

Justin F. Marquez (SBN 262417)  
[justin@wilshirelawfirm.com](mailto:justin@wilshirelawfirm.com)  
Benjamin H. Haber (SBN 315664)  
[benjamin@wilshirelawfirm.com](mailto:benjamin@wilshirelawfirm.com)  
Daniel J. Kramer (SBN 314625)  
[dkramer@wilshirelawfirm.com](mailto:dkramer@wilshirelawfirm.com)

**WILSHIRE LAW FIRM**

3055 Wilshire Blvd., 12th Floor  
Los Angeles, California 90010  
Telephone: (213) 381-9988  
Facsimile: (213) 381-9989

Attorneys for Plaintiffs

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

DANIEL HAYES, individually, and on behalf of  
all others similarly situated, AUDREY  
MIGLIACCIO, individually, and on behalf of all  
others similarly situated, COURTNEY  
MELVIN, individually, and on behalf of all  
others similarly situated,

*Plaintiffs,*

v.

GONZALES PARK, a California corporation,  
PROJECT FUSION, LLC, a Delaware  
corporation, and DOES 1 through 10, inclusive,

*Defendants*

COURTNEY MELVIN, on behalf of the State of  
California and other aggrieved persons,

*Plaintiff,*

v.

GONZALES PARK, LLC, a California Limited  
Liability Company; PROJECT FUSION, LLC, a  
Limited Liability Company; and DOES 1  
through 10, inclusive,

*Defendants*

Case No.: 21CV02456  
Consolidated With Case No.: 22CV01119

**CONSOLIDATED CLASS AND  
REPRESENTATIVE ACTION**

[Assigned to: Hon. Tamara L. Mosbarger,  
Department 1]

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

[Filed concurrently with: Plaintiffs' Motion  
for Preliminary Approval; Declaration of  
Justin F. Marquez]

**PRELIMINARY APPROVAL HEARING**

Date: November 8, 2023  
Time: 9:00 a.m.  
Dept: 1

1 The Court has before it Plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney  
2 Melvin's ("Plaintiffs") Motion for Preliminary Approval of Class Action Settlement. Having  
3 reviewed the Motion for Preliminary Approval of Class Action Settlement, the Declaration of  
4 Justin F. Marquez, the Class Action and PAGA Settlement Agreement and Class Notice (which  
5 is referred to here as the "Settlement" or "Settlement Agreement"), and good cause appearing,  
6 the Court hereby finds and orders as follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to  
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.  
9 The Court grants preliminary approval of the Settlement and the Settlement Class based upon  
10 the terms set forth in the Settlement Agreement between Plaintiffs and Defendants Gonzales  
11 Park, LLC and Project Fusion, LLC ("Defendants"), attached to the Declaration of Justin F.  
12 Marquez in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement  
13 as Exhibit 3.

14 2. The Settlement falls within the range of reasonableness of a settlement which  
15 could ultimately be given final approval by this Court, and appears to be presumptively valid,  
16 subject only to any objections that may be raised at the Final Approval Hearing and final  
17 approval by this Court. The Court notes that Defendants have agreed to create a common fund  
18 of \$637,500.00 to cover (a) settlement payments to class members who do not validly opt out;  
19 (b) a \$20,000.00 payment for penalties under the Private Attorneys General Act ("PAGA"), with  
20 75% of which (\$15,000.00) being paid to State of California, Labor & Workforce Development  
21 Agency ("LWDA") and 25% (\$5,000.00) being paid to the Aggrieved Employees; (c) Class  
22 Representative service payments of up to \$10,000.00 to each Plaintiff; (d) Class Counsel's  
23 attorneys' fees, not to exceed 33 1/3% of the Gross Settlement Amount (\$212,500.00), and up  
24 to \$20,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e)  
25 Settlement Administration Costs of up to \$15,000.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within  
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and  
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

1 and reasonable to the class members when balanced against the probable outcome of further  
2 litigation relating to class certification, liability and damages issues, and potential appeals; (2)  
3 significant informal discovery, investigation, research, and litigation have been conducted such  
4 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;  
5 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented  
6 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as  
7 the result of intensive, serious, and non-collusive negotiations between the Parties with the  
8 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds  
9 that the Settlement Agreement was entered into in good faith.

