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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

NOE PONCE CEJA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

VENTURE DYNAMICS ENTERPRISES,
INC. and DOES 1 to 100,

Defendants.

Case No. 37-2022-00004908-CU-OE-CTL
Hon. Katherine Bacal
Dept. C-69

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT AND MOTION
FOR ATTORNEYS' FEES, COSTS, AND
CLASS REPRESENTATIVE
ENHANCEMENT**

Date: March 15, 2024
Time: 1:30 p.m.
Dept.: C-69

Action filed: February 7, 2022

**[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT AND MOTION FOR ATTORNEYS' FEES,
COSTS, AND CLASS REPRESENTATIVE ENHANCEMENT**

1 The above-referenced class and PAGA representative action ("Action") having come
2 before the Court on March 15, 2024, for a hearing and Final Order approving Class Action and
3 PAGA Settlement ("Final Order"), consistent with the Court's Preliminary Approval Order
4 ("Preliminary Approval Order"), filed and entered on October 6, 2023, and as set forth in the
5 Stipulation for Settlement ("Settlement Agreement") filed on May 31, 2023, as Exhibit 1 to
6 Declaration of Janelle Carney in support of preliminary approval. Due and adequate notice
7 having been given to the Class, and the Court having considered the Settlement Agreement, all
8 papers filed, and proceedings had herein, and all oral and written comments received regarding
9 the proposed settlement, and having reviewed the record in this litigation, and good cause
10 appearing.

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

12 1. For purposes of this Final Order, the Court incorporates by reference all defined
13 terms as set forth in the Settlement Agreement filed on May 31, 2023, and Preliminary Approval
14 of Class Action Settlement, granted on October 6, 2023.

15 2. Consistent with the definitions in the Settlement Agreement, the Classes are
16 defined as:

- 17 • All current and former non-exempt hourly employees employed by Defendant Venture
18 Dynamics Enterprises, Inc. and placed at NASSCO, Colannas, and/or Bay City in the
19 State of California between February 7, 2018, and May 31, 2023 (the "Class Period").

20 3. This Court has jurisdiction over the subject matter of this Action and over all
21 Parties to this Action, including all Class Members and Aggrieved Employees.

22 4. Distribution of the Notice directed to the Class Members and Aggrieved
23 Employees as set forth in the Settlement Agreement and the other matters set forth therein has
24 been completed in conformity with the Preliminary Approval Order, including individual notice
25 to all Class Members and Aggrieved Employees who could be identified through reasonable
26 effort, and the best notice practicable under the circumstances. The Notice provided due and
27 adequate notice of the proceedings and of the matters set forth therein, including the proposed
28 Settlement set forth in the Settlement Agreement, to all persons entitled to such Notice, and the

1 Notice fully satisfied the requirements of due process. All Class Members, Aggrieved
2 Employees, and all Released Claims and Released PAGA Claims are covered by and included
3 within the Settlement and this Final Order.

4 5. The Court hereby finds the Settlement was entered into in good faith pursuant to
5 and within the meaning of *California Code of Civil Procedure* section 877.6. The Court further
6 finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the
7 standards and applicable requirements for final approval of this class action settlement under
8 California law, including the provisions of *California Code of Civil Procedure* section 382 and
9 *Federal Rule of Civil Procedure* 23, approved for use by the California state courts in *Vasquez v.*
10 *Superior Court* (1971) 4 Cal.3d 800, 821.

11 6. The Court hereby approves the Settlement set forth in the Settlement Agreement,
12 and finds that the Settlement, including the Gross Settlement Amount, which is One Million
13 Dollars (\$1,000,000.00) is, in all respects, fair, adequate and reasonable, and directs the Parties
14 to effectuate the Settlement according to its terms. The Court finds that the Settlement has been
15 reached as a result of intensive, serious and non-collusive arms-length negotiations. The Court
16 further finds that the Parties have conducted extensive investigation and research, and counsel
17 for the Parties are able to reasonably evaluate their respective positions. The Court also finds that
18 Settlement at this time will avoid additional substantial costs, as well as avoid the delay and risks
19 that would be presented by the further prosecution of the Action. The Court has reviewed the
20 benefits that are being granted as part of the Settlement and recognizes the significant value to
21 the Class Members. The Court also finds that the Class is properly certified as a class for
22 settlement purposes.

