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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
(UNLIMITED JURISDICTION)

TOJYIA GREEN, on behalf of herself and all others similarly situated, and as an “aggrieved employees” on behalf of other “aggrieved employee” under the Labor Code Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

MAGNUM MANAGEMENT CORPORATION, an Ohio corporation; CEDAR FAIR, L.P., and DOES 1–50, inclusive,

Defendant(s).

Case No. 30-2022-01276962-CU-OE-CXC

[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT

Action filed: August 24, 2022
Dept: CX-101, The Honorable William D. Claster

The Motion of Plaintiff Tojyia Green (hereafter referred to as “Plaintiff”) for Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court, The Honorable William D. Claster presiding. The Court having considered the Motion, the Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement

Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.

2. For purposes of this Preliminary Approval Order, the “Class” means All persons employed by Defendants in California as a Picnic CaterOps or Hotel Banquet employee and classified as hourly and non-exempt who worked for Defendants during the Class Period (collectively “Class Members”). The “Class Period” shall mean the period of time from August 24, 2018, through the date the Court preliminarily approves this class action settlement.

3. Based on a review of their records from the beginning of the Class Period to September 22, 2024, Defendants estimate there are 449 Class Members who collectively worked a total of 16,863 Work Weeks. If the Work Weeks as of the date the Court approves the settlement exceeds 16,863 by more than 10%, then either, at the option of Defendants, (1) the Gross Settlement Amount (including the Class Counsel Fees Payment) will increase by a pro-rata dollar value equal to the number of Work Weeks in excess of 18,549 Work Weeks (the 10% escalation limit) or (2) the Class Period End Date will be the date the actual number of Work Weeks exceeds 16,863 by 10% (i.e., the number of Work Weeks increases above 18,549). In the event Defendants elect the former, for example, if the actual number of Work Weeks is determined to

1 be 11% higher than 16,863 (i.e., the number of Work Weeks increases to 18,718), the Gross
2 Settlement Amount shall be increased by 1%.

3 4. “Effective Date” means the date by which both of the following have occurred:
4 (a) the court enters a judgment on its order granting final approval of the Settlement; and (b) the
5 judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
6 Participating Class Member objects to the Settlement, the day the Court enters judgment; (b) if
7 one or more Participating Class Members objects to the Settlement, the day after the deadline for
8 filing a notice of appeal from the judgment; or if a timely appeal from the judgment is filed, the
9 day after the appellate court affirms the judgment and issues a remittitur.
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11 5. This action is provisionally certified pursuant to section 382 of the California
12 Code of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action
13 for purposes of settlement only with respect to the proposed Settlement Class.
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15 6. Not later than 15 days after the Court grants Preliminary Approval of the
16 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the
17 form of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the
18 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
19 of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator
20 employees who need access to the Class Data to effect and perform under the Settlement
21 Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they
22 discover that the Class Data omitted class member identifying information and to provide
23 corrected or updated Class Data to the Administrator as soon as reasonably feasible. Without
24 any extension of the deadline by which Defendants must send the Class Data to the Administrator,
25 the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or
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1 otherwise resolve any issues related to missing or omitted Class Data.

2 7. No later than three (3) business days after receipt of the Class Data, the
3 Administrator shall notify Class Counsel that the list has been received and state the number of
4 Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

5 8. Using best efforts to perform as soon as possible, and in no event later than 14
6 days after receiving the Class Data, the Administrator will send to all Class Members identified
7 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet
8 with Spanish translation, if applicable substantially in the forms attached to the Settlement
9 Agreement. The first page of the Class Notice shall prominently estimate the dollar amounts of
10 any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and
11 the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts.
12 Before mailing Notice Packets, the Administrator shall update Class Member addresses using the
13 National Change of Address database.

14 9. Not later than three (3) business days after the Administrator’s receipt of any
15 Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
16 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
17 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
18 mail the Notice Packet to the most current address obtained. The Administrator has no obligation
19 to make further attempts to locate or send Notice Packet to Class Members whose Notice Packet
20 is returned by the USPS a second time.

21 10. Class Counsel’s contact information is David Glenn Spivak, Esq., The Spivak
22 Law Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069 and Walter L.
23 Haines of United Employees Law Group, 8605 Santa Monica Bl., PMB 63354, West Hollywood,
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1 CA 90069.

2 11. Defense Counsel's contact information is Julie A. Marquis and Dane M. Willis of
3 Freeman Mathis & Gary, LLP, 1010 B St., Suite 400, San Rafael, CA 94901.

4 12. The deadlines for Class Members' written objections, Challenges to Workweeks
5 and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional 14 days
6 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice
7 is re-mailed. The Administrator will inform the Class Member of the extended deadline with the
8 re-mailed Notice Packet.
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10 13. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
11 discovers any persons who believe they should have been included in the Class Data and should
12 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
13 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.
14 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
15 Members, and the Administrator will send, via email or overnight delivery, a Notice Packet
16 requiring them to exercise options under the Settlement Agreement not later than 14 days after
17 receipt of Notice Packet, or the deadline dates in the Notice Packet, which ever are later.
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20 14. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
21 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
22 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
23 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
24 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
25 the Class Member's election to be excluded from the Settlement and includes the Class Member's
26 name, address and email address or telephone number. To be valid, a Request for Exclusion
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1 must be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to
2 Participate in Settlement form, attached as Exhibit B, may be used for this purpose but is not
3 required.