10 4. A final fairness hearing on the question of whether the proposed settlement,  
11 attorneys' fees and costs to Class Counsel, payment to the LWDA for its share of the settlement  
12 of claims for penalties under the PAGA, and the class representative's enhancement award  
13 should be finally approved as fair, reasonable and adequate as to the members of the class is  
14 hereby set in accordance with the Implementation Schedule set forth below.

15 5. The Court provisionally certifies for settlement purposes only the following class  
16 (the "Settlement Class"): all individuals employed by Defendants in California and classified  
17 as an hourly-paid or non-exempt employee during the Class Period.

18 6. "Class Period" means the period from September 30, 2017 to February 14, 2023.

19 7. "PAGA Period" means the period from October 1, 2020 to February 14, 2023.

20 8. The Court finds, for settlement purposes only, that the Settlement Class meets the  
21 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the  
22 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions  
23 of law and fact that are common, or of general interest, to all Settlement Class Members, which  
24 predominate over individual issues; (3) Plaintiffs' claims are typical of the claims of the  
25 Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect  
26 the interests of the Settlement Class Members; and (5) a class action is superior to other  
27 available methods for the fair and efficient adjudication of the controversy.

28 9. The Court appoints as Class Representatives, for settlement purposes only,

1 Plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney Melvin. The Court further  
2 preliminarily approves Plaintiffs' ability to request an incentive award up to \$10,000.00 to each,  
3 for a combined total of \$30,000.00.

4 10. The Court appoints, for settlement purposes only, Justin F. Marquez, Benjamin  
5 H. Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC as Class Counsel. The Court further  
6 preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of  
7 the Total Settlement Amount (\$212,500.00), and costs not to exceed \$20,000.00.

8 11. The Court appoints ILYM Group, Inc. as the Settlement Administrator with  
9 reasonable administration costs estimated not to exceed \$15,000.00.

10 12. The Court approves, as to form and content the Class Notice, attached to the  
11 Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the  
12 Notice to Settlement Class Members satisfies due process, provides the best notice practicable  
13 under the circumstances, and shall constitute due and sufficient notice to all persons entitled  
14 thereto.

15 13. The Parties are ordered to carry out the Settlement according to the terms of the  
16 Settlement Agreement.

17 14. Any class member who does not timely and validly request exclusion from the  
18 settlement may object to the Settlement Agreement.

19 15. The Court orders the following Implementation Schedule:

|                                                |                                                |
|------------------------------------------------|------------------------------------------------|
| 20 Defendants to provide Class List to the     | No later than 15 days after the Court grants   |
| 21 Settlement Administrator                    | Preliminary Approval                           |
| 22 Settlement Administrator to mail the Notice | No later than 5 business days after receipt of |
| 23 Packets                                     | the Class Data                                 |
| 24 Response Deadline                           | 45 days after the Class Notice is mailed       |
| 25                                             | 15 days before Plaintiffs' Deadline to file    |
| 26                                             | Motion for Final Approval, Request for         |
| 27 Deadline for Administrator to Submit Report | Attorneys' Fees and Costs, and Service         |
| 28                                             | Award to Plaintiff                             |

|                                                                                                                    |                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| Deadline to file Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiffs | 16 court days before hearing on Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Awards to Plaintiffs |
| Final Approval Hearing                                                                                             | _____ a.m./p.m.,<br>or first available date thereafter, in<br>Department 1                                                         |

16. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

**IT IS SO ORDERED.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
Hon. Tamara L. Mosbarger  
Butte County Superior Court

*Hayes, et al. v. Gonzales Park, LLC, et al.*  
21CV02456

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12<sup>th</sup> Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

On **October 19, 2023**, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Nathan W. Austin (SBN 219672)  
[Nathan.austin@jacksonlewis.com](mailto:Nathan.austin@jacksonlewis.com)  
 Evan McBride (SBN 317393)  
[Evan.mcbride@jacksonlewis.com](mailto:Evan.mcbride@jacksonlewis.com)  
 Nicole Grandy  
[Nicole.grandy@jacksonlewis.com](mailto:Nicole.grandy@jacksonlewis.com)  
 Tami Martinelli  
[Tami.martinelli@jacksonlewis.com](mailto:Tami.martinelli@jacksonlewis.com)  
**JACKSON LEWIS P.C.**  
 400 Capitol Mall, Suite 1600  
 Sacramento, California 95814  
 Telephone: (916) 341-0404  
 Facsimile: (916) 341-0141

Attorneys for Defendant

- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.
- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on **October 19, 2023** at Los Angeles, California.

  
Min Jee Kim