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FILED
Superior Court of California
County of Marin
12/15/2023
James M. Kim, Clerk of the Court
N. Johnson, Deputy

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF MARIN**

13 CHRISTOPHER LYON, individually, and
14 on behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 BAYSIDE MARIN, INC., and DOES 1
18 through 100, inclusive,

19 Defendants.

Case No. CIV2103872

CLASS ACTION

**AMENDED ^{JTC} [PROPOSED] ORDER
GRANTING FINAL APPROVAL OF CLASS
AND PAGA SETTLEMENT AND
JUDGMENT**

Date: December 6, 2023

Time: 1:30 pm

Dept.: B

Judge: James T. Chou

20 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

21 This matter has come before the Honorable James T. Chou, Courtroom B of the above-
22 entitled Court for a hearing on Plaintiff Christopher Lyon's ("Plaintiff") Motion for Final
23 Approval of Class and PAGA Settlement ("Motion for Final Approval") came before this Court,
24 on December 6, 2023 at 1:30 p.m.. Cole & Van Note appeared on behalf of Plaintiff. CDF Labor
25 Law LLP appeared on behalf of Defendant Bayside Marin, Inc.

26 On August 7, 2023, the Court entered the Order Granting Preliminary Approval of Class
27 and PAGA Action Settlement ("Preliminary Approval Order") preliminarily approving the
28 settlement of the above-captioned action ("Action") in accordance with the Joint Stipulation of

1 Class Action and PAGA Settlement ("Settlement" or "Agreement"), which together with its
2 attached exhibits, set forth the terms and conditions for settlement of the Action.

3 Due and adequate notice having been given to all Class and PAGA Members as
4 required in the Preliminary Approval Order, and the Court having reviewed the Agreement
5 and considered the papers, the arguments of counsel, and all other evidence and matters
6 presented, and good cause appearing:

7 **IT IS ORDERED** that the Motion for Final Approval of Class and PAGA Settlement
8 is **GRANTED**, subject to the following findings and orders:

9 1. All terms used herein have the same meaning as defined in the Agreement and
10 Preliminary Approval Order.

11 2. The Court finds that, for settlement purposes only, the applicable requirements
12 of California Code of Civil Procedure section 382 and California Rule of Court 3.769, *et seq.*
13 have been satisfied with respect to the Class and the Settlement. The Court makes final its earlier
14 provisional certification of the Class for settlement purposes, as set forth in the Preliminary
15 Approval Order. The Class is defined as: All persons employed by Defendant in an hourly, non-
16 exempt position in California from September 8, 2020 through October 24, 2022.

17 3. This Court has jurisdiction over the Action and over all Parties to this Action,
18 including all Class and PAGA Members.

19 4. Distribution of the Class Notice directed to the Class and PAGA Members as set
20 forth in the Agreement has been completed in conformity with the Preliminary Approval Order,
21 including individual notice to all Class and PAGA Members who could be identified through
22 reasonable effort, and was the best notice practicable under the circumstances. The Class Notice
23 fully and accurately informed the Class of all material elements of the Settlement and of their
24 opportunity to participate in, object to, or comment thereon, or to seek exclusion from the
25 Settlement; provided due and adequate notice of the proceedings related to the Settlement; and
26 fully satisfied the requirements of due process.

27 5. The Court grants final approval of the Settlement and finds that the Settlement is
28 fair, adequate, and reasonable and that Plaintiff has satisfied the standards and applicable

1 requirements for final approval of this class action settlement under California law, including the
2 provisions of California Code of Civil Procedure section 382. The Court hereby finds the
3 Settlement was entered into in good faith pursuant to and within the meaning of California Code
4 of Civil Procedure section 877.6.

5 6. The Court finds that the Settlement has been reached as a result of intensive,
6 serious and non-collusive arms-length negotiations. The Court has considered all of the evidence
7 presented and further finds that the Parties have conducted extensive investigation and research,
8 and counsel for the Parties are able to reasonably evaluate their respective positions. The Court
9 also finds that the Settlement at this time will avoid additional substantial costs, as well as avoid
10 the delay and risks that would be presented by the further prosecution of the Action. The Court
11 has considered the benefits that are being provided as part of the Settlement and the significant
12 value to the Class and PAGA Members, the absence of objections to the Settlement, and that
13 there were no Requests for Exclusion from the Settlement by Class Members. Accordingly, the
14 Court directs that the Settlement be affected in accordance with the Agreement and the following
15 terms and conditions.

16 7. A full opportunity has been afforded to the Class and PAGA Members to
17 participate in the Final Approval Hearing, and all Class and PAGA Members and other persons
18 wishing to be heard have been heard. The Class Members also have had a full and fair
19 opportunity to exclude themselves from the Settlement. Accordingly, the Court determines that
20 all Class Members who did not submit a timely and valid Request for Exclusion to the
21 Administrator ("Participating Class Members") and PAGA Members are bound by this Final
22 Approval Order and Judgment.

23 8. The Court finds that no Class Members have timely and validly opted out of the
24 Settlement and will not be bound by this Final Order Approving Class Action Settlement and
25 Judgment ("Final Approval Order and Judgment").

26 9. The Court finds the Individual Class Awards to Participating Class Members
27 provided for under the Settlement to be fair and reasonable in light of all of the circumstances.
28 The Court directs the Administrator to calculate and distribute payments to Participating Class

1 Members for Individual Class Awards, in accordance with the terms set forth in the Agreement
2 and Preliminary Approval Order.