23 **7. Release by Settlement Class Members and Plaintiff.**

24 Plaintiff and every member of the Settlement Class (except those who opt out pursuant to
25 the procedures detailed below) will release and discharge Defendant and its parents,
26 predecessors, successors, all affiliates, subsidiaries, officers, directors, agents, employees, and
27

1 stockholders (collectively, the “Released Parties”¹), as follows:

2 A. Settlement Class members who do not timely opt-out will release and discharge the
3 Released Parties from any and all wage and hour claims that were pleaded or could have been
4 pleaded under the Labor Code, or federal, state or local wage and hour laws, including the FLSA,
5 based on the facts alleged in the Third Amended Complaint, including claims for failure to timely
6 pay wages, failure to pay all overtime wages, minimum wage violations, meal period violations,
7 rest period violations, wage statement violations, failure to indemnify all necessary business
8 expenditures, waiting time penalties, statutory penalties, civil penalties under the PAGA, interest,
9 and liquidated damages, and violation of Business & Professions Code section 17200 (“Released
10 Claims”). This release shall run from December 7, 2018, until May 31, 2023.

11 It is understood and acknowledged that Settlement Class members who were employed
12 by Defendant at any point between January 17, 2021, and May 31, 2023 (the “PAGA Aggrieved
13 Employees”) will be issued a check for their share of the PAGA Amount, as defined below,
14 regardless of whether they submit a timely Request for Exclusion from the Settlement. PAGA
15 Aggrieved Employees shall be deemed to have released all claims for civil penalties under the
16 PAGA with respect to the underlying wage and hour claims pleaded or which could have been
17 pleaded in the Third Amended Complaint. This release shall run from January 17, 2021, until
18 May 31, 2023.

19 By signing and cashing their settlement checks, Settlement Class members shall also
20 consent to opt-in to the FLSA collective action, and shall release and waive all claims under the
21 FLSA. The back of each settlement check shall include the following language acknowledging the
22 opt-in and release of FLSA claims: “I understand that by signing and cashing this settlement check,
23 I consent to opt-in to the Fair Labor Standards Act (“FLSA”) collective action in the matter titled,
24 NOE PONCE CEJA v. VENTURE DYNAMICS ENTERPRISES, INC., Superior Court of
25 California, County of San Diego, Case No. 37-2022-00004908-CU-OE-CTL, and will release

26 ¹ The Parties agree that the Released Parties do not include NASSCO, Colonnas, or Bay City.
27

1 and waive all claims under the FLSA as set forth in the Stipulation of Settlement and Notice of
2 Class Action Settlement”

3 The effective date of the Released Claims shall be the date on which Defendant fully
4 funds the Maximum Settlement Amount.

5 B. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has
6 agreed to release, as an individual and in addition to the Released Claims described above, all
7 claims, whether known or unknown, under federal law or state law against the Released Parties.
8 The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers’
9 compensation claims nor any other claims which cannot be released as a matter of law, but
10 includes supplemental benefits under California Labor Code sections 132(a) and 4553.
11 Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and
12 that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the
13 California Civil Code, which provides:

14 **A general release does not extend to claims that the creditor or**
15 **releasing party does not know or suspect to exist in his or her**
16 **favor at the time of executing the release and that, if known by**
17 **him or her, would have materially affected his or her**
18 **settlement with the debtor or released party.**

19 The Settlement will become final and effective only upon the occurrence of all of the
20 following events: (a) the Court enters an order granting preliminary approval of the Settlement; (b)
21 the Court enters an order granting final approval of the Settlement; (c) any challenge to the
22 Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement,
23 (d) the time for appealing the order of final approval has expired without the filing of an appeal or
24 all appeals have been exhausted and resolved in favor of affirming final approval, and (e) if no
25 objection or motion for intervention is filed prior to Final Approval, then the date the court enters
26 judgment. Should this Settlement Agreement not be finally approved (or if approval is reversed or
27 materially modified on appellate review), this Settlement shall be null and void.

