability of
21 success, he also recognizes the inherent risks of litigation and understands the benefit of the Class
22 receiving Settlement funds immediately rather than risking potential unfavorable decisions on the
23 damages awarded at a prove up hearing, and/or on an appeal that could take several more years to
24 litigate and then set the case back to the pleadings stage. Further, litigating Plaintiff’s claims,
25 which involve over 3,323 Class Members during the relevant period, would have required
26 substantial additional preparation and discovery, likely entailing even more discovery motion
27 practice, as well as the consideration, preparation and analysis of expert reports. Therefore, should
28 litigation have progressed any further, each side would have incurred significant expense. Finally,

1 Plaintiff and his counsel understand that the financial condition of Defendant, a start-up technology
2 and delivery company that only began operating in California in 2019, was a relevant concern
3 given the scope and size of the Class and Defendant's potential inability to pay any large judgment.
4 Class Counsel submits that the proposed Settlement for each Class Member is fair, reasonable, and
5 adequate given the inherent risk. The amount recoverable for each Class Member as set forth in
6 the Memorandum of Points and Authorities and in this declaration, is fair and reasonable based on
7 a review of all objective evidence. The Settlement that has been reached, subject to this Court's
8 approval, is the product of a lot of effort by the Parties and their counsel.

9 9. I believe that the claims are meritorious. However, I have also considered the risk
10 that the case, if not settled now, will ultimately be less favorable to the Class Members. In
11 addition, I am aware that Hungry Panda has a very different opinion of this case and arguments
12 regarding the value of the case while in default. Having carefully weighed all these considerations,
13 I am satisfied that the proposed Settlement is in the best interests of the Class and aggrieved
14 employees.

15 10. Further, litigating Plaintiff's claims, which involve approximately 3,323 Class
16 Members during the relevant period, would have required substantial additional preparation and
17 discovery and ultimately would involve the deposition and presentation of numerous witnesses
18 (including expert witnesses), as well as the consideration, preparation and analysis of expert
19 reports. Therefore, should litigation have progressed any further, each side would have incurred
20 significant expense.

21 11. This declaration is also submitted in support of my qualifications as class action
22 counsel.

23 12. I graduated from the University of Southern California in 1996 and received my law
24 degree from Loyola Law School in 2000. Prior to starting my own law firm, I was a partner in the
25 law firm of Jones, Bell, Abbott, Fleming & Fitzgerald, LLP. Prior to Jones Bell, I was a long-time
26 associate at the national Labor and Employment firm Seyfarth Shaw, LLP, specializing in wage
27 and hour employment litigation.

28 13. I have substantial experience in handling wage and hour class actions, similar to this

1 case. I have been counsel of record in the following wage and hour class actions: *Arthur Barnes et*
2 *al. v. Target Corporation.*, San Bernardino Superior Court Case No. CIVDS2007761; *Joshua*
3 *Loughrie et al. v. Target Corporation.*, San Bernardino Superior Court Case No. CIVDS1804580;
4 *Loftus et al. v. Ferguson Enterprises, Inc.*, L.A.S.C. Case No. BC403691; *Sankey v. Aeropostale, et*
5 *al.*, Los Angeles Superior Court Case No. BC 457468; *Scholz v. Tom James Company*, United
6 States District Court Central District Case No. CV13-01376-CAS (DTBx); *Nathan Pulley v. Stein*
7 *Mart, Inc.*, Sacramento County Superior Court Case No.: 34-2015-00186167; *Peter Thom v.*
8 *PMAB-3, LLC, et al.*, Orange County Superior Court Case No. 30-2015-00825585-CU-OE-CXC;
9 *Pakaz v. Aeropostale, et al.*, Los Angeles Superior Court Case No. BC493736; *Bustos v. Global*
10 *P.E.T., Inc., et al.*, Riverside Superior Court Case No. RIC1500641; *Ware v. Soho House West*
11 *Hollywood, LLC*, Los Angeles Superior Court Case No. BC 496246; *Colby v. Spirit Garden, LLC*,
12 San Diego Superior Court Case No. 37-2012-00092383; *Graham v. Wachovia Securities, Inc.*,
13 United States District Court Central District Case No. CV 05-08187DOC(RNBx); *DiLustro v.*
14 *Prudential Securities, Inc.*, United States District Court Southern District Case No. 05CV2143W;
15 *Wilson v. Farmers Insurance Exchange*, Multi-District Litigation Docket No. 1439(b) (United
16 States District Court, District of Oregon Case No. 3:08-CV-00007-JO), *Castillo v. Jarden*
17 *Corporation*, San Bernardino Superior Court Case No. CIVSS 811424, *Gonzales v. Key Energy*
18 *Services, Inc.*, Ventura Superior Court Case No. CIV236497, *Pacheco v. Lexicon Marketing USA,*
19 *Inc.*, Los Angeles Superior Court Case No. BC342265, *Morich v. Wachovia Corporation*, Alameda
20 Superior Court Case No. RG05241037, as well as other class actions and non-class action wage
21 and hour matters.

