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*Attorneys for Defendants CENCAL WINGS II, INC.,
CENCAL WINGS III, INC., CENCAL WINGS IV, INC.,
CENCAL WINGS V, INC., and CENCAL WINGS VI, INC.*

**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

FILED
11/20/2024

FRESNO COUNTY SUPERIOR COURT

By asepeda

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FRESNO COUNTY SUPERIOR COURT
By: Maria Lopez, Deputy

Case No.: 21CECG03205

CLASS AND REPRESENTATIVE ACTION

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

**STIPULATION REGARDING FINAL
APPROVAL ORDER AND JUDGMENT;
~~PROPOSED~~ ORDER**

Action Filed: October 28, 2021

Trial Date: Not Scheduled

1 IT IS HEREBY STIPULATED, by and between Plaintiff Peter Ferry (“Plaintiff”) and
2 Defendants Cencal Wings II, Inc., Cencal Wings III, Inc., Cencal Wings IV, Inc., Cencal Wings
3 V, Inc., and Cencal Wings VI, Inc. (“Defendants”) (collectively, the “Parties”), by and through
4 their respective counsel of record, as follows:

5 WHEREAS, on April 30, 2024, the Court entered an Order Granting Preliminary Approval
6 of Class Action and PAGA Settlement (“Preliminary Approval Order”), which did not reflect any
7 change to the \$12,500 amount of the PAGA Payment to PAGA Members as agreed in the
8 Settlement Agreement (*see* Settlement Agreement, ¶ 36).¹ A copy of the Preliminary Approval
9 Order is attached hereto as Exhibit A;

10 WHEREAS, on October 1, 2024, Plaintiff filed a Notice of Motion and Motion for Final
11 Approval of Class Action and PAGA Settlement (“Motion for Final Approval”) as well as
12 accompanying filings, including a Proposed Order Granting Final Approval of Class Action and
13 PAGA Settlement (“Proposed Final Approval Order”), a copy of which is attached hereto as
14 Exhibit B, as well as a Proposed Judgment (“Proposed Judgment”), a copy of which is attached
15 hereto as Exhibit C;

16 WHEREAS, on October 29, 2024, this Court issued a Tentative Ruling to grant Plaintiff’s
17 Motion for Final Approval, a copy of which is attached hereto as Exhibit D (“Tentative Ruling”);

18 WHEREAS, the Tentative Ruling indicated it would approve a \$15,000 payment for the
19 Settlement Administration Costs payment, and a \$12,500 PAGA Payment to PAGA Members as
20 well as all other settlement payments as requested by the Parties and in Plaintiff’s Motion for Final
21 Approval;

22 WHEREAS, on October 29, 2024, Plaintiff’s counsel timely requested oral argument at the
23 October 30, 2024 hearing on Motion for Final Approval in order to request the Settlement
24 Administration Costs payment be reduced to \$10,950, consistent with the amount requested by the
25

26 ¹ Under the Settlement Agreement, the Parties allocated \$50,000 to settlement of PAGA claims to
27 be distributed as 75% (\$37,500) to the Labor and Workforce Development Agency and 25% (\$12,500)
28 to PAGA Members. (Settlement Agreement, ¶¶ 36–37 [first filed on February 16, 2024, as Exhibit A
to the Declaration of Kane Moon in Support of Plaintiff’s Motion for Preliminary Approval of Class
Action and PAGA Settlement].)

1 Settlement Administrator;²

2 WHEREAS, on October 30, 2024, the Court (i) held a hearing on Motion for Final
3 Approval, (ii) heard from Plaintiff’s counsel regarding the requested reduction of the Settlement
4 Administration Costs payment to \$10,950, (iii) agreed to make the requested change, and (iv) did
5 not indicate any other change would be made to the \$12,500 PAGA Payment to PAGA Members
6 or any other portion of the Tentative Ruling;

7 WHEREAS, on October 30, 2024, the Court entered a Law and Motion Minute Order, which
8 amended the Tentative Ruling to reflect the correct amount of the Settlement Administration Costs
9 payment of \$10,950 and adopted the amended Tentative Ruling attached thereto. A copy of the
10 Law and Motion Minute Order, including the amended Tentative Ruling, is attached hereto as
11 Exhibit E;