1 10. The Court hereby enters the concurrently filed Judgment in the entire Action as of
2 the filing date of this Final Order, pursuant to the terms set forth in the Settlement Agreement.
3 Without affecting the finality of this Final Order in any way, the Court hereby retains continuing
4 jurisdiction over the interpretation, implementation and enforcement of the Settlement and all
5 orders entered in connection therewith pursuant to *California Code of Civil Procedure* section
6 664.6.

7 11. The Court finds the settlement payments provided for under the Settlement to be
8 fair and reasonable in light of all of the circumstances. The Court orders the calculations and the
9 payments to be made and administered in accordance with the terms of the Settlement
10 Agreement.

11 12. The Court hereby confirms Janelle Carney of Janelle Carney - Attorney at Law,
12 APC, and Manny Starr and Adam Rose of Frontier Law Center, as Class Counsel in the Action.

13 13. Pursuant to the terms of the Settlement, and the authorities, evidence and
14 argument submitted by Class Counsel, the Court hereby awards Class Counsel Fees in the
15 amount of Three Hundred Thousand Three Hundred Thirty-Three Dollars and Thirty-Three
16 Cents (\$333,333.33), and Class Counsel Expenses up to Twenty-Five Thousand Dollars
17 (\$25,000.00) from the Gross Settlement Amount as final payment for and complete satisfaction
18 of any and all attorneys' fees and costs incurred by and/or owed to Class Counsel and any other
19 person or entity related to the Action. The Court further orders that the award of attorneys' fees
20 and costs set forth in this Paragraph shall be administered pursuant to the terms of the Settlement
21 Agreement and transferred and/or made payable to Class Counsel in the Action.

22 14. The Court also hereby approves and orders a Class Representatives Enhancement
23 Award in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00), to Noe Ponce Ceja.

24 15. The Court also hereby approves and orders payment from the Gross Settlement
25 Fund for actual settlement administration expenses incurred by the Settlement Administrator, Rust
26 Consulting, Inc. in the amount of \$18,000.00.

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1 16. The Court also hereby approves PAGA civil penalties to be paid from the Gross
2 Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000.00) and the 75% to
3 LWDA (\$30,000.00) in settlement of PAGA.

4 17. The Court also hereby approves and orders that all amounts from uncashed
5 Settlement Award checks after the expiration date (180 days after mailing) will be distributed to
6 the Controller of the State of California to be held pursuant to the Unclaimed Property Law,
7 California Civil Code Section 1500 et seq. for the benefits of those Settlement Class Members
8 who did not cash their checks until such time they claim their property. The parties agree that
9 this disposition results in no "unpaid residue" under California Civil Procedure Code Section
10 384, as the entire Net Settlement Proceeds will be paid out to Class Members and PAGA
11 Representative Action Members, whether or not they all cash their settlement checks.

12 18. The Court also hereby finds and orders that the Settlement Agreement is and
13 constitutes a fair, adequate, and reasonable compromise of the Released Claims against
14 Defendants and the Released Parties.

15 19. The Settlement becomes effective under the terms of the Settlement
16 Agreement with the signing of this order. Defendants will transfer the Gross Settlement Amount
17 by bank wire to a Qualified Settlement Fund established by the Settlement Administrator within
18 fourteen (14) calendar days of the Settlement Effective Date. The Settlement Administrator will
19 maintain the funds in an account that enables the funds to accrue interest. Within thirty (30)
20 calendar days from receipt of the funds, the Settlement Administrator shall then disburse the
21 funds as approved per the Settlement Agreement and the court.

22 20. The Court also hereby finds that there were no objections to the Settlement raised
23 by any person on the record at the hearing on the Final Approval.

24 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

25 Dated: _____

26 HON. KATHERINE BACAL