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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE, CIVIL COMPLEX CENTER

ELFA CASTRO, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiff,

vs.

BAYMONT INN & SUITES, an unknown
business entity; VIENNA CAPITAL, INC.,
an unknown business entity; WYNDHAM
HOTEL GROUP LLC; an unknown
business entity; XIANGJUN LI, an
individual, and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 30-2016-00840094-CU-OE-CXC

CLASS ACTION

Assigned for All Purposes to:

Honorable Peter Wilson,

Dept. CX102

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

Date: October 17, 2019

Time: 2:00 p.m.

Dept.: CX102

Complaint Filed: March 10, 2016

FAC Filed: May 3, 2016

Trial Date: None set

1 **[PROPOSED] ORDER**

2 Having read and considered Plaintiff Elfa Castro's ("Plaintiff") Motion for Final
3 Approval of Class Action Settlement, Class Representative Enhancement Payments, and
4 Attorneys' Fees and Costs, the Stipulation of Settlement ("Settlement Agreement" or
5 "Settlement") brought pursuant to California Rule of Court 3.769(c), and all other documents
6 and evidence presented in support thereof, and recognizing the sharply disputed factual and legal
7 issues involved in this case, the risks of further prosecution, and the benefits to be received by
8 the Settlement Class Members, the Court hereby makes a final ruling that the proposed
9 Settlement is fair, reasonable, and adequate, and is the product of good faith, arms-length
10 negotiations between the parties. Good cause appearing therefore, the Court hereby GRANTS
11 Plaintiff's Motion for Final Approval of Class Action Settlement and HEREBY ORDERS THE
12 FOLLOWING:

13 1. Final judgment in this matter is hereby entered in conformity with the Settlement,
14 this Court's Order Granting Preliminary Approval of Class Action Settlement, and this Court's
15 Order Granting Final Approval of Class Action Settlement.

16 2. For purposes of this Order granting final approval of the class action settlement,
17 the Court adopts all defined terms as set forth in the Settlement Agreement, incorporated by
18 reference herein.

19 3. The Court has jurisdiction over the subject matter of this action, and over all
20 parties to this action, including all Settlement Class Members.

21 4. The Court hereby approves the Settlement as set forth in the Settlement
22 Agreement as being fair, reasonable, and adequate to the Settlement Class Members, and directs
23 the parties to effectuate the Settlement Agreement according to its terms.

24 5. The Court finds that only **one (1)** Settlement Class Member (Tiansheng Lian)
25 requested exclusion from the Settlement, and that the **98.95%** participation rate supports final
26 approval.

27 6. The conditional class certification contained in this Court's Order Granting
28 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order") is hereby

1 made final, and the Court thus certifies, for purposes of the Settlement, a Settlement Class
2 consisting of:

3 "All persons employed by Defendants in the State of California, at any time from March
4 10,2012 through preliminary approval, currently estimated at **94** individuals, who have
5 worked as non-exempt employees."

6 7. For purposes of settlement only, the Court finds that: (a) the members of the
7 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
8 (b) there are questions of law or fact common to the Settlement Class and there is a well-defined
9 community of interest among members of the Settlement Class with respect to the subject matter
10 of the litigation; (c) the claims of the Class Representatives are typical of the claims of the
11 members of the Settlement Class; (d) the Class Representatives have fairly and adequately
12 protected the interests of the Settlement Class Members; (e) a class action is superior to other
13 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
14 qualified to serve as counsel for the Class Representatives and the Settlement Class Members.

15 8. Notice was provided to Settlement Class Members as set forth in the Settlement
16 Agreement, which was approved by the Court on **June 13, 2019**, and the notice process has been
17 completed in conformity with the Court's Preliminary Approval Order. The Court finds that said
18 notice was the best notice practicable under the circumstances. The Notice of Class Action
19 Settlement provided due and adequate notice of the proceedings and matters set forth therein,
20 informed Settlement Class Members of their rights, and fully satisfied the requirements of
21 California Code of Civil Procedure section 1781(e), California Rules of Court, Rule 3.769, and
22 due process.