3 10. The Court finds that the request for an award of attorneys' fees in the amount of
4 \$157,500.00 to Class Counsel falls within the range of reasonableness, and the results achieved
5 justify the award sought. The requested attorneys' fees to Class Counsel are fair and reasonable;
6 and are approved. The Court directs the Administrator to issue payment in the amount of
7 \$157,500.00 to Cole & Van Note for attorneys' fees, in accordance with the Agreement and
8 Preliminary Approval Order.

9 11. The Court finds that reimbursement of litigation costs and expenses in the
10 amount of \$9,090.24 to Class Counsel is reasonable; and is approved. The Court directs the
11 Administrator to issue payment in the amount of \$9,090.24 to Cole & Van Note for
12 reimbursement of litigation costs and expenses, in accordance with the Agreement and
13 Preliminary Approval Order.

14 12. The Court finds that Plaintiff's Enhancement Award in the amount of \$5,000.00
15 for the work performed by Plaintiff on behalf of the Class is fair and reasonable; and the amount
16 of \$2,500.00 in consideration for Plaintiff's individual general release of all claims with a waiver
17 of California Code of Civil Procedure Section 1542; and are approved. The Court directs the
18 Administrator to issue payment of Plaintiff's Enhancement Award in the total amount of
19 \$7,500.00 to Plaintiff Christopher Lyon, in accordance with the Agreement and Preliminary
20 Approval Order.

21 13. The Court finds that the PAGA Allocation in the amount of \$15,000.00 for
22 penalties under the California Private Attorneys General Act of 2004, is fair and reasonable;
23 and is approved. The Court directs the Administrator to issue payment of the PAGA Allocation
24 as follows: the amount of \$11,250.00 (75 percent of \$15,000.00) to the California Labor
25 Workforce Development Agency and the amount of \$3,750.00 (25 percent of \$15,000.00) as
26 Individual PAGA Awards to PAGA Members, in accordance with the Agreement and
27 Preliminary Approval Order.
28

1 14. The Court finds that payment of Administration Expenses in the amount of
2 \$8,000.00 to the Administrator is fair, reasonable, and appropriate for the services performed
3 and costs incurred and to be incurred for the notice and settlement administration process; and
4 is approved. The Court directs the Administrator to issue payment of Administration Expenses
5 in the amount of \$8,000.00 to itself, in accordance with the Agreement and Preliminary
6 Approval Order.

7 15. The Court directs the Administrator to cancel any Individual Class Award and/or
8 Individual PAGA Award checks issued to Class and PAGA Members that are not cashed or
9 deposited within one hundred eighty (180) calendar days after they are issued, and transmit the
10 funds associated with such cancelled checks to the California State Controller's Office's
11 Unclaimed Property Division to be held as unclaimed funds in the Class and/or PAGA
12 Member's name.

13 16. The Court directs Class Counsel to file the Administrator's Declaration of
14 Compliance and Proof of Payment within two hundred forty (240) calendar days of this Final
15 Approval Order and Judgment.

16 17. Neither the Settlement nor any of the terms set forth in the Stipulation is an
17 admission by Defendant, or any of the other Released Parties, nor is this Final Approval Order
18 and Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
19 Defendant, or any of the other Released Parties. Neither this Final Approval Order and Judgment,
20 the Agreement, any document related to the Settlement, nor any action taken to carry out the
21 Settlement is, may be construed as, or may be used as, an admission by or against Defendant, or
22 any of the other Released Parties, of any fault, wrongdoing or liability. The entering into or
23 carrying out of the Settlement, and any related negotiations or proceedings, will not in any event
24 be construed as, or deemed to be evidence of, an admission or concession with regard to the
25 denials or defenses by Defendant, or any of the other Released Parties, and will not be offered in
26 evidence in any action or proceeding in any court, administrative agency or other tribunal for any
27 purpose whatsoever other than to enforce the provisions of this Final Approval Order and
28 Judgment, the Agreement, the Released Claims, Released PAGA Claims, or any related

1 agreement or release. Notwithstanding these restrictions, any of the Released Parties may file in
2 the Action, or submit in any other proceeding, the Final Approval Order and Judgment, the
3 Agreement, and any other papers and records on file in the Action as evidence of the Settlement
4 to support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue
5 preclusion or similar defense.

6 18. The Court orders, adjudges and decrees that:

7 a. Plaintiff and all Participating Class Members fully, finally, and forever
8 release, compromise, and discharge the Released Parties from the Released Claims for the Class
9 Period, in accordance with the terms of the Agreement; and

10 b. Plaintiff, all PAGA Members, and the State of California fully, finally,
11 and forever release, compromise, and discharge the Released Parties from the Released PAGA
12 Claims for the PAGA Period, in accordance with the terms of the Agreement.

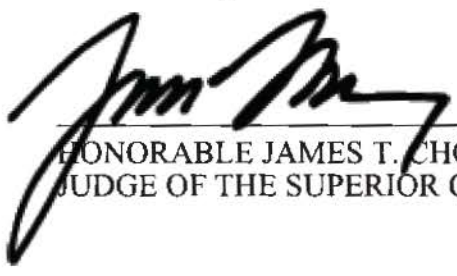
13 19. The Court hereby enters final judgment in accordance with the terms of the
14 Agreement, the Order Granting Preliminary Approval of Class and PAGA Settlement, and this
15 Order.

16 20. The Court retains continuing jurisdiction, pursuant to California Rules of Court,
17 Rule 3.769(h) and Code of Civil Procedure section 664.6, to enforce the settlement until
18 performance in full of the terms of the Agreement.

19
20 **IT IS SO ORDERED ADJUDGED AND DECREED.**

21 The Clerk of the Court is directed to enter this Judgment.

22
23 Dated: 12/15/2023

24 
25 HONORABLE JAMES T. CHOU
26 JUDGE OF THE SUPERIOR COURT
27
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