12 WHEREAS, in addition to correcting the amount of the Settlement Administration Costs
13 payment, the amended Tentative Ruling also appears to modify the amount of the PAGA Payment
14 to PAGA Members by changing \$12,500 to \$23,450. The original \$12,500 amount is the correct
15 amount as provided in the Settlement Agreement signed by the Parties (*see* Settlement Agreement,
16 ¶¶ 36–37), the Preliminary Approval Order (*see* Exhibit A), the Motion for Final Approval, and
17 the original Tentative Ruling (*see* Exhibit D);

18 WHEREAS, a change to the amount of the PAGA Payment to PAGA Members was not
19 reflected in the Preliminary Approval Order (*see* Exhibit A), the Tentative Ruling (*see* Exhibit D),
20 was not discussed at the October 30, 2024 hearing, and is not consistent with either the Settlement
21 Agreement, ¶¶ 36–37, or Labor Code § 2699;³

22 WHEREAS, the Parties believe that no change to the original Tentative Ruling, other than
23 the change to Settlement Administration Costs payment, was necessary, particularly as the

24 ² *See* Declaration of Nick Castro of ILYM Group, Inc., Regarding Class Notice and Settlement
25 Administration, ¶¶ 14–15, Exh. C (filed on October 1, 2024).

26 ³ At the time the Parties negotiated the Settlement Agreement, Labor Code § 2699 provided that
27 “civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the
28 Labor and Workforce Development Agency . . . and 25 percent to the aggrieved employees.” (Lab.
Code § 2699(i) [amended by Stats. 2024, ch. 44 (Assem. Bill No. 2288), § 1, eff. Jul. 1, 2024].) The
recent amendments to PAGA legislation do not apply retroactively to civil actions brought prior to
June 19, 2024. (Lab. Code § 2699(v)(1).)

1 Settlement Agreement provides that if the Court approves a lesser amount or if there are any unused
2 funds from this amount, then the difference shall remain a part of the Net Settlement Amount,
3 which is the aggregate amount payable to Participating Class Members determined by subtracting
4 the PAGA Payment, Settlement Administration Costs, Class Representative Service Award, Class
5 Counsel Fee Award and Class Counsel Cost Award from the Gross Settlement Amount” (*see*
6 Settlement Agreement, ¶¶ 28, 68.a.);

7 WHEREAS, the Settlement Agreement provides that it will not be effective until at least
8 65 days after the Court enters Final Judgment (*see* Settlement Agreement, ¶ 17), and to date, the
9 Court has not entered Judgment; and

10 WHEREAS, based on this Stipulation, and to clarify any inconsistencies and/or doubt, the
11 Parties stipulate and respectfully request that the Court sign and enter the Proposed Final Approval
12 Order and the Proposed Judgment on file with the Court as previously submitted on October 1,
13 2024. Among other things, the Proposed Final Approval Order and the Proposed Judgment
14 correctly provide for the \$10,950 amount for the Settlement Administration Costs and \$12,500 for
15 the PAGA Payment to the PAGA Members;

16 IT IS THEREFORE STIPULATED and respectfully requested, in the interests of judicial
17 economy and efficiency, by and between the Parties, as follows:

18 1. That the Court sign and enter the Proposed Final Approval Order and the Proposed
19 Judgment, which were both filed with the Court on October 1, 2024, and set forth, among other
20 things, the correct amounts of \$10,950 for the Settlement Administration Costs and \$12,500 for
21 the PAGA Payment to the PAGA Members; and

22 2. That Defendants are not obligated to pay more than \$630,000.00 as the Gross
23 Settlement Amount, which will be paid in addition to Defendants’ Employer’s Share of Payroll
24 Taxes owed on the wage portion of Individual Settlement Payments, all as more specifically
25 provided in the Settlement Agreement.

26 ///

27 ///

28 ///

Respectfully submitted,

Dated: November 19, 2024

MOON LAW GROUP, PC

By: Charlotte Mikat-Stevens

Kane Moon
Allen Feghali
Charlotte Mikat-Stevens
Attorneys for Plaintiff

Dated: 11/19/2024

SAGASER, WATKINS & WIELAND, PC

By: [Signature]

Ian B. Wieland
Paul M. Parvanian
Attorneys for Defendants

ORDER

The Court, having reviewed the Parties' Stipulation, and GOOD CAUSE appearing, hereby GRANTS the Stipulation and ORDERS as follows:

1. The Court will sign and enter the Proposed Final Approval Order and the Proposed Judgment, which were both filed with the Court on October 1, 2024, and set forth, among other things, the correct amounts of \$10,950 for the Settlement Administration Costs and \$12,500 for the PAGA Payment to the PAGA Members; and

2. Defendants are not obligated to pay more than \$630,000.00 as the Gross Settlement Amount, with the exception of Defendants' Employer's Share of Payroll Taxes owed on the wage portion of Individual Settlement Payments, all as more specifically provided in the Settlement Agreement.

