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

PETER FERRY, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

CENCAL WINGS II, INC., a California
corporation; CENCAL WINGS III, INC., a
California corporation; CENCAL WINGS IV,
INC., a California corporation; CENCAL
WINGS V, INC., a California corporation;
CENCAL WINGS VI, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: 21CECG03205

CLASS AND REPRESENTATIVE ACTION

[Hon. Jeffrey Y. Hamilton, Dept. 503]

**~~PROPOSED~~ ORDER 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 (4) the Declaration of
Nick Castro, and (5) [Proposed] Judgment]*

FINAL APPROVAL HEARING:

Date: October 30, 2024
Time: 3:30 p.m.
Dept.: 503

Action Filed: October 28, 2021
Trial Date: Not set

1 **[PROPOSED] FINAL APPROVAL ORDER**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 On April 30, 2024, the Court entered an Order which granted Plaintiff's Motion for
4 Preliminary Approval of Class Action and PAGA Settlement, granted conditional class certification,
5 approved the format of the Class Notice, and set a Final Approval Hearing (the "Preliminary
6 Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the
7 "Action") that was reached between Plaintiff Peter Ferry ("Plaintiff") and Defendants Cencal Wings
8 II, Inc., Cencal Wings III, Inc., Cencal Wings IV, Inc., Cencal Wings V, Inc., and Cencal Wings VI,
9 Inc. (collectively, "Defendants") (together with Plaintiff, the "Parties"), in accordance with the
10 Parties' Stipulation of Class and Representative Action Settlement (the "Settlement"). The
11 Settlement was attached as **Exhibit A** to the Declaration of Kane Moon in Support of Plaintiff's
12 Motion for Preliminary Approval of Class Action and PAGA Settlement that was filed on February
13 16, 2024.

14 The Court now has before it Plaintiff's Motion for Final Approval of Class Action and PAGA
15 Settlement, including a motion for payment of Class Counsel Fee Award and Class Counsel Cost
16 Award, Class Representative Service Award, Settlement Administration Costs, and PAGA Payment,
17 and whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class
18 Members (collectively "Motion for Final Approval"), as well as a [Proposed] Final Approval Order.

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

23 **THE COURT HEREBY ORDERS AND DECREES AS FOLLOWS:**

24 1. The Court, for purposes of this Final Approval Order, refers to all terms and
25 definitions as set forth in the Settlement.

26 2. Plaintiff's Motion for Final Approval came before Department 503 of this Court, the
27 Honorable Jeffrey Y. Hamilton presiding, on October 30, 2024.

28 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 to, and only one Opt-Out
9 Request from, the Settlement. Accordingly, the Court hereby **GRANTS** Plaintiff’s Motion for Final
10 Approval and **ORDERS** Judgment to be entered in accordance with the terms herein.

11 4. The Court certifies, for settlement purposes only, the following Class (the “Class
12 Members” or “Settlement Class”): All persons who work or worked for Defendants in California as
13 a non-exempt employee at any time during the Class Period. The “Class Period” means the period
14 commencing on October 28, 2017 and ending on October 1, 2023. Excluded from the Settlement
15 Class are all Class Members who submitted a timely and valid Opt-Out Request pursuant to the
16 instructions in the Class Notice.

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

21 6. The Released PAGA Claims shall bind the following (“PAGA Members”): All non-
22 exempt employees who work or worked for Defendants in California as a non-exempt employee at
23 any time during the PAGA Period. The “PAGA Period” means the period commencing on October
24 22, 2020 and ending on October 1, 2023.

25 7. The Court finds that Plaintiff exhausted all administrative remedies required to bring
26 the PAGA claims asserted in this Action and is authorized to act as private attorney general with
27 respect to the PAGA Claims being released under the Settlement. The Court further finds that
28 pursuant to California Labor Code section 2699(l)(2), the California Labor and Workforce

1 Development Agency (“LWDA”) has been given timely notice of the Settlement, has not objected,
2 and is therefore bound by this Final Order and the accompanying Judgment.

3 8. The deadline to submit an Opt-Out Request or to submit an Objection to the
4 Settlement was July 8, 2024, for the majority (526) of Class Members. The deadline to submit an
5 Opt-Out Request or to submit an Objection to the Settlement for the remaining 63 Class Members
6 was July 23, 2024.

7 9. One timely and valid Opt-Out Request was received from Sarah Keck. Accordingly,
8 this individual is excluded from the Class, and 588 Class Members remain in the Settlement Class
9 and are bound by this Final Approval Order and the accompanying Judgment.