4 15. The Administrator may not reject a Request for Exclusion as invalid because it
5 fails to contain all the information specified in the Class Notice. The Administrator shall accept
6 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
7 the person as a Class Member and the Class Member's desire to be excluded. The
8 Administrator's determination shall be final and not appealable or otherwise susceptible to
9 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
10 the Administrator may demand additional proof of the Class Member's identity. The
11 Administrator's determination of authenticity shall be final and not appealable or otherwise
12 susceptible to challenge.
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14 16. Every Class Member who does not submit a timely and valid Request for
15 Exclusion is deemed to be a Participating Class Member under the Settlement Agreement,
16 entitled to all benefits and bound by all terms and conditions of the Settlement, including the
17 Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless
18 whether the Participating Class Member actually receives the Class Notice or objects to the
19 Settlement.
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21 17. Every Class Member who submits a valid and timely Request for Exclusion is a
22 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
23 right to object to the class action components of the Settlement. Plaintiff releases all claims for
24 civil penalties that could have been sought by the Labor Commissioner for the violations
25 identified in Plaintiff's pre-filing letter to the LWDA; Plaintiff does not release the claim for
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wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a Participating Class Member.

18. Challenges to Calculation of Workweeks/PAGA Pay Periods. Each Class Member shall have 60 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute. A Workweek/PAGA Pay Period Dispute form, attached as Exhibit C, may be used for this purpose but is not required. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

19. Objections to Settlement. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

20. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or

1 hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
2 A Participating Class Member who elects to send a written objection to the Administrator must
3 do so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an
4 additional 14 days for Class Members whose Notice Packet was re-mailed). An The Objection
5 form attached as Exhibit D may be used for this purpose but is not required.

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7 21. Non-Participating Class Members have no right to object to any of the class action
8 components of the Settlement.

9 22. Not later than 14 days before the date by which Plaintiff is required to file the
10 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel
11 and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence
12 and compliance with all of its obligations under the Settlement Agreement, including, but not
13 limited to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-
14 mailing of Notice Packets, attempts to locate Class Members, the total number of Requests for
15 Exclusion from Settlement it received (both valid or invalid), the number of written objections
16 and attach the Exclusion List. The Administrator will supplement its declaration as needed or
17 requested by the Parties and/or the Court. Class Counsel is responsible for filing the
18 Administrator's declaration(s) in Court.
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21 23. The Court approves, as to form and content, the Class Notice in substantially the
22 form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in
23 substantially the form attached as Exhibit B to this Order, the Workweek/PAGA Pay Period
24 Dispute form in substantially the form attached as Exhibit C to this Order, and the Objection
25 form in substantially the form attached as Exhibit D to this Order.
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27 24. The Court approves, for settlement purposes only, David Glenn Spivak of The
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Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

25. The Court approves, for settlement purposes only, Tojyia Green as the Class Representative.

26. The Court approves ILYM Group, Inc. as the Administrator.

27. The Court preliminarily approves Class Counsel's request for attorneys' fees and costs subject to final review by the Court.

28. The Court preliminarily approves the estimated Administrator costs payable to the Administrator subject to final review by the Court.

29. The Court preliminarily approves Plaintiff's Class Representative Service Payment subject to final review by the Court.

30. Class Counsel and Plaintiff shall not publicize or communicate the fact or terms of the settlement on any social media, internet site, print media, or marketing/advertising materials. The Court shall have the power to enjoin violations of this provision and the prevailing party shall be entitled to its attorneys' fees and costs.

31. Within twenty (20) days following the distribution of all settlement distribution payments to all Parties, Class Counsel and their agents shall ensure the verified return or destruction of all documents, data, and other materials obtained, generated, or accessed through either formal or informal means in the initiation and/or pendency of this litigation. This includes, but is not limited to, documents reflecting Defendants' time and/or pay records, policies, and any other confidential or proprietary information produced or accessed during the initiation and/or pendency of this litigation. Within fourteen (14) days of the return and deletion of documents and data, Class Counsel shall submit a declaration under penalty of perjury to the Court and serve a copy on Defense Counsel confirming the verified return or destruction of all documents and

1 data, including electronic copies.

2 32. A Final Approval Hearing shall be held on ____ at _____.m. in Department CX-101
3 of the Superior Court for the State of California, County of Orange, located at the Civil Complex
4 Center, 751 W Santa Ana Bl., Santa Ana, CA 92701 to consider the fairness, adequacy and
5 reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval
6 Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class
7 Representative Service Payment to the Class Representative. The notice of motion and all briefs
8 and materials in support of the motion for final approval of class action settlement and motion
9 for attorneys' fees and litigation costs shall be served and filed with this Court on or before ____.
10 Plaintiff's counsel must give notice to any objecting party of any continuance of the hearing of
11 the motion for final approval.
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14 33. If for any reason the Court does not execute and file a Final Approval Order and
15 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason,
16 the proposed Settlement that is the subject of this order, and all evidence and proceedings had in
17 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
18 litigation, as more specifically set forth in the Settlement.
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20 34. The Court expressly reserves the right to adjourn or continue the Final Approval
21 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
22 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
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24 **IT IS SO ORDERED.**

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27 **DATE**

28 **THE HONORABLE WILLIAM D.
CLASTER
SUPERIOR COURT JUDGE**

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*Green v. Magnum Management Corporation, et
al.*

[PROPOSED] ORDER PRELIMINARILY
APPROVING CLASS ACTION
SETTLEMENT