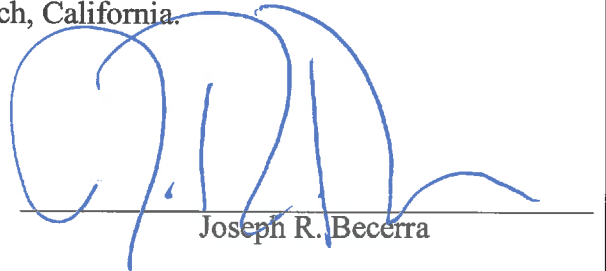
22 14. In the present case, Class Counsel is requesting \$500,000.00 for attorneys' fees,
23 which is 33.3% of the Settlement. Class Counsel believes that this is appropriate based upon a
24 common fund and/or Lodestar analysis which will be explained in detail in the motion for final
25 approval of settlement and Class Counsels' request for fees and costs at the final fairness hearing if
26 preliminary approval is granted. This Settlement is for \$1,500,000.00 and Class Counsel believes
27 that pursuant to Laffitte v. Robert Half International Inc., 1 Cal.5th 480, 503 (2016) and Lealao v.
28 Beneficial California, Inc., 82 Cal.App.4th 19, that this request is fair and reasonable in view of the

1 typical common fund attorneys' fees awards and similar California class action wage and hour
2 settlements, and the hours worked on this case. Likewise, Class Counsel has approximately
3 \$25,000.00 in litigation costs. Class Counsel will file a detailed statement of time worked and
4 costs at the time of final approval.

5 15. The parties have agreed on ILYM Group, Inc. and respectfully request this Court
6 appoint them to handle the notice and claims administration procedures. The costs of the claims
7 administration is estimated to be approximately \$27,000.00.

8 I declare under penalty of perjury under the laws of the United States of America and the
9 State of California that the foregoing is true and correct, and that this declaration is made and
10 executed on this 10th day of July, 2024, at Long Beach, California.

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Joseph R. Becerra

PROOF OF SERVICE

I, Linda Montemayor, declare:

I am and was at the time of the service mentioned in this declaration, employed in the County of Los Angeles, California. I am over the age of 18 years and not a party to the within action. My business address is Gleason & Favarote, LLP, 3646 Long Beach Blvd., Suite 203, Long Beach, CA 90807.

On July 10, 2024, I served a copy(ies) of the following document(s):

DECLARATION OF JOSEPH R. BECERRA IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT; APPOINTMENT OF SETTLEMENT ADMINISTRATOR; APPROVAL OF CLASS NOTICE PACKET; SETTING OF FINAL APPROVAL HEARING

on the parties to this action as follows:

Attorney	Party(ies) Served	Method of Service
Michael Holecek Jun Nam Alexa Yarnell Gibson, Dunn & Crutcher LLP 333 South Grand Ave. Los Angeles, CA 90071-3197 Tel: (213) 229-7018 mholecek@gibsondunn.com jnam@gibsondunn.com ayarnell@gibsondunn.com	Attorneys for Default Defendant/Non- Party HUNGrypANDA US INC.	By Electronic Service

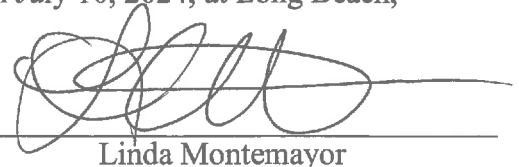


[BY ELECTRONIC SERVICE] I hereby certify that the above-referenced document(s) were served electronically on the parties listed herein at their most recent known email address or email of record at mholecek@gibsondunn.com and JNam@gibsondunn.com.



[BY HAND] I directed the sealed envelope(s) to the party(ies) so designated on the service list to be delivered by Ace Attorney Service, Inc. this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that this declaration was executed on July 10, 2024, at Long Beach, California.



Linda Montemayor