IT IS SO ORDERED.

DATED: 11/20/2024

[Signature]
HON. JEFFREY Y. HAMILTON
Judge of the Superior Court, Fresno County

EXHIBIT A

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Allen Feghali (SBN 301080)
Charlotte Mikat-Stevens (SBN 327047)
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Attorneys for Plaintiff PETER FERRY

FILED

APR 30 2024

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

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FRESNO COUNTY SUPERIOR COURT

By: A. Hoffman, Deputy

**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]

**ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

[Filed with Plaintiff's Notice of Motion and
Memorandum of Points and Authorities, and the
Declarations of Kane Moon and Plaintiff Ferry
in Support of Motion]

PRELIMINARY APPROVAL HEARING:

Date: March 12, 2024

Time: 3:30 p.m.

Dept.: 503

Action Filed: October 28, 2021

Trial Date: Not set

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1 the Class Counsel Cost Award for reimbursement of litigation expenses up to \$20,000.00.

2 3. The Court finds on a preliminary basis that: (1) the settlement amount is fair and
3 reasonable to the Class Members when balanced against the probable outcome of further litigation
4 relating to class certification, liability and damages issues, and potential appeals; (2) significant
5 informal discovery, investigation, research, and litigation have been conducted such that counsel
6 for the respective Parties at this time are able to reasonably evaluate their respective positions; (3)
7 settlement at this time will avoid substantial costs, delay, and risks that would be presented by the
8 further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result
9 of serious, informed, adversarial, and arms-length negotiations between the Parties. Accordingly,
10 the Court preliminarily finds that the Settlement was entered into in good faith and meets the
11 requirements for preliminary approval.

12 4. A final approval hearing on the question of whether the proposed Settlement, Class
13 Counsel's attorneys' fees and costs, Settlement Administration Costs, the PAGA Payment, and
14 the Class Representative Service Award should be finally approved as fair, reasonable, and
15 adequate as to the members of the Class is hereby set in accordance with the Implementation
16 Schedule set forth below.

17 5. The Court provisionally certifies, for settlement purposes only, the following class
18 ("Class Members"): All persons who work or worked for Defendants in California as a non-exempt
19 employee at any time during the Class Period. The "Class Period" means the period commencing
20 on October 28, 2017 and ending on the date the Court preliminarily approves this Settlement or to
21 an earlier date if Defendants choose an earlier date, as set forth in the Settlement. Excluded from
22 the Class will be all Class Members who submit a timely and valid Opt-Out Request pursuant to
23 the instructions provided in the Class Notice.

24 6. Further, the Court provisionally certifies, for settlement purposes only, the
25 following "PAGA Members": All non-exempt employees who work or worked for Defendants in
26 California as a non-exempt employee at any time during the PAGA Period. The "PAGA Period"
27 means the period commencing on October 22, 2020 and ending on the date the Court preliminarily
28 approves this Settlement or to an earlier date if Defendants choose an earlier date, as set forth in

1 the Settlement.

2 7. Release of Claims. In exchange for Defendants' performance of their obligations during
3 Settlement Administration, culminating in Defendants remitting the entire Gross Settlement Amount
4 to the Settlement Administrator, the Released Claims, Plaintiffs Further Released Claims, and PAGA
5 Claims shall be released as follows:

6 a. Released Parties. "Released Parties" means: Defendants CENCAL WINGS II, INC., a
7 California corporation; CENCAL WINGS III, INC., a California corporation;
8 CENCAL WINGS IV, INC., a California corporation; CENCAL WINGS V, INC., a
9 California corporation; and CENCAL WINGS VI, INC., a California corporation,
10 together with their present and former parents, subsidiaries, affiliated and related
11 entities, present and former owners, boards, officers, directors, trustees, shareholders,
12 members, partners, employees, agents, insurers, attorneys, representatives, heirs,
13 executors, administrators, successors and assigns.

