

GRAHAM HOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

FILED
Clerk of the Superior Court

JAN 05 2023

By: J. Jones, Deputy

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

ERICA MITTENDORFF, individually and on
behalf of all similarly situated and aggrieved
employees of Defendants in the State of
California,

Plaintiff,

v.

CALIFORNIA BOXING CLUBS, LLC; and
DOES 1 THROUGH 50, inclusive,

Defendants.

Case No.: 37-2022-000005751-CU-OE-CTL

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS AND
PAGA ACTION SETTLEMENT**

Date: January 5, 2024

Time: 9:30 a.m.

Dept: C-71

Judge: Hon. Gregory W. Pollack

First Amended Complaint Filed: March 30, 2022

Complaint Filed: February 14, 2022

Trial Date: None set

1 Plaintiff's Unopposed Motion for Preliminary Approval of Class and PAGA Action Settlement
2 came before this Court on January 5, 2024. The Court, having considered the proposed Stipulation for
3 Class and PAGA Action Settlement (the "Settlement Agreement"), Plaintiff's Unopposed Motion for
4 Preliminary Approval, and all papers filed in support, **HEREBY ORDERS THE FOLLOWING:**

5 1. This Order incorporates by reference the definitions in the Settlement Agreement, and all
6 terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement,
7 which is attached to the Declaration of Graham Hollis as **Exhibit 1**.

8 2. It appears to the Court on a preliminary basis that the terms of the Settlement Agreement
9 are fair, adequate, and reasonable. It appears to the Court that investigation and research have been
10 conducted such that counsel for the Parties are at this time able to reasonably evaluate their respective
11 positions. It further appears to the Court that settlement, at this time, will avoid substantial additional
12 costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution
13 of the Action. It further appears that the Settlement Agreement has been reached as the result of intensive,
14 serious and non-collusive, arms-length negotiations.

15 3. The Court preliminarily finds that the terms of the Settlement Agreement appear to be
16 within the range of reasonableness of a settlement that could ultimately be given final approval by this
17 Court. Indeed, the Court has reviewed the monetary recovery that is being granted as part of the Settlement
18 and preliminarily finds that the monetary settlement awards made available to all Class Members are fair,
19 adequate, and reasonable when balanced against the probable outcome of further litigation relating to
20 liability and damages issues.

21 4. The Court hereby conditionally certifies the Settlement Classes for settlement purposes
22 only.

23 5. The Court grants conditional certification of the following Settlement Classes:

24 **The Non-Exempt Class:** "Any and all non-exempt employees who worked for BXNG
25 from August 20, 2017, through May 22, 2023, and who have not executed arbitration
26 agreements.

27 6. The Court preliminarily approves the appointment of Plaintiff Erica Mittendorff as Class
28 Representative.

7. The Court preliminarily approves the appointment of Plaintiff's Counsel Graham S.P. Hollis, Hali M. Anderson, and Brisa A. Martinez of GrahamHollis APC, as Class Counsel.

8. The Court preliminarily approves the definition and disposition of the Gross Settlement Amount of \$350,000.00, on a non-reversionary basis, which is inclusive of: (1) all payments to the Settlement Class Members; (2) the Class Representative Payment of \$5,000 to Plaintiff; (3) Class Counsel's attorney's fees in the amount of \$116,666.67 (or 33.33% of the Gross Settlement Amount) and actual litigation costs not to exceed \$10,000; (4) all Settlement Administration Costs not to exceed \$11,990; and (5) the PAGA Payment of \$35,000.00, of which \$26,250.00 (or 75%) will be paid to the California Labor and Workforce Development Agency and the remainder will be allocated to the Aggrieved Employees, which are those non-exempt employees who worked for Defendant at any time from July 26, 2020 to May 22, 2023.

9. The Court approves the form and content of the Notice of Class Action Settlement, in substantially the form attached to the Settlement Agreement as **Exhibit A** and finds that the proposed method of disseminating the Class Notice to the Class meets all the due process requirements, provides the best notice practicable under the circumstances, and constitutes due and sufficient notice to all Class Members.

10. The Court approves the retention of Apex Class Action LLC, ("Apex") as the Settlement Administrator and hereby directs Apex to provide the approved Class Notice to Class Members and administer the Settlement in accordance with the procedures described in the Settlement Agreement and the Implementation Schedule set forth below.

11. In the event the Settlement does not become effective in accordance with the terms of the Settlement Agreement, or the Settlement is not finally approved by this Court, is not approved in whole or in part by the Court or any appellate court and/or other court of review, is terminated, cancelled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of the commencement of the litigation, and the Settlement Agreement and the fact that it was entered into shall not be offered, received, or construed as an admission or as evidence for any purposes, including but not limited to an admission by any Party of liability or non-liability or of the certifiability of a litigation class or the appropriateness of maintaining a

representative action.

12. The Court orders the following implementation schedule for further proceedings:

EVENT	DEADLINE
Preliminary Approval Date	January 5, 2024
Deadline for Defendant to provide the Settlement Administrator with the Class Data and the information necessary to calculate the Compensable Workweeks	No later than fifteen (15) calendar days after the Court grants Preliminary Approval
Deadline for Settlement Administrator to mail the Class Notice to Class Members.	No later than fourteen (14) calendar days after receiving the Class Data from Defendant.
Deadline for Class Members to submit any objection to the Settlement Agreement or request exclusion from the Settlement Class. ("Response Deadline")	Sixty (60) calendar days from the initial mailing of the Notice to the Class Members, except the deadline will be extended by fourteen (14) calendar days for any Class Member who is re-mailed the Notice.
Deadline for the Settlement Administrator to provide a declaration attesting to the completion of the Notice process and number valid requests for exclusions.	No later than fourteen (14) calendar days before Plaintiff's deadline to file the Motion for Final Approval.
Final Approval Hearing	<u>May 24, 2024</u> <u>9:30 a.m.</u>

13. The Court hereby sets a hearing date for Plaintiff's Motion for Final Approval of Class and PAGA Action Settlement and Award of Attorney's Fees, Costs, and Class Representative Service Award on May 24, 2024 at 9:30 a.m. in Department C-71 of this Court.

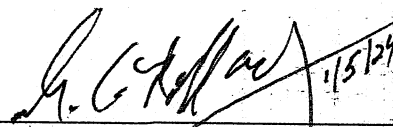
The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Settlement Agreement without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

///

GRAHAM HOLLIS APC
3555 FIFTH AVENUE SUITE 200
SAN DIEGO, CALIFORNIA 92103

1 IT IS SO ORDERED.

2 Dated:


Honorable Gregory W. Pollack
JUDGE OF THE SUPERIOR COURT

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28