10 10. The Court finds that a full opportunity has been afforded to Class Members to object
11 to the Settlement and participate in the Final Approval Hearing. All Class Members had an
12 opportunity to object to the Settlement. No Objections were received, and no Class Members
13 appeared at the Final Approval Hearing to present any objections.

14 11. The Notice of Class and Representative Action Settlement (the “Class Notice”), which
15 was provided to the Class pursuant to the plan for distribution described under the Settlement,
16 conformed with the requirements of rules 3.766 and 3.769 of the California Rules of Court, and
17 constituted the best notice practicable under the circumstances, by providing individual and adequate
18 notice of the proceedings and of the matters set forth therein to Class Members. The Class Notice
19 fully satisfied the requirements of due process and provided the Class Members with adequate
20 instructions and a variety of means to obtain additional information.

21 12. Release of Claims. In exchange for Defendants' performance of their obligations
22 during Settlement Administration, culminating in Defendants remitting the entire Gross Settlement
23 Amount to the Settlement Administrator, the Released Claims, Plaintiffs Further Released Claims,
24 and PAGA Claims shall be released as follows:

- 25 a. Released Parties. “Released Parties” means: Defendants CENCAL WINGS II,
26 INC., a California corporation; CENCAL WINGS III, INC., a California
27 corporation; CENCAL WINGS IV, INC., a California corporation; CENCAL
28 WINGS V, INC., a California corporation; and CENCAL WINGS VI, INC., a

1 California corporation, together with their present and former parents, subsidiaries,
2 affiliated and related entities, present and former owners, boards, officers, directors,
3 trustees, shareholders, members, partners, employees, agents, insurers, attorneys,
4 representatives, heirs, executors, administrators, successors and assigns.

- 5 b. Participating Class Members’ Release of Released Claims. If Defendants remit
6 the Gross Settlement Amount in full to the Settlement Administrator, then Plaintiff
7 and all other Participating Class Members shall be deemed to have settled and
8 released all Released Claims against the Released Parties. “Released Claims”
9 means: the First through Eighth Causes of Action (and any other claims and
10 corresponding requests for relief) asserted by Plaintiff on behalf of Plaintiff and the
11 Class in the Action, which include without limitation (1) Failure to Pay Minimum
12 Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay
13 Overtime Compensation (Cal. Lab. Code §§ 510, 1194 and 1198); (3) Failure to
14 Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and
15 Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to Indemnify Necessary
16 Business Expenses (Cal. Lab. Code § 2802); (6) Failure to Timely Pay Final Wages
17 at Termination – Waiting Time Penalties (Cal. Lab. Code §§ 201-203); (7) Failure
18 to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8)
19 Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) and shall also
20 include all claims alleged by Plaintiff in the operative complaint(s) and Action, or
21 which could have been alleged by Plaintiff in the operative complaint(s) and
22 Action, by reason of or in connection with any matter or fact set forth or referred
23 to in operative complaint(s) and Action, including any and all claims, debts,
24 liabilities, demands, actions, or causes of action for unpaid wages, including but
25 not limited to failure to pay minimum wages, straight time compensation, overtime
26 compensation, and interest; failure to timely pay regular and preliminary wages;
27 failure to provide compliant meal, rest, and/or recovery periods; failure to pay
28 premiums at all or at the correct rate for any violation of meal, rest, and recovery

