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12 Attorneys for Plaintiff Gregory Olivas, on behalf of himself and all “aggrieved employees”
13 pursuant to Labor Code § 2698 *et seq.*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF SAN BERNARDINO**

16 GREGORY OLIVAS, on behalf of himself
17 and all “aggrieved employees” pursuant to
18 Labor Code § 2698 *et seq.*,

19 Plaintiff,

20 v.

21 FAIRMONT HOSPITALITY, INC., a
22 California corporation, d/b/a HOLIDAY
23 INN EXPRESS, and DOES 1 through 10,
24 inclusive,

25 Defendants.

CASE NO: CIVSB2225073

Assigned to the Hon. John M. Pacheco, Dept. S31

**STIPULATION AND [PROPOSED] ORDER
AND JUDGMENT APPROVING
SETTLEMENT OF PRIVATE ATTORNEYS
GENERAL ACT CLAIMS AND DISMISSING
ACTION WITH PREJUDICE**

Complaint Filed: November 4, 2022

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On August 29, 2022, Plaintiff Gregory Olivas (“Plaintiff”) complied with the requirements set forth in Labor Code § 2698 *et seq.*, the Labor Code Private Attorneys General Act (hereinafter, “PAGA”) by sending a letter, by online submission to the Labor and Workforce Development Agency (“LWDA”) and by certified mail to Defendant FAIRMONT HOSPITALITY, INC. (“Defendant”) (hereinafter Plaintiff and Defendant are collectively referred to as the “Parties”), setting forth the facts and theories of the violations alleged against Defendant. (Declaration of Daniel F. Gaines [“Gaines Decl.”] at ¶ 6; Exhibit “B” to Gaines Decl.).

2. Plaintiff filed his Representative Action Complaint on November 4, 2022 seeking penalties pursuant to Labor Code § 2699(f) for violations of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, and 2802 and penalties pursuant to Labor Code § 2699(a) for violations of Labor Code §§ 226.3 and 558 (“the Action”). (Gaines Decl. at ¶ 7).

3. During the course of the litigation, the Parties engaged in informal discovery and shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the action and potential defenses thereto. The Parties have reached this settlement only after such discovery and investigation was performed. (Gaines Decl. at ¶¶ 8-10).

4. On September 11, 2023, the Parties mediated with well-respected mediator and jurist, Hon. Keith D. Davis (Ret.), and reached a settlement of the Action which was memorialized in a Settlement Agreement and Release of the Private Attorneys General Act Claim signed by all Parties. (Gaines Decl. at ¶ 11; Exhibit “C” thereto (the “Settlement Agreement”)).

5. The Parties engaged in arm’s-length negotiations and reached a resolution of all claims asserted in the Action. Based on the information and documents obtained through informal discovery and during mediation, Plaintiff assessed the maximum value of the PAGA claims (without stacking) to be approximately \$131,500 (at the rate of a \$100 penalty for 1,315 total pay periods at issue for approximately 49 aggrieved employees during the applicable time frame). (Gaines Decl. at ¶¶ 11-14).

6. Defendant denied and continues to deny any liability to Plaintiff or any other allegedly aggrieved employee for any violations alleged in the Action. (Gaines Decl. at ¶ 12).

7. The amount of the Settlement is \$75,000, which represents over 57% of the maximum recoverable discretionary penalties and includes an apportionment of attorneys' fees and costs and a Service Award/General Release Payment to Plaintiff. (Gaines Decl. at ¶ 15).

8. The Parties agree that the settlement amount represents a fair compromise of the claims, including the related costs of litigation and risk. (Gaines Decl. at ¶¶ 12-15).

9. Based on their extensive experience litigating over 100 representative actions, counsel for Plaintiff believes the Settlement here is fair and reasonable and warrants approval by the Court. (Gaines Decl. at ¶¶ 2-5; Exhibit “A” to Gaines Decl.).

10. The Parties agree that this Stipulation should be sufficient for purposes of approving the settlement of the Action as set out in the Settlement Agreement pursuant to the requirements set out in Labor Code § 2699(1)(2). Accordingly, the Parties respectfully request that the Court enter the accompanying Order, approving the Settlement (attached to the Gaines Decl. as Exhibit “C”), as permitted by Labor Code § 2699(1), and dismissing this Action with prejudice. (Gaines Decl. at ¶ 16).