14 b. Participating Class Members' Release of Released Claims. If Defendants remit the Gross
15 Settlement Amount in full to the Settlement Administrator, then Plaintiff and all other
16 Participating Class Members shall be deemed to have settled and released all Released
17 Claims against the Released Parties. "Released Claims" means: the First through Eighth
18 Causes of Action (and any other claims and corresponding requests for relief) asserted
19 by Plaintiff on behalf of Plaintiff and the Class in the Action, which include without
20 limitation (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204, 1194, 1194.2,
21 and 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 510, 1194
22 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4)
23 Failure to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to
24 Indemnify Necessary Business Expenses (Cal. Lab. Code § 2802); (6) Failure to
25 Timely Pay Final Wages at Termination – Waiting Time Penalties (Cal. Lab. Code §§
26 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code §
27 226); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) and
28 shall also include all claims alleged by Plaintiff in the operative complaint(s) and

1 Action, or which could have been alleged by Plaintiff in the operative complaint(s) and
2 Action, by reason of or in connection with any matter or fact set forth or referred to in
3 operative complaint(s) and Action, including any and all claims, debts, liabilities,
4 demands, actions, or causes of action for unpaid wages, including but not limited to
5 failure to pay minimum wages, straight time compensation, overtime compensation,
6 and interest; failure to timely pay regular and preliminary wages; failure to provide
7 compliant meal, rest, and/or recovery periods; failure to pay premiums at all or at the
8 correct rate for any violation of meal, rest, and recovery period obligations;
9 compensation due by reason of a split shift; reporting time pay; claims arising from
10 invalid meal period waivers and on-duty meal period waivers; payment for all hours
11 worked; wage statements and paystubs, including wage statements and paystubs
12 furnished or available in physical, electronic, or other forms; failure to keep accurate
13 records; making unlawful deductions; failing to reimburse business expenses; unfair
14 business practices; any and all related penalties, including recordkeeping penalties,
15 wage statement penalties, minimum wage penalties, and waiting time penalties; and
16 statutory penalties and/or civil penalties associated with any of the foregoing; such
17 released claims shall include, but are not limited to those claims arising under
18 California Labor Code sections 201-204, 204b, 206, 210, 218, 218.5, 218.6, 221, 222,
19 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 233, 234, 246, 246.5, 247, 247.5, 248,
20 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 400-410, 510, 512, 558, 558.1, 1174, 1174.5,
21 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2698, *et seq.*, and 2699,
22 *et seq.*, and/or those arising under the applicable Industrial Welfare Commission Wage
23 Order(s) (including but not limited to subsections 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, and 20
24 of the applicable Wage Order(s), including the provisions of the California Code of
25 Regulations codifying the applicable Wage Order(s), which may include but are not
26 limited to Wage Orders 1-2001, 7-2001, and/or 9-2001); California Code of
27 Regulations, title 8, section 3395; California Business and Professions Code section
28 17200 (including, without limitation, California Business and Professions Code §§

17200 through 17208); the California Civil Code sections 3287, 3289, and 3294; California Code of Civil Procedure section 1021.5; and any related claims under the Fair Labor Standards Act ("FLSA") (29 U.S.C. §§ 201, *et seq.*). The Plaintiff and Class Members intend that this release be construed as broadly as possible to encompass all claims alleged by Plaintiff and Class Members, or those which could have been alleged by Plaintiff and Class Members based on the factual allegations in the operative complaint(s) and in the Action. The release excludes the release of claims not permitted by law. The Plaintiff and Class Members warrant and represent that this release resolves, pursuant to Labor Code sections 206 and 206.5, and applicable case law (including but not limited to *Chindarah v. Pick Up Stix, Inc.* (2009) 171 Cal.App.4th 796) a good faith dispute regarding any and all wages, if any, owed to Plaintiff and Class Members through their last day of employment with Defendants within the Class Period.

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

d. California's and PAGA Members' Release of PAGA Claims. If Defendants remit the Gross Settlement Amount in full to the Settlement Administrator, then the State of

1 California, by and through Plaintiff, its deputized PAGA representative, and all PAGA
2 Members shall be deemed to have settled and released all PAGA Claims against the
3 Released Parties. "PAGA Claims" means: the Ninth Cause of Action (and any other
4 claims and corresponding requests for relief) asserted by Plaintiff on behalf of Plaintiff
5 and the alleged aggrieved employees in the Action, namely all claims, rights, demands,
6 liabilities, allegations, and causes of action arising from PAGA that were pled, alleged,
7 or reasonably could have been alleged based on the facts asserted in the operative
8 complaint in the Action and based on Plaintiff's October 22, 2021 PAGA Notice in
9 Case No. LWDA-CM-849650-21.

10 8. The Court, for purposes of this Preliminary Approval Order, hereby refers to and
11 adopts all terms and definitions as set forth in the Settlement.

