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Attorneys for Plaintiff Albert Federico

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By E. SDCourt ,Deputy Clerk

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

ALBERT FEDERICO *et al.*

Plaintiff,

vs.

A.S.I HASTINGS, INC. *et al.*

Defendants.

Case No. 37-2023-00012941-CU-OE-CTL

Hon. Michael T. Smyth
Dept. 67

CLASS ACTION

**Notice of Entry of Order Granting Final
Approval and Entering Judgment**

Action Filed: March 29, 2023

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE
2 TAKE NOTICE THAT:

3 1. On February 10, 2025, the Court entered the Order and Judgment Granting Final
4 Approval of Class Action Settlement and Attorneys' Fees and Costs and Entering Judgment attached
5 hereto as Exhibit 1.

6 2. The Court took the matter under submission before issuing a Final Minute Order on
7 February 7, 2025, attached hereto as Exhibit 2.

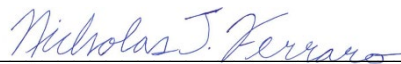
8 3. A conformed copy of this Notice will be submitted to the LWDA via its online
9 electronic portal in accordance with Labor Code § 2699(s)(3).

10 4. Notice of the Court's final ruling and entry of judgment is hereby provided.
11

12 Respectfully submitted,

13
14 Dated: February 25, 2025

Ferraro Vega Employment Lawyers, Inc.

15 

16 Nicholas J. Ferraro

17 Attorneys for Plaintiff Albert Federico
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EXHIBIT 1

FILED
San Diego Superior Court

FEB 11 2025

Clerk of the Superior Court
By: H. Chavarin, Deputy

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

ALBERT FEDERICO, *et al.*

Plaintiff,

vs.

A.S.I HASTINGS, INC., *et al.*

Defendants.

Case No. 37-2023-00012941-CU-OE-CTL

Hon. Michael T. Smyth
Dept. 67

CLASS ACTION

**[Proposed] Order Granting Final Approval of
Class Action Settlement and Attorneys' Fees
and Costs and Entering Judgment**

Motion for Final Approval/Attorneys' Fees:

Date: February 7, 2025
Time: 9:00 a.m.

[Filed concurrently with Notice of Motion and
Motion for Final Approval of Class Action
Settlement, Memorandum of Points and
Authorities, Declaration of Nicholas J. Ferraro,
Declaration of Settlement Administrator, and
Declaration of Albert Federico]

Action Filed: March 29, 2023

**[Proposed] Order Granting Final Approval of Class Action Settlement
and Attorneys' Fees and Costs and Entering Judgment**

1 This matter came on for hearing on February 7, 2025 at 9:00 a.m. in Department 67 of the
2 above-captioned Court, the Honorable Michael T. Smyth presiding, on (1) Plaintiff's Motion for Final
3 Approval of Class Action Settlement and (2) Plaintiff's Motion for Attorneys' Fees and Costs.

4 Having received and considered the motions and supporting papers, including the Class,
5 Collective and PAGA Representative Action Settlement Agreement and Class Notice ("Settlement"),
6 the evidence and documents received by the Court in connection with the Motions for Final Approval
7 and Attorneys' Fees and Costs, and the previously decided Motion for Preliminary Approval, the Court
8 GRANTS FINAL APPROVAL of the Settlement and ORDERS AND MAKES THE FOLLOWING
9 DETERMINATIONS:

10 1. Pursuant to the terms of the Settlement and the Order Granting Preliminary Approval,
11 and the Settlement, a notice was sent to each class member by first-class U.S. mail. The notice
12 informed the class of the terms of the Settlement, their right to receive a settlement payment without
13 any required action, their right to comment upon or object to the Settlement, and their right to appear
14 in person or by counsel at the Final Approval Hearing and to be heard regarding approval of the
15 Settlement. Adequate periods of time were provided for each of these procedures.

16 2. One class member returned a written objection to the proposed Settlement as part of the
17 notice process or stated an intention to appear at the Final Approval Hearing and there were no dissenting
18 appearances from class members at the hearing. No class members requested exclusion from the
19 Settlement.

20 3. The Court finds and determines the notice procedure afforded adequate protections to
21 the class and provides the basis for the Court's informed decision regarding approval of the Settlement
22 based on the response. The Court finds and determines the notice provided was the best notice
23 practicable, satisfying the requirements of law and due process.