11. The Parties further agree that, after entry of this Order and pursuant to California Code of Civil Procedure § 664.6, the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and PAGA Members solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters; and (iii) such post-Final Order matters as may be appropriate under court rules or as set forth in the Settlement Agreement. (Gaines Decl. at ¶ 17).

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1 12. Plaintiff has submitted a copy of the Settlement Agreement, together with this
2 Stipulation and the Declaration of Daniel F. Gaines, to the LWDA as required by PAGA. (Gaines
3 Decl. at ¶ 18; Exhibit “D”).

4 **IT IS SO STIPULATED.**

5 **ATTORNEYS FOR PLAINTIFF:**

6 Dated: October 26, 2023

Respectfully submitted,

8 GAINES & GAINES
9 A Professional Law Corporation

10 By: 
11 Daniel F. Gaines
 Alex P. Katofsky

12 **ATTORNEYS FOR DEFENDANT:**

13 Dated: October 26, 2023

BHAKTA LAW FIRM, A PROFESSIONAL
CORPORATION

14 By: 
15 Ankit H. Bhakta

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1. The Court finds the Settlement was entered into in good faith, that the Settlement is fair, reasonable and adequate, and that the Settlement satisfies the standards and applicable requirements for approval of PAGA representative actions under California law. The Court has jurisdiction over the subject matter of this litigation, over all Aggrieved Employees (as defined below), and over those persons and entities undertaking affirmative obligations under the Settlement.

3. Upon entry of this Order, the Parties and the Settlement Administrator shall effectuate all terms of the Settlement based on the provisions, definitions, and timelines set forth in the Settlement Agreement.

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1 5. By way of the Settlement, all PAGA Members (and the State of California) shall
2 release all claims for penalties arising under the Private Attorneys General Act of 2004 against
3 Defendant, and its present and former parents, subsidiaries, co-employers, and each of their
4 respective present and former owners, boards, directors, officers, trustees, shareholders, members,
5 partners, employees, agents, attorneys, representatives, successors and assigns, and present and
6 former parents, subsidiaries, affiliated and related parties, and each of them ("Released Parties"),
7 that were either alleged, or that reasonably could have been alleged based on the factual allegations
8 contained in the Lawsuit, including, but not limited to, claims pursuant to Labor Code sections,
9 201, 202, 203, 226(a), 226.7, 510,512, 1194, 2699, and 2802, and any and all other civil penalties,
10 attorneys' fees, and/or costs under the Private Attorneys General Act of 2004, within the PAGA
11 Period (the "Released Claims").

12 6. The express purpose of the Settlement and this Judgment to be entered by the Court
13 following approval of this settlement is to forever bar Plaintiff, the LWDA, and any other individual
14 or entity acting on behalf of or purporting to act on behalf of the LWDA (including all Aggrieved
15 Employees) from asserting any of the Released Claims in any future litigation. It is the intent of
16 the Parties that, to the greatest extent provided by law, including under the holding of *Arias v.*
17 *Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California, or any
18 Aggrieved Employee to bring a PAGA claim on behalf of the LWDA is completely and forever
19 foreclosed. Any Party to the Settlement may use the Settlement to assert that the Settlement and the
20 Judgment bars any later-filed action asserting any of the Released Claims against any of the
21 Released Parties at any time between August 29, 2021 to the date of Court approval of this
22 settlement, or January 11, 2024, whichever occurs first.

23 7. The Notice of PAGA Settlement and Release of Claims, attached to the Settlement
24 Agreement as Exhibit A, fairly and adequately describes the Action, the approved Settlement, and
25 is the best notice practicable under the circumstances.

26 8. This Action is hereby DISMISSED WITH PREJUDICE.
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1 9. Nothing in the Stipulation and this Order shall be construed as an admission or
2 concession by any party. The Settlement and this resulting Order simply represent a compromise
3 of disputed allegations.

4 10. This Court shall retain exclusive and continuing equity jurisdiction of this Action
5 over all Parties and PAGA Members solely for purposes of addressing: (i) the interpretation and
6 enforcement of the terms of the Settlement, (ii) settlement administration matters; and (iii) such
7 post-Final Order matters as may be appropriate under court rules or as set forth in the Settlement
8 Agreement.

9 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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11 Dated: _____

JUDGE OF THE SUPERIOR COURT