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on behalf of himself and of all others similarly situated

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

11
12 SARAH SHEMAE KIM, on behalf of himself
13 and of all others similarly situated,

14
15 Plaintiff,

16 v.

17 BAREFOOT DREAMS, INC., a California
18 corporation; THE WORKSHOP LA, LLC., a
California limited liability company and
19 DOES 1 through 100, inclusive,

20 Defendants.

CASE NO.: 23STCV03111

[Assigned to the Hon. Hon. Stuart M. Rice in
Dept. 1]

[PROPOSED] **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

1 This Court, having considered the Motion of plaintiff Antonio Blanco Perez (“Plaintiff”) for
2 Preliminary Approval of Class and Representative Action Settlement and Provisional Class
3 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations
4 of Vedang J. Patel, David D. Bibiyan, Plaintiff, and Anthony Rogers, the Class and PAGA
5 Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”), the proposed
6 Notice of Proposed Class Action Settlement and Date for Final Approval Hearing (“Class Notice”),
7 and other documents submitted in support of the Motion for Preliminary Approval, hereby
8 **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference
10 into this Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
12 Class Members,” “Class Members”) for the purpose of settlement only: all current and former
13 employees of defendant Barefoot Dreams, Inc. (“Barefoot”) who worked for Barefoot in a non-
14 exempt position in California at any time during the period between February 14, 2019 through the
15 date on which the Court grants preliminary approval of the settlement (“Class Period”) and all
16 current and former employees of defendant The Workshop LA, LLC (“WLA” and with Barefoot,
17 “Defendants”) who were assigned by WLA to perform work for Barefoot in a non-exempt position
18 in California at any time during the Class Period.

19 3. The Court preliminarily appoints the named plaintiff Sarah Shemae Kim (“Plaintiff”) as
20 Class Representative, and David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, P.C., as
21 Class Counsel.

22 4. The Court preliminarily approves the proposed class settlement upon the terms and
23 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
24 settlement appears to be within the range of reasonableness of settlement that could ultimately be
25 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
26 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
27 probable outcome of further litigation relating to liability and damages issues. It further appears that
28 extensive and costly investigation and research has been conducted such that counsel for the parties

1 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
2 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
3 delay and risks that would be presented by the further prosecution of the Action. It further appears
4 that the settlement has been reached as the result of intensive, non-collusive and arms-length
5 negotiations utilizing an experienced third-party neutral.

6 5. The Court approves, as to form and content, the Class Notice that has been submitted
7 herewith.

8 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
9 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
10 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
11 with the requirements of law and appears to be the best notice practicable under the circumstances.

12 7. The Court hereby preliminarily approves the definition and disposition of the Gross
13 Settlement Amount of \$300,000.00, which is inclusive of: attorneys' fees of up to one-third (1/3) of
14 the Gross Settlement Amount which, unless escalated pursuant to the Settlement Agreement,
15 amounts to \$100,000.00, in addition to actual costs incurred of up to \$30,000.00; service award of
16 up to \$7,500.00 to Plaintiff; costs of settlement administration of no more than \$5,850.00 and Private
17 Attorneys General Act of 2004 ("PAGA") penalties in the amount of \$15,000.00, of which
18 \$11,250.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA") and
19 \$3,750.00 (25%) to "Aggrieved Employees," defined as all current and former employees of
20 Barefoot who worked for Barefoot in a non-exempt position in California at any time during the
21 period from February 10, 2022 through the end of the Class Period ("PAGA Period") and all current
22 and former employees of WLA who were assigned by WLA to perform work for Barefoot in a non-
23 exempt position in California at any time during the PAGA Period.

24 8. The Gross Settlement Amount expressly excludes Employer's Share of Payroll
25 Taxes, which will be paid separately and apart by Defendant on the wages portion of the Gross
26 Settlement Amount.

27 9. Class Member's "Workweek" shall mean means any workweek falling within the
28 Class Period during which a Settlement Class Member performed work for Defendants in an hourly

1 paid, non-exempt position in California for at least one day.

2 10. The Parties agree that there are 5,314 Workweeks at issue during the Class Period.
3 If, as of the close of the Class Period, the actual number of Workweeks worked increases by more
4 than 9.5%, or 505 Workweeks, then, at Defendants' election: (1) the Gross Settlement Amount shall
5 be increased by the Workweeks in excess of 5,819 (5,314 Workweeks + 505 Workweeks) multiplied
6 by the Workweek Value; or (2) the Class Period shall end on the date the number of Workweeks
7 reaches 5,819. The Workweek Value shall be calculated by dividing the Gross Settlement Amount
8 by 5,314 Workweeks. The Parties agree that the Workweek Value amounts to \$56.45 per
9 Workweek (\$300,000 / 5,314 Workweeks). Thus, for example, should there be 6,000 Workweeks
10 during the Class Period, and Defendants elect option (1) above, then the Gross Settlement Amount
11 shall be increased by \$10,217.45 [(6,000 Workweeks – 5,819 Workweeks) x \$56.45].