23 9. Plaintiff Elfa Castro is hereby confirmed as Class Representative, and Richard E.
24 Quintilone II, Andrew H. Haas, and Alejandro Quinones of Quintilone & Associates and Roger
25 R. Carter, and Bianca Sofonio of The Carter Law Firm are hereby confirmed as Class Counsel.

26 10. The Court finds that the Class Representative Enhancement Payments in the
27 amount of **\$10,000.00** is appropriate in recognition of the risks undertaken by Plaintiff and for
28 her service to the Settlement Class; for the amount of time and effort spent by Plaintiff as the

1 Class Representative; for the general release provided as part of the Settlement Agreement; and
2 for serving the interests of the Class. The Court finds that this amount is fair, reasonable, and
3 adequate, and orders that the Settlement Administrator make this payment in conformity with the
4 terms of the Settlement Agreement.

5 11. The Court finds that attorneys' fees in the amount of **\$62,700.00** and
6 reimbursement of **\$6,000.00** for Class Counsel's litigation costs are fair, reasonable, and
7 adequate, and orders that the Settlement Administrator distribute these payments to Class
8 Counsel in conformity with the terms of the Settlement. The Court finds that the time devoted to
9 the matter by Class Counsel was reasonably necessary in the investigation and prosecution of
10 this action and that the fees are appropriately awarded in light of the benefit provided to the
11 Settlement Class by Class Counsel's efforts.

12 12. The Court finds that the payment to the State of California Labor and Workforce
13 Development Agency ("LWDA") in the amount of **\$3,750.00** for its 75% share of the \$5,000
14 civil penalties allocated under the Private Attorneys General Act is fair, reasonable, and
15 adequate, and orders the Settlement Administrator to distribute this payment in conformity with
16 the terms of the Settlement.

17 13. The Court orders that the Settlement Administrator shall be paid **\$10,000.00** from
18 the Maximum Settlement Amount for all of its work done and to be done until the completion of
19 this matter and finds that sum appropriate.

20 14. The Court finds that given the absence of objections, and objections being a
21 prerequisite to appeal, this Order shall be considered final as of the date of notice of entry.

22 15. The Court orders that within **fifteen (15) days** of entry of this Order, Baymont
23 shall deposit the Maximum Settlement Amount (**\$190,000.00**) with the Settlement
24 Administrator, as provided for in the Settlement. See Settlement ¶ 12.

25 16. The Court finds that the individual Settlement Awards, as provided for in the
26 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
27 distribute these payments to the Class Members in conformity with the terms of the Settlement.

28 17. Any funds from individual settlement checks remaining uncashed after the 180-

1 day check-cashing deadline shall be distributed to the Controller of the State of California to be
2 held pursuant to the Unclaimed Property Law, California Civil Code § 1500 et seq., for the
3 benefit of those individuals who did not cash their checks until such time that they claim their
4 property.

5 18. Pursuant to California Code of Civil Procedure section 664.6 and Rule 3.769(h) of
6 the California Rules of Court, the Court will retain jurisdiction over this action and the parties
7 until final performance of the Settlement Agreement.

8 19. The Court will schedule a final status conference on **July 24, 2020**. Ten (10) days
9 prior to the hearing, on **July 14, 2020**, Plaintiffs shall submit a final report to include all
10 information necessary for the Court to determine the total amount actually paid to class members
11 and the amount to be tendered to the State Controller's Office.

12 20. This document shall constitute a final judgment pursuant to California Rule of
13 Court Rule 3.769(h) which provides, "If the court approves the settlement agreement after the
14 final approval hearing, the court must make and enter judgment. The judgment must include a
15 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
16 judgment. The court may not enter an order dismissing the action at the same time as, or after,
17 entry of judgment." The Court will retain jurisdiction to enforce the Settlement, the Final
18 Approval Order, and this Judgment.

19 21. Since every class member is receiving both a notice and a check, the Court finds
20 adequate notice of the judgment to the class satisfying California Rule of Court 3.771(b).

21 **IT IS SO ORDERED.**

22
23 Dated: _____, 2019

24 HON. PETER WILSON
25 Judge of the Superior Court
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