12 9. The Court finds, for settlement purposes only, that the Settlement Class meets the
13 requirements for certification under California Code of Civil Procedure section 382 in that: (1)
14 the Settlement Class is so numerous that joinder is impractical; (2) there are questions of law and
15 fact that are common, or of general interest, to all Settlement Class Members, which predominate
16 over individual issues; (3) Plaintiff's claims are typical of the claims of the Settlement Class
17 Members; (4) Plaintiff and Class Counsel will fairly and adequately protect the interests of the
18 Settlement Class Members; and (5) a class action is superior to other available methods for the
19 fair and efficient adjudication of the controversy.

20 10. The Court appoints, for settlement purposes only, Plaintiff as the "Class
21 Representative." The Court approves, on a preliminary basis, payment of a Class Representative
22 Service Award to Plaintiff of up to \$5,000.00 from the Gross Settlement Amount, in addition to
23 the amount he is eligible to receive as a Class Member, for his contributions and participation in
24 the litigation, for the risks and duties attendant to his role as the Class Representative, and for his
25 general release of claims against the Released Parties. To the extent the final amount awarded is
26 less, the remainder will be retained in the Net Settlement Amount for distribution to Participating
27 Class Members.

28 11. The Court appoints, for settlement purposes only, Plaintiff's Counsel Kane Moon,

1 Allen Feghali, and Charlotte Mikat-Stevens of Moon Law Group, PC as “Class Counsel.” The
2 Court approves, on a preliminary basis, Class Counsel’s ability to request attorneys’ fees of up to
3 \$210,000.00 or one-third (1/3) of the Gross Settlement Amount, whichever is greater, as well as
4 reimbursement for actual costs not to exceed \$20,000.00, payable from the Gross Settlement
5 Amount. To the extent actual costs are less and/or the final amounts awarded for fees and/or costs
6 are less, the remainder will be retained in the Net Settlement Amount for distribution to
7 Participating Class Members.

8 12. The Court appoints ILYM Group, Inc. as the “Settlement Administrator” with
9 payment, payable from the Gross Settlement Amount, for administration costs not to exceed
10 \$15,000.00, except upon a showing of good cause and as approved by the Court. To the extent
11 administration costs are less, the remainder will be retained in the Net Settlement Amount for
12 distribution to Participating Class Members.

13 13. The Settlement Administrator shall perform services and duties as provided for in
14 the Settlement, including, but not limited to, mailing the Class Notice via first-class U.S. Mail, in
15 English and Spanish, to Class Members. Class Members shall not be required to submit a claim
16 form to receive individual settlement payments.

17 14. The Court approves the designation of Valley Children’s Hospital as the *cy pres*
18 beneficiary of any uncashed settlement checks, pursuant to California Code of Civil Procedure
19 section 384.

20 15. The Court approves the Class Notice in substantially similar form and content as
21 is attached to the Settlement as **Exhibit 1**. The Court finds, on a preliminary basis, that the plan
22 for distribution of the Class Notice satisfies due process, provides the best notice practicable under
23 the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

24 16. The obligations set forth in the Settlement are deemed part of this Preliminary
25 Approval Order, and the Parties and Settlement Administrator are ordered to carry out the
26 Settlement according to its terms and provisions.

27 17. The Court orders the following Implementation Schedule:
28

Defendants to provide the Settlement Administrator with the Class List	Within 7 business days after entry of this Preliminary Approval Order
Settlement Administrator to mail the Class Notice	Within 15 calendar days after receiving the Class List from Defendants
Response Deadline for Class Members	Within 45 calendar days after the Settlement Administrator mails the Class Notice (extended by 15 calendar days for any re-mailed Class Notices)
Last Day to File a Motion For Final Settlement Approval	At least 16 court days before the Final Approval Hearing:
Final Approval Hearing	

18. The Court reserves the right to continue the date of the Final Approval Hearing without further notice to Class Members.

19. The Settlement is preliminarily approved but is not an admission by Defendants of the validity of any claims in this class action, or of any wrongdoing by Defendants or of any violation of law. Neither the Settlement nor any related document shall be offered or received in evidence in any civil, criminal, or administrative action or proceeding other than as may be necessary to consummate or enforce the Settlement.

IT IS SO ORDERED.