24 4. For purposes of approving this Settlement only, this Court finds and concludes: (a) the
25 proposed class is ascertainable and so numerous that joinder of all members of the class is
26 impracticable; (b) there are questions of law or fact common to the proposed class, and there is a well-
27 defined community of interest among members of the class with respect to the subject matter of the
28 claims; (c) the claims of the representative are typical of the claims of the class; (d) the class

1 representative has and will fairly and adequately protect the interests of the class; (e) a class action is
2 superior to other available methods for an efficient adjudication of this controversy in the context of
3 settlement; and (f) the law firm of Ferraro Vega Employment Lawyers, Inc. is qualified and adequate
4 to serve as Class Counsel in this action.

5 5. The Court confirms certification, for settlement purposes only, of the class as defined in
6 the Settlement and approved at the preliminary approval stage.

7 6. The Court finds and determines the terms set forth in the Settlement are fair, reasonable,
8 and adequate and, having found the Settlement was reached as a result of informed and non-collusive
9 arms'-length negotiations facilitated by a neutral and experienced mediator, directs the Parties to
10 effectuate the Settlement according to its terms. The Court further finds the Parties conducted
11 extensive investigation, research, and informal discovery, and that their attorneys were able to
12 reasonably evaluate their respective positions. The Court also finds that Settlement will enable the
13 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the
14 Parties were to continue to litigate the case. The Court has reviewed the monetary recovery and
15 recognizes the significant value provided to the Class. Therefore, the Court approves the Settlement
16 and incorporates the terms of the Settlement in full into this Final Approval Order as though fully set
17 forth herein.

18 7. The Court finds and determines the fees and expenses in administering the Settlement
19 incurred by the Settlement Administrator of \$10,000 are fair and reasonable. The Court orders these
20 administration costs be paid in accordance with the terms of the Settlement.

21 8. The Court finds and determines the Service Award of \$10,000 to Plaintiff Federico as
22 fair and reasonable. The Court orders the service awards be paid in accordance with the terms of the
23 Settlement.

24 9. The Court finds and determines payment to the California Labor and Workforce
25 Development Agency of \$30,000, as its 75% share of the civil penalties under the Private Attorneys
26 General Act is fair, reasonable, and appropriate. The Court orders that amount be paid in accordance
27 with the terms of the Settlement and approves the settlement of claims under the Private Attorneys
28 General Act pursuant to Labor Code § 2699(s)(2).

1 10. Pursuant to the terms of the Settlement and the statutory provisions authorizing
2 attorneys' fees under the California Labor Code and Code of Civil Procedure, as set forth in the Motion
3 for Attorneys' Fees, the Court awards Class Counsel attorneys' fees of \$133,320 and litigation costs
4 of \$18,588.48. Class Counsel has sufficiently explained the basis for the fee award based on a
5 percentage of the fund. The Court finds such amounts to be fair and reasonable. The Court orders the
6 Settlement Administrator to make these payments in accordance with the Settlement.

7 11. Without affecting the finality of this Order or the entry of judgment in any way, the
8 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
9 and enforcement of this Order and the Settlement.

10 12. Nothing in this Order shall preclude any action to enforce the Parties' obligations under
11 the Settlement or under this Order, including the requirement that Defendant make payments to Class
12 Members in accordance with the Settlement.

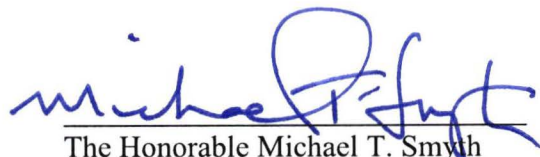
13 13. The Court hereby ENTERS FINAL JUDGMENT in accordance with the terms of the
14 Settlement, in accordance with this Final Approval Order and Judgment.

15 14. The Parties shall comply with Cal. Rules of Court Rule 3.771(b), by filing a Notice of
16 Entry of Judgment with the Court.

17
18 **IT IS SO ORDERED.**

19
20 Date:

February 10, 2025



The Honorable Michael T. Smyth
Judge of the Superior Court

EXHIBIT 2

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 02/07/2025

TIME: 9:00 AM

DEPT: C-67

JUDICIAL OFFICER: MICHAEL T. SMYTH

CLERK: Yvette Mapula

REPORTER/ERM: Regina L. Garrison CSR#12921

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2023-00012941-CU-OE-CTL** CASE INIT.DATE: 03/29/2023

CASE TITLE: **Federico vs ASI HASTINGS INC [IMAGED]**

CASE CATEGORY: Civil CASE TYPE: (U)Other Employment

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

Eric Yaeckel, Attorney for Objector Vanessa Chambers, present in person.

Nicholas J Ferraro, Attorney for Plaintiff Albert Federico, present via remote video appearance.