1 period obligations; compensation due by reason of a split shift; reporting time pay;
2 claims arising from invalid meal period waivers and on-duty meal period waivers;
3 payment for all hours worked; wage statements and paystubs, including wage
4 statements and paystubs furnished or available in physical, electronic, or other
5 forms; failure to keep accurate records; making unlawful deductions; failing to
6 reimburse business expenses; unfair business practices; any and all related
7 penalties, including recordkeeping penalties, wage statement penalties, minimum
8 wage penalties, and waiting time penalties; and statutory penalties and/or civil
9 penalties associated with any of the foregoing; such released claims shall include,
10 but are not limited to those claims arising under California Labor Code sections
11 201-204, 204b, 206, 210, 218, 218.5, 218.6, 221,222, 222.5, 223, 224, 225, 225.5,
12 226, 226.3, 226.7, 233, 234, 246, 246.5, 247, 247.5, 248, 248.1, 248.2, 248.3, 248.5,
13 248.6, 248.7, 400-410, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2,
14 1197, 1197.1, 1198, 1199, 2800, 2802, 2698, *et seq.*, and 2699, *et seq.*, and/or those
15 arising under the applicable Industrial Welfare Commission Wage Order(s)
16 (including but not limited to subsections 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, and 20 of
17 the applicable Wage Order(s), including the provisions of the California Code of
18 Regulations codifying the applicable Wage Order(s), which may include but are
19 not limited to Wage Orders 1-2001, 7-2001, and/or 9-2001); California Code of
20 Regulations, title 8, section 3395; California Business and Professions Code section
21 17200 (including, without limitation, California Business and Professions Code §§
22 17200 through 17208); the California Civil Code sections 3287, 3289, and 3294;
23 California Code of Civil Procedure section 1021.5; and any related claims under
24 the Fair Labor Standards Act (“FLSA”) (29 U.S.C. §§ 201, *et seq.*). The Plaintiff
25 and Class Members intend that this release be construed as broadly as possible to
26 encompass all claims alleged by Plaintiff and Class Members, or those which could
27 have been alleged by Plaintiff and Class Members based on the factual allegations
28 in the operative complaint(s) and in the Action. The release excludes the release of

1 claims not permitted by law. The Plaintiff and Class Members warrant and
2 represent that this release resolves, pursuant to Labor Code sections 206 and 206.5,
3 and applicable case law (including but not limited to *Chindarah v. Pick Up Stix,*
4 *Inc.* (2009) 171 Cal.App.4th 796) a good faith dispute regarding any and all wages,
5 if any, owed to Plaintiff and Class Members through their last day of employment
6 with Defendants within the Class Period.

7 c. Plaintiff's Release of Plaintiff's Further Released Claims. "Plaintiff's Further
8 Released Claims" means: the claims and causes of action that Plaintiff,
9 individually, and in addition to Plaintiffs release of the Released Claims, expressly
10 and further releases against the Released Parties including by waiver of all rights,
11 protections, and benefits under California Civil Code section 1542, which includes
12 claims related to Plaintiffs employment with Defendants, claims alleged in the
13 Action, and all claims known and unknown, which may have existed at the time
14 the Plaintiff signs this Settlement Agreement. Plaintiffs Further Released Claims
15 excludes claims that cannot be released by law, claims for unemployment
16 insurance, disability, social security, workers' compensation (except for claims
17 pursuant to California Labor Code sections 132a and 4553), and any claims or
18 causes of action arising out of any event or controversy occurring after the time
19 Plaintiff signs this Settlement Agreement including for any obligation arising out
20 of this Settlement Agreement.

21 d. California's and PAGA Members' Release of PAGA Claims. If Defendants remit
22 the Gross Settlement Amount in full to the Settlement Administrator, then the State
23 of California, by and through Plaintiff, its deputized PAGA representative, and all
24 PAGA Members shall be deemed to have settled and released all PAGA Claims
25 against the Released Parties. "PAGA Claims" means: the Ninth Cause of Action
26 (and any other claims and corresponding requests for relief) asserted by Plaintiff
27 on behalf of Plaintiff and the alleged aggrieved employees in the Action, namely
28 all claims, rights, demands, liabilities, allegations, and causes of action arising from

1 PAGA that were pled, alleged, or reasonably could have been alleged based on the
2 facts asserted in the operative complaint in the Action and based on Plaintiff's
3 October 22, 2021 PAGA Notice in Case No. LWDA-CM-849650-21

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

6 14. The Court finds that the Gross Settlement Amount ("GSA"), the Net Settlement
7 Amount, and the methodology used to calculate Individual Settlement Payments and Individual
8 PAGA Payments to Participating Class Members and PAGA Members, respectively, are fair and
9 reasonable. Thus, Court authorizes the Settlement Administrator to calculate and pay individual
10 settlement shares in accordance with the terms of the Settlement.

11 15. Defendants are ordered to fully fund the GSA (\$630,000.00), and also fund the
12 amounts necessary to fully pay their employer's share of payroll taxes, by transmitting the funds to
13 the Settlement Administrator no later than thirty (30) days after the Effective Date, as that term is
14 defined in the Settlement.

15 16. Within seven (7) calendar days after Defendants fund the GSA, the Settlement
16 Administrator shall disburse, in the amounts approved by the Court as provided below, the following
17 payments: (1) the Class Counsel Fee Award; (2) the Class Counsel Cost Award; (3) the Class
18 Representative Service Award; (4) Settlement Administration Costs; (5) PAGA Payment to the
19 LWDA; and (6) the 25% share of the PAGA Payment payable to PAGA Members in Individual
20 PAGA Payments. The remainder shall be distributed to Participating Class Members in Individual
21 Settlement Payments.