DATED: 4/30/21

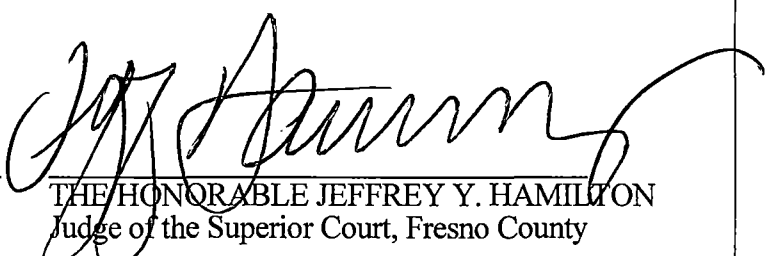

THE HONORABLE JEFFREY Y. HAMILTON
Judge of the Superior Court, Fresno County

EXHIBIT B

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Attorneys for Plaintiff PETER FERRY

**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 **September , 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: _____

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

EXHIBIT C

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Allen Feghali (SBN 301080)
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Attorneys for Plaintiff PETER FERRY

**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] JUDGMENT

*[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] Final
Approval Order]*

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] JUDGMENT**

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 has entered an Order granting final approval of the Parties' Settlement (the "Final
15 Approval Order"). The Court now has before it a [Proposed] Judgment.

16 The Court, having entered a Final Approval Order in this Action, and good cause appearing,

17 **HEREBY ADJUDGES AND DECREES AS FOLLOWS:**

18 1. The Court, for purposes of this Judgment, refers to all terms and definitions as set
19 forth in the Settlement.

20 2. The Court enters Judgment as follows: Plaintiff, Class Counsel, PAGA Members, the
21 California Labor and Workforce Development Agency, and the Settlement Administrator shall take
22 nothing from Defendants except as expressly set forth in the Final Approval Order and according to
23 the terms of the Settlement.

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

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

28 5. Notwithstanding the finality of this Judgment, pursuant to California Code of Civil

1 Procedure section 664.6 and California Rule of Court 3.769(h), the Court shall retain jurisdiction
2 with respect to the interpretation, implementation, and enforcement of the terms of the Settlement
3 and all orders and directives entered in connection therewith.

4 **IT IS SO ADJUDGED.**

5 DATE: _____

6 THE HON. JEFFREY Y. HAMILTON
7 Judge of the Superior Court, Fresno County
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EXHIBIT D

Tentative Rulings for October 30, 2024
Department 503

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(03)

Tentative Ruling

Re: ***Ferry v. Cencal Wings II, Inc.***
Case No. 21CECG03205

Hearing Date: October 30, 2024 (Dept. 503)

Motion: Plaintiff's Motion for Final Approval of Class and PAGA Settlement

Tentative Ruling:

To grant the plaintiff's motion for final approval of the class and PAGA settlement.

Explanation:

1. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, the court has already determined that the settlement is fair, adequate, and reasonable for the purpose of the preliminary approval motion. Nothing has changed since the court granted preliminary approval of the settlement. In fact, the lack of any objections from the class members supports a conclusion that the settlement is fair, adequate, and reasonable. Therefore, the court intends to find that the settlement is fair, adequate, and reasonable for the purpose of final approval.

2. Class Notice

The settlement administrator mailed out notices to the class members on May 24, 2024, giving the 589 class members information regarding their time to opt out or object, the nature and amount of the settlement, the impact on class members if they do not opt out, the amount of attorney's fees and costs, and the service award to the named class representatives. 34 class notices were deemed to be undeliverable. None of the class members objected to the settlement or disputed the calculations of the workweeks. One class member opted out of the settlement. Therefore, the lack of objections and disputes supports a finding that the settlement is fair, adequate, and reasonable.

3. Attorney's Fees and Costs

The court has already granted preliminary approval of counsel's request for attorney's fees of 1/3 of the gross settlement, or \$210,000. The court has also granted approval of the court costs. Nothing has changed since the court's decision to grant preliminary approval of the fees and costs request, and in fact the lack of any objection from the class supports the conclusion that the requested fees and costs are reasonable. Therefore, the court intends to grant final approval of the requested fees and costs.

4. Payment to Class Representative

The court has already granted preliminary approval of the \$5,000 service award payment to the class representative. No class members have objected to the requested service award. Therefore, the court intends to grant final approval of the \$5,000 service award payment to the named class representative.

5. Payment to Class Administrator

The court has already granted preliminary approval of the \$15,000 payment for the settlement administrator's fees. No class members have objected to the payment. Therefore, the court intends to grant final approval of the \$15,000 payment to the settlement administrator.