Raymond Nhan, attorney for ASI HASTINGS INC, Defendant, present via remote video appearance.

Ryan Kuhn, attorney for Vanessa Chambers, Objector, present in person.

The Court, having taken the above entitled matter under submission earlier this date and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

FINAL ORDER

Proposed Intervenor Vanessa Chambers' Motion to Intervene is **DENIED**. All requests for judicial notice are granted. Plaintiffs' Motion for Final Approval is **GRANTED**.

1. Intervention, Consolidation, Stay

In *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, the court analyzed the same general situation before the court now—a competing PAGA plaintiff and their counsel attempting to intervene in or object to a PAGA settlement involving overlapping claims. The Supreme Court provided lengthy reasoning for its holding that “an aggrieved employee’s status as the State’s proxy in a PAGA action does not give that employee the right to seek intervention in the PAGA action of another employee, to move to vacate a judgment entered in the other employee’s action, or to require a court to receive and consider objections to a proposed settlement of that action.” (*Turrieta, supra*, 16 Cal.5th at 716.) Here, Ms. Chambers is a PAGA-only Plaintiff, whose individual claims were previously compelled to arbitration, attempting to intervene in a class and PAGA action brought by Plaintiff Albert Federico. Ms. Chamber’s role as a

PAGA representative in her own lawsuit, does not provide her with any special right to intervene or even object to the PAGA portion of Mr. Federico's lawsuit. This is not an extension of *Turrieta* to the class action context but an independent reason why Ms. Chambers, as a PAGA-only Plaintiff, has no special right to intervene or object in another PAGA case, other than as a class member.

To the extent Plaintiff is attempting to intervene as a class member and not as a PAGA representative, that too is denied. To be entitled to mandatory intervention, Ms. Chambers must "demonstrate that [her] interests are not adequately represented by the existing parties." (*Carlsbad Police Officers Association v. City of Carlsbad* (2020) 49 Cal.App.5th 135, 148.) For permissive intervention, Ms. Chambers must show that "the intervention will not enlarge the issues in the litigation" and "the reasons for the intervention outweigh any opposition by the parties presently in the action." (*Ibid.*) Ms. Chambers has failed to show that her interests are not adequately represented in the action and it is clear, given that the *Federico* case is on the verge of final approval, granting intervention would only delay resolution of this matter. Ms. Chambers assertions that the LWDA is formally reviewing all settlements involving Plaintiff's counsel and that LWDA requires more time to intervene in this action are not supported by the evidence. Rather, the LWDA's declaration in this case merely asserts that its lack of comment is not akin to approval. (ROA 94, LWDA Smith Decl.) The LWDA's declaration and brief in the matter before Judge Behan pertain only to that matter and do not indicate that the LWDA is reviewing any other settlement involving Plaintiff's counsel. (ROA 119, Ex. A; ROA 131, Ex. A.) If it is true, as Plaintiff's counsel suggests, that the LWDA would have objected to this settlement given more time, it would have been a very simple matter for the LWDA to state in its declaration that it required more time to review the case. If it had, the court would have granted a continuance. But LWDA has made no such request or representation.

Moreover, Ms. Chambers' repeated assertion that there was no discovery in this case is not correct. As Plaintiff has stated, the parties engaged in informal discovery in this matter. (See ROA 100, Oppo. at 3:15-21; ROA 23, Ferraro Decl., ¶ 8 [detailing informal discovery].) This is not uncommon in collective action lawsuits that reach settlement before significant motion practice. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 528, 544-545.) Prior to the case being reassigned to this department, Judge Pollack reviewed the efforts taken by the parties in informal discovery and mediation and granted preliminary approval. (See ROA 47, 34, 45 [Minute Order and Preliminary Approval Briefing].) Independently reviewing those documents and the other briefing, the court finds that the efforts taken in this case do not betray any collusion or lack of vigorous prosecution.

Because LWDA has not indicated any intention to object or intervene in this matter and was apparently aware of this hearing date, the court denies any stay based on Ms. Chambers' counsel's representations that the LWDA needs more time to file papers. Consolidation is also denied based on the contrast between the procedural postures of the two cases.

2. Final Approval

Plaintiff Albert Federico's Motion for Final Approval of Class Action Settlement and for Attorneys' Fees, Costs, and Class Representative Enhancement Payments are **GRANTED**. The settlement terms are fair and in compliance with the requirements of *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-1801. The settlement releases are not overbroad. The court is prepared to sign the proposed order.

IT IS SO ORDERED.

Michael T. Smyth

Judge Michael T. Smyth