22 17. A total amount of \$50,000.00 shall be allocated as the "PAGA Payment," payable
23 from the GSA, for resolution of the PAGA Claims and distributed as follows: 75% (\$37,500.00) to
24 the LWDA (the "PAGA Payment to the LWDA") and 25% (\$12,500.00) to PAGA Members.

25 18. The Court finds Plaintiff has adequately represented the Class and therefore confirms
26 the appointment of Plaintiff as the Class Representative, for settlement purposes only. In addition to
27 any recovery that Plaintiff is eligible to receive as a Participating Class Member and PAGA Member,
28 the Court approves and orders a service payment to Plaintiff in the amount of \$5,000.00 (the "Class

Representative Service Award”), payable from the GSA, for his role and service as the Class Representative, for the risks and work attendant to that role, and for his general release of claims and waiver of section 1542 rights.

19. The Court confirms the appointment of Kane Moon, Allen Feghali, and Charlotte Mikat-Stevens of Moon Law Group, PC, as Class Counsel, for settlement purposes only, as they are experienced in wage and hour class action litigation, have no apparent conflicts of interest with Plaintiff, other Class Members, or the Settlement Administrator, and have adequately represented Class interests. The Court approves and orders the payments to Class Counsel, payable from the GSA, of **\$210,000.00** for reasonable attorneys’ fees (“Class Counsel Fee Award”), and of **\$20,000.00**, for reimbursement of out-of-pocket costs (“Class Counsel Cost Award”). The Court finds that these amounts are reasonable considering the benefits provided to the Class.

20. The Court confirms the appointment of ILYM Group, Inc. as the Settlement Administrator, who has fulfilled its initial notice and reporting duties. The Court approves and orders the payment to the Administrator of **\$10,950.00** (“Settlement Administration Costs”), payable from the GSA, for settlement administration.

21. The Court confirms the designation of Valley Children’s Hospital as the *cy pres* beneficiary of any uncashed settlement checks, pursuant to California Code of Civil Procedure section 384. Following the expiration of the 180-day check-cashing deadline, the Settlement Administrator shall transmit the funds represented by such uncashed settlement checks to the Valley Children’s Hospital.

22. In accordance with California Rule of Court 3.771(b), notice of the accompanying Judgment will be given to the Class by the Settlement Administrator, who will post an electronic copy, along with a copy of this Final Approval Order, on its website for no less than 240 calendar days following entry thereof.

23. This Final Approval Order and the accompanying Judgment are intended to be a final disposition of the Action in its entirety and are intended to be immediately appealable.

24. The terms and obligations set forth in the Settlement are deemed part of this Final Approval Order and the accompanying Judgment, and the Parties and the Settlement Administrator

1 are ordered to carry out the Settlement according to its terms and provisions.

2 25. Following entry of the accompanying Judgment, and without affecting the finality
3 thereof, pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
4 3.769(h), the Court shall retain jurisdiction with respect to the interpretation, implementation, and
5 enforcement of the terms of the Settlement and all orders and directives entered in connection
6 therewith.

7 26. The Settlement is finally approved but is not an admission by Defendants of the
8 validity of any claims in this Action, or of any wrongdoing by Defendants or of any violation of
9 law. Neither the Settlement nor any related document shall be offered or received in evidence in
10 any civil, criminal, or administrative action or proceeding other than such proceedings as may be
11 necessary to consummate or enforce the Settlement.

12 27. The Court sets a Hearing re: Amended Judgment pursuant to Code of Civil
13 Procedure section 384 on December 3, 2025, at 3:30 p.m. in Department 503. Class Counsel
14 are ordered to file a proposed amended judgment (as needed) and a verified, final report and
15 declaration by the Settlement Administrator regarding payouts of settlement funds no later than ten
16 (10) court days prior to the Hearing. A proposed amended judgment need not be filed and
17 appearance will not be required at the Hearing if the Settlement Administrator's declaration reports
18 that all the distributions under the Settlement are complete, that Class Member shares were paid out
19 to all Participating Class Members and/or PAGA Members, and that any uncashed Class member
20 shares were transmitted to the Valley Children's Hospital.

21 **IT IS SO ORDERED.**

22 DATE: 12/3/2024



23 THE HON. JEFFREY Y. HAMILTON
24 Judge of the Superior Court, Fresno County
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