6. PAGA Settlement

The settlement allocates \$50,000 of the settlement to the PAGA claims, with \$37,500 being paid to the LWDA as required by law and the other \$12,500 being paid out to the class members. Plaintiff's counsel has also sent notice of the settlement to the LWDA, and they have not objected to the settlement. The court finds that the allocation of \$50,000 to the PAGA claims is fair, adequate, and reasonable. While plaintiff's counsel estimated that the maximum PAGA penalties could be up to \$2,470,650, the realistic exposure was more likely to be \$123,532.50. (Moon decl., ¶ 19.) The settlement payment of \$50,000 is a substantial percentage of defendant's total realistic exposure, and appears to be fair, reasonable, and adequate. The amount of the settlement also serves the public policies underlying PAGA, as it appears to be large enough to benefit the public, encourage compliance with the law, and deter future violations of the Labor Code. Therefore, the court intends to grant final approval of the proposed allocation of \$50,000 to the PAGA claims.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: jyh **on** 10/29/24
(Judge's initials) (Date)

EXHIBIT E

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department - Non-Limited		Entered by:
TITLE OF CASE: Peter Ferry vs. Cencal Wings II, Inc. / COMPLEX / CLASS ACTION		
LAW AND MOTION MINUTE ORDER		Case Number: 21CECG03205

Hearing Date: **October 30, 2024** Hearing Type: **Motion - Final Approval Class Settlement**
 Department: **503** Judge/Temp. Judge: **Hamilton, Jr., Jeffrey Y.**
 Court Clerk: **Lopez, Maria** Reporter/Tape: **Not Reported**

Appearing Parties:	
Plaintiff:	Defendant:
Counsel Via Zoom: Charlotte Mikat-Stevens	Counsel Via Zoom: Paul M. Parvanian

[X] Per Plaintiff, administrator asked for \$10,950.00. Court amends the Tentative Ruling to reflect correct amount.

☐ Continued to ☐ Set for ___ at ___ Dept. ___ for ___

☐ Submitted on points and authorities with/without argument. ☐ Matter is argued and submitted.

☐ Upon filing of points and authorities.

☐ Motion is granted ☐ in part and denied in part. ☐ Motion is denied ☐ with/without prejudice.

☐ Taken under advisement

☐ Demurrer ☐ overruled ☐ sustained with ___ days to ☐ answer ☐ amend

[X] Tentative ruling (amended) becomes the order of the court. No further order is necessary.

[X] Pursuant to CRC 3.1312(a) and CCP section 1019.5(a), no further order is necessary. The minute order adopting the tentative ruling serves as the order of the court.

[X] Service by the clerk will constitute notice of the order.

[X] See attached copy of the Tentative Ruling.

☐ Judgment debtor ___ sworn and examined.

☐ Judgment debtor ___ failed to appear.
 Bench warrant issued in the amount of \$ ___

JUDGMENT:

☐ Money damages ☐ Default ☐ Other ___ entered in the amount of:
 Principal \$___ Interest \$___ Costs \$___ Attorney fees \$___ Total \$___
☐ Claim of exemption ☐ granted ☐ denied. Court orders withholdings modified to \$___ per ___

FURTHER, COURT ORDERS:

☐ Monies held by levying officer to be ☐ released to judgment creditor. ☐ returned to judgment debtor.
☐ \$___ to be released to judgment creditor and balance returned to judgment debtor.
☐ Levying Officer, County of ___, notified. ☐ Writ to issue
☐ Notice to be filed within 15 days. ☐ Restitution of Premises
☐ Other: ___

(03)

Tentative Ruling

Re: **Ferry v. Cencal Wings II, Inc.**
Case No. ~~21CEGG03205~~

Hearing Date: October 30, 2024 (Dept. 503)

Motion: Plaintiff's Motion for Final Approval of Class and PAGA Settlement

Tentative Ruling:

To grant the plaintiff's motion for final approval of the class and PAGA settlement.

Explanation:

1. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, the court has already determined that the settlement is fair, adequate, and reasonable for the purpose of the preliminary approval motion. Nothing has changed since the court granted preliminary approval of the settlement. In fact, the lack of any objections from the class members supports a conclusion that the settlement is fair, adequate, and reasonable. Therefore, the court intends to find that the settlement is fair, adequate, and reasonable for the purpose of final approval.

2. Class Notice

The settlement administrator mailed out notices to the class members on May 24, 2024, giving the 589 class members information regarding their time to opt out or object, the nature and amount of the settlement, the impact on class members if they do not opt out, the amount of attorney's fees and costs, and the service award to the named class representatives. 34 class notices were deemed to be undeliverable. None of the class members objected to the settlement or disputed the calculations of the workweeks. One class member opted out of the settlement. Therefore, the lack of objections and disputes supports a finding that the settlement is fair, adequate, and reasonable.