12 11. The Court deems ILYM Group, Inc. ("ILYM" or "Settlement Administrator"), the
13 settlement administrator, and preliminarily approves payment of administrative costs, not to exceed
14 \$5,850.00 out of the Gross Settlement Amount for services to be rendered by ILYM on behalf of
15 the class.

16 12. Not later than 30 days after the Court grants Preliminary Approval of the Settlement,
17 Defendants will deliver to the Administrator a Microsoft Excel spreadsheet containing the Class
18 Data. Class Data" means the following Class Member identifying information in Defendants'
19 custody, possession, or control: (1) name; (2) last known address(es); (3) last known telephone
20 number(s); (4) Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if
21 applicable, re-hire date(s) and/or separation date(s)).

22 13. To protect Class Members' privacy rights, the Administrator must maintain the Class
23 Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose,
24 and restrict access to the Class Data to Administrator's employees who need access to the Class
25 Data to effect and perform under this Agreement.

26 14. The Settlement Administrator shall perform an address search using the United
27 States Postal Service National Change of Address ("NCOA") database and update the addresses
28 contained on the Class List with the newly-found addresses, if any.

1 15. “Response Deadline” means forty-five (45) days after the Administrator mails the
2 Class Notice to Class Members, and shall be the last date on which a Class Member may: (a) timely
3 mail to the Administrator his or her Request for Exclusion, or (b) timely mail to the Administrator
4 his or her Objection to the Settlement. Any Class Member whose Class Notice is re-mailed after
5 having been returned to the Administrator as undeliverable shall have an additional 15 days beyond
6 the Response Deadline to (a) timely mail to the Administrator his or her Request for Exclusion, or
7 (b) timely mail to the Administrator his or her Objection to the Settlement.

8 16. Class Members who wish to exclude themselves from (opt out of) the Class
9 Settlement must send the Administrator, by mail, a signed written Request for Exclusion postmarked
10 no later than 45 days after the Administrator mails the Class Notice (plus an additional 15 days for
11 Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class
12 Member that contains: (a) the Class Member’s name, address, telephone number, and the last four
13 digits of his or her Social Security number; (b) a statement that reasonably communicates the Class
14 Member’s wish to be excluded from the Settlement; and (c) the Class Member’s signature.

15 17. Every Class Member who does not submit a timely and valid Request for Exclusion
16 is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and
17 bound by all terms and conditions of the Settlement, including the Release by Participating Class
18 Members and the PAGA Release under Paragraphs 5.2 and 5.3 of the Agreement, regardless of
19 whether the Participating Class Member actually receives the Class Notice or objects to the
20 Settlement.

21 18. Only Participating Class Members may object to the class action components of the
22 Settlement and/or this Agreement, including contesting the fairness of the Settlement and/or the
23 amounts requested for the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
24 Payment, the Class Representative Service Payment and/or the Administration Expenses Payment.
25 Participating Class Members may send written objections to the Administrator by mail. In the
26 alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court)
27 to present verbal objections at the Final Approval Hearing. A Participating Class Member who
28 elects to send a written objection to the Administrator must do so not later than 45 days after the

1 Administrator's mailing of the Class Notice (plus an additional 15 days for Class Members whose
2 Class Notice was re-mailed).

3 19. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
4 Request for Exclusion will control, and the Objection will be overruled.

5 20. Each Class Member shall have 45 days after the Administrator mails the Class Notice
6 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
7 number of Class Workweeks and/or PAGA Pay Periods allocated to the Class Member as stated in
8 the Class Member's Class Notice. The Class Member may challenge the allocation by
9 communicating with the Administrator via mail or email.

10 21. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts
11 necessary to fully pay Defendants' share of payroll taxes, by transmitting the funds to the
12 Administrator no later than 14 calendar days after the Effective Date.

13 22. For any Class Member whose Individual Class Payment or Individual PAGA
14 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
15 funds represented by such checks to the California State Controller's Office, Unclaimed Property
16 Division, in the name of the Class Member, thereby leaving no "unpaid residue" subject to the
17 requirements of California Code of Civil Procedure section 384, subd. (b).

18 23. All papers filed in support of final approval, including supporting documents for
19 attorneys' fees and costs, shall be filed by _____.

20 24. A Final Approval Hearing shall be held with the Court on _____
21 at ____:____.m in Department 1 of the above-entitled Court to determine: (1) whether the proposed
22 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
23 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount of service award
24 to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and (5) the
25 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

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IT IS SO ORDERED.

Dated: _____

Judge of the Superior Court