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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

PERLA MARIN, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

HB LEISURE, INC., a Florida corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2021-00048225-CU-OE-CTL

(Assigned to the Honorable Eddie C. Sturgeon,
Department 67)

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT; JUDGMENT**

Date: February 16, 2024

Time: 9:00 a.m.

Dept.: 67

1 Plaintiff Perla Marin (“Plaintiff”) and Defendant HB Leisure, Inc. (“Defendant”)
2 (collectively, the “Settling Parties”) have entered into the Class Action Settlement Agreement
3 (“Stipulation” or “Settlement Agreement”) to settle the above-captioned class and PAGA
4 action subject to the Court’s approval (the “Settlement”).

5 This matter is now before the Court on Plaintiff’s Motion for Final Approval of Class
6 Action Settlement. The Court has read, heard, and considered all the pleadings and documents
7 submitted, and the presentations made in connection with the Motion which came on for
8 hearing on February 16, 2024.

9 **I. BACKGROUND**

10 On November 12, 2021, Plaintiff filed a wage and hour class action complaint, alleging
11 causes of action for: (1) violation of California Labor Code §§ 510, 558, 1194, 1197, and
12 1197.1; (2) violation of California Labor Code § 226; and (3) violation of California Business
13 & Professions Code § 17200, *et seq.* On January 10, 2022, Plaintiff filed a related action in the
14 Superior Court of the State of California for the County of San Diego bearing Case No. 37-
15 2022-00001086-CU-OE-CTL. The related complaint is a representative action for violation of
16 the Private Attorneys General Act (“PAGA”). Plaintiff seeks damages, penalties, attorneys’
17 fees, and costs in both actions.

18 **A. Class Members**

19 The “Class” is defined as “all individuals who are or previously were employed by
20 Defendant who were classified as non-exempt employees who were paid a bonus and overtime
21 wages in the same period and who were employed in California during the Class Period.” The
22 “Class Period” is defined as the period of November 12, 2017 to December 31, 2022.

23 **B. Operation of the Settlement**

24 Pursuant to the Preliminary Approval Order dated October 6, 2023, this Court
25 conditionally certified the Class and granted preliminary approval to the Settlement. The
26 Preliminary Approval Order also approved of the proposed forms of notice and notice plan.
27 The Court entered the Preliminary Approval Order after review and consideration of all of the
28 pleadings filed in connection herewith and the oral presentations made by counsel at the

1 hearing.

2 In compliance with the Preliminary Approval Order, the Notice of Proposed Settlement
3 of Class Action and Hearing Date for Final Court Approval (“Settlement Notice”) was sent to
4 all Class Members via U.S. first class mail. The notice process was timely completed.

5 This Court finds that the Settlement appears to be the product of serious, informed,
6 non-collusive negotiations, has no obvious deficiencies, and does not improperly grant
7 preferential treatment to any individuals. The Court finds that the Settlement was entered into
8 in good faith pursuant to California Code of Civil Procedure § 877.6. The Court further finds
9 that the Settlement is fair, reasonable, and adequate and that Plaintiff has satisfied the
10 standards for final approval of a class action settlement under California law. Under the
11 provisions of California Code of Civil Procedure § 382 and FRCP 23, as approved for use by
12 the California state court in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial
13 court has discretion to certify a class where:

14 [Q]uestions of law or fact common to the members of the class
15 predominate over any questions affecting only individual members,
16 and that a class action is superior to the available methods for the
17 fair and efficient adjudication of the controversy.... Fed. R. Civ.
Proc. 23.

18 Certification of a settlement class is the appropriate judicial device under these circumstances.
19 The Court also finds the PAGA Payment of \$4,000.00 to be reasonable and approves the
20 PAGA portion of the Settlement pursuant to California Labor Code § 2699(l).

21 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
22 AS FOLLOWS:

23 1. The Court, for purposes of this Order, adopts all defined terms and conditions as
24 set forth in the Settlement Agreement filed in this case.

25 2. The Court has jurisdiction over the subject matter of this litigation and the Class
26 Representative, the other members of the Class, and Defendant.

27 3. The Court finds that the dissemination of the Settlement Notice as disseminated
28 to the Class Members, constituted the best notice practicable under the circumstances to all

persons within the definition of the Class, and fully met the requirements of California law and due process under the United States Constitution.

4. The Court approves the settlement of the above-captioned action, as set forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in accordance with the terms set forth in the Settlement Agreement.

5. Except as otherwise provided in the Settlement Agreement, the Settling Parties are to bear their own costs and attorneys' fees.

6. The Court hereby certifies the following Class for settlement purposes only: all individuals who are or previously were employed by Defendant who were classified as non-exempt employees who were paid a bonus and overtime wages in the same period and who were employed in California during the Class Period.

7. With respect to the Class and for purposes of approving the settlement only and for no other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined community of interest among members of the Class with respect to the subject matter of the claims in this litigation; (c) the claims of Class Representative are typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately protected the interests of the members of the Class; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the Plaintiff in her individual and representative capacity and for the Class.

8. Defendant shall fund \$96,307.21 of the total Gross Settlement Amount and its share of payroll taxes within thirty (30) days of notice of entry of this order granting final approval, pursuant to the terms of the Settlement Agreement.

9. The Court approves the PAGA Payment of \$4,000.00 and approves the Individual Class Payment and Individual PAGA Payment amounts, which shall be distributed

1 pursuant to the terms of the Settlement Agreement.

2 10. From the Gross Settlement Amount, the Settlement Administrator shall pay (a) to
3 Class Counsel attorneys' fees in the amount of \$32,102.40 and reimbursement of costs in the
4 amount of \$3,710.17; (b) Class Representative Service Payment to Perla Marin in the amount
5 of \$5,000.00; (c) the sum of \$3,000.00 to be paid to the Labor and Workforce Development
6 Agency pursuant to the PAGA; and (d) \$5,950.00 to itself for the costs relating to the
7 settlement administration process in this matter. The Court finds that these amounts are fair
8 and reasonable. The Settlement Administrator is directed to make such payments from the
9 Gross Settlement Amount and in accordance with the terms of the Settlement Agreement.

10 11. The Final Accounting Hearing is hereby set for _____, at 9:00 a.m. in
11 Department C-67 of the above-referenced Court. Class Counsel shall file a report from the
12 Settlement Administrator regarding status of the settlement administration on or before
13 _____.

14 12. The Court hereby enters final judgment in this case in accordance with the terms
15 of the Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of
16 the Settlement or Judgment entered, this Court shall retain exclusive and continuing
17 jurisdiction over the action and the Parties, including all Participating Class Members, for
18 purposes of enforcing and interpreting this Order and the Settlement.

19 IT IS SO ORDERED AND ADJUDGED.

20
21 DATED: _____

22 HON. EDDIE C. STURGEON
23 SUPERIOR COURT OF CALIFORNIA
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