3. Attorney's Fees and Costs

The court has already granted preliminary approval of counsel's request for attorney's fees of 1/3 of the gross settlement, or \$210,000. The court has also granted approval of the court costs. Nothing has changed since the court's decision to grant preliminary approval of the fees and costs request, and in fact the lack of any objection from the class supports the conclusion that the requested fees and costs are reasonable. Therefore, the court intends to grant final approval of the requested fees and costs.

4. Payment to Class Representative

The court has already granted preliminary approval of the \$5,000 service award payment to the class representative. No class members have objected to the requested service award. Therefore, the court intends to grant final approval of the \$5,000 service award payment to the named class representative.

5. Payment to Class Administrator

The court has already granted preliminary approval of the \$15,000 payment for the settlement administrator's fees. No class members have objected to the payment. Therefore, the court intends to grant final approval of the ~~\$15,000~~ payment to the settlement administrator.

*Admin only requested \$0,
950.
10,950*

6. PAGA Settlement

The settlement allocates \$50,000 of the settlement to the PAGA claims, with \$37,500 being paid to the LWDA as required by law and the other ~~\$12,500~~ being paid out to the class members. Plaintiff's counsel has also sent notice of the settlement to the LWDA, and they have not objected to the settlement. The court finds that the allocation of \$50,000 to the PAGA claims is fair, adequate, and reasonable. While plaintiff's counsel estimated that the maximum PAGA penalties could be up to \$2,470,650, the realistic exposure was more likely to be \$123,532.50. (Moon decl., ¶ 19.) The settlement payment of \$50,000 is a substantial percentage of defendant's total realistic exposure, and appears to be fair, reasonable, and adequate. The amount of the settlement also serves the public policies underlying PAGA, as it appears to be large enough to benefit the public, encourage compliance with the law, and deter future violations of the Labor Code. Therefore, the court intends to grant final approval of the proposed allocation of \$50,000 to the PAGA claims.

\$23,450

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By:

(Judge's initials)

on

(Date)

10/30/24

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-2000	<i>FOR COURT USE ONLY</i>
TITLE OF CASE: Peter Ferry vs. Cencal Wings II, Inc. / COMPLEX / CLASS ACTION	
CLERK'S CERTIFICATE OF MAILING	CASE NUMBER: 21CECG03205

I certify that I am not a party to this cause and that a true copy of the:

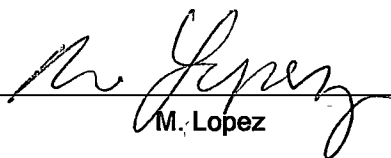
10/30/2024 Minute Order and copy of Amended Tentative Ruling

was placed in a sealed envelope and placed for collection and mailing on the date and at the place shown below following our ordinary business practice. I am readily familiar with this court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

Place of mailing: **Fresno, California 93724-0002**

On Date: **10/31/2024**

Clerk, by _____,


M. Lopez

, Deputy

Kane Moon
 Moon Law Group, P.C.
 725 S. Figueroa Street 31st Floor
 Los Angeles, CA 90017

Ian B. Wieland
 Sagaser, Watkins & Wieland, PC
 5260 North Palm Avenue, Suite 400
 Fresno, CA 93704

☐ Clerk's Certificate of Mailing Additional Address Page Attached

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 November 19, 2024, I served the foregoing document
8 described as:

9 **STIPULATION REGARDING FINAL APPROVAL ORDER AND JUDGMENT;**
10 **[PROPOSED] ORDER**

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

12 Ian B. Wieland (SBN 285721)
13 ian@sw2law.com
14 Paul M. Parvanian (SBN 247824)
15 paulp@sw2law.com
16 **SAGASER, WATKINS & WIELAND, PC**
17 5260 North Palm Avenue, Suite 400
18 Fresno, California 93704
19 Telephone: (559) 421-7000
20 Facsimile: (559) 473-1483

21 *Attorneys for Defendants Cencal Wings II, Inc., Cencal Wings III, Inc., Cencal Wings IV, Inc.,*
22 *Cencal Wings V, Inc., and Cencal Wings VI, Inc.*

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

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

28 Executed on November 19, 2024, at Los Angeles, California.

29 Janelle Jickain
30 Name

31 
32 Signature