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Attorneys for Plaintiff Jessica Hayward

Clerk of the Superior Court
By T. Automation , Deputy Clerk

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

JESSICA HAYWARD *et al.*

Plaintiff,

vs.

AZTEC SHOPS, LTD., *et al.*

Defendants.

Case No. 37-2023-00007756-CU-OE-CTL

*Hon. Carolyn Caietti
Dept. 70*

CLASS ACTION

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

Action Filed: February 23, 2023

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

3 1. On September 26, 2024, at 9:00 a.m. in this Department, the Court entered the Final
4 Approval Order and Judgment attached hereto as Exhibit 1.

5 2. The Judge confirmed the Court's Tentative Ruling attached hereto as Exhibit 2.

6 3. A copy of this Notice has been submitted to the LWDA via its online electronic portal
7 in accordance with Labor Code § 2699(1)(3).

8 4. Notice of the Court's final ruling and entry of judgment is hereby provided.
9

10 Respectfully submitted,

11 Dated: October 2, 2024

Ferraro Vega Employment Lawyers, Inc.

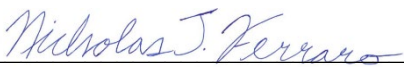
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15 Nicholas J. Ferraro
16 *Attorney for Plaintiff Jessica Hayward*
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EXHIBIT 1

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FILED
San Diego Superior Court

SEP 26 2024

Clerk of the Superior Court
By: A. Shirley, Deputy

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

JESSICA HAYWARD *et al.*

Plaintiffs,

vs.

AZTEC SHOPS, LTD. *et al.*

Defendants.

CASE NO.: 37-2023-00007756-CU-OE-CTL

**(Assigned For Purposes To Judge Carolyn
M. Caietti, Dept. 70)**

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: September 26, 2024

Hearing Time: 9:00 a.m.

Dept.: 70

Judge: Hon. Carolyn M. Caietti

[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 Jessica Hayward]

Action Filed: February 23, 2023

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Jessica Hayward ("Plaintiff") for an order finally
2 approving the Class and Representative Action Settlement Agreement ("Agreement") with
3 Defendant Aztec Shops, LTD., ("Defendant"), attorneys' fees and costs, service payment, and the
4 expenses of the Settlement Administrator duly came on for hearing on September 13, 2024 at 9:00
5 a.m. in Department 70 before the Honorable Carolyn M. Caietti.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

10 1. All terms used herein shall have the same meaning as defined in the Agreement.

11 2. This Court has jurisdiction over the subject matter of the Action pending before the
12 Superior Court for the State of California, in and for the County of San Diego, and over all Parties
13 to the Action, and all Class Members and Aggrieved Employees.

14 3. Based on a review of the papers submitted by Plaintiff and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Four Hundred Eighty Five
16 Thousand Dollars (\$485,000.00) and the terms set forth in the Agreement are fair, reasonable, and
17 adequate.

18 4. The Court further finds that the Settlement was the result of arm's length
19 negotiations conducted after Class Counsel had adequately investigated the claims asserted in the
20 Action and became familiar with the strengths and weaknesses of those claims. In particular, the
21 amount of the Settlement, along with the assistance of an experienced mediator in the settlement
22 process, among other factors, support the Court's conclusion that the Settlement is fair,
23 reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

25 5. On May 17, 2024, the Court entered the Order granting preliminary approval of the
26 Settlement. At this same time, the Court approved conditional certification of the Class for
27 settlement purposes only.

1 **Notice to the Class**

2 6. Pursuant to the Preliminary Approval Order, the Court-approved Class Notice was
3 mailed by first class mail to members of the Class at their last-known addresses on or about June
4 13, 2024. Mailing of the Class Notice to their last-known addresses was the best notice
5 practicable under the circumstances and was reasonably calculated to communicate actual notice
6 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
7 Members fully and accurately informed the Class Members of all material elements of the
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
9 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
10 fully with the laws of the State of California, the United States Constitution, due process and other
11 applicable law. The Class Notice fairly and adequately described the Settlement and provided
12 Class Members adequate instructions and a variety of means to obtain additional information.

13 7. The deadline to submit requests for exclusions and written objections to the
14 Settlement was July 29, 2024. A full and fair opportunity has been afforded to all Class Members
15 to request exclusion from the Class, to object to the Settlement and to participate in the
16 preliminary and final approval of the Settlement, and all Class Members and other persons
17 wishing to be heard have had a full and fair opportunity to be heard. Class Members also have
18 had a full and fair opportunity to exclude themselves from the proposed Settlement and Class.
19 Accordingly, the Court determines that all Class Members who did not timely and properly submit
20 a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

21 **Fairness of the Settlement**

22 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
23 (1996) 48 Cal.App.4th 1794, 1801.

24 a. The settlement was reached through arm's-length bargaining between the
25 Parties during an all-day mediation before Steven Rottman, an experienced mediator of wage and
26 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

1 b. Plaintiff's and Class Counsel's investigation and discovery have been
2 sufficient to allow the Court and Class Counsel to act reasonable and diligently on behalf of all
3 Class Members and Aggrieved Employees.

4 c. Counsel for all Parties are experienced in similar employment class and
5 representative action litigation. Plaintiff's counsel have recommended approval of the Agreement.

6 d. The percentage of objectors and requests for exclusion is small. Objections
7 from zero (0) Class Members were received and considered. Timely requests for exclusion were
8 received from two (2) Class Members.

9 e. The participation rate in the Settlement will be high. In particular, 1,036
10 Participating Class Members will be mailed a Settlement Share, representing 99.8% of the overall
11 Class.

12 9. The consideration to be given to the Class Members under the terms of the
13 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
14 asserted in the Action and is fair, reasonable and adequate compensation for the release of Class
15 Members' claims, as detailed below, given the uncertainties and significant risks of the litigation
16 and the delays which would ensue from continued prosecution of the Action.

17 10. The Agreement is approved as fair, adequate and reasonable and in the best
18 interests of the Class Members and Aggrieved Employees.

19 **Attorneys' Fees and Costs**

20 11. A Class Counsel's Fees Payment of \$161,505 and, representing one-third of the
21 Gross Settlement Amount, and a Class Counsel's Litigation Expenses Payment of \$21,236.28 are
22 reasonable in light of the contingent nature of Class Counsel's fee arrangement with Plaintiff, the
23 hours worked by Class Counsel, and the results achieved by Class Counsel. The requested
24 payments are supported by Class Counsel's lodestar and billing statements submitted to the Court.

25 **Class Representative Service Payment**

26 12. The Agreement provides for a Class Representative Service Payment of not more
27 than \$10,000 for Plaintiff, subject to the Court's approval. The Court finds that a Class
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1 Representative Service Payment in the amount of \$10,000 to Plaintiff is reasonable in light of the
2 risks and burdens undertaken by Plaintiff in the Action, for her time and effort in bringing and
3 prosecuting the Action on behalf of the Class and Aggrieved Employees, and for her execution of
4 a general release.

5 **Settlement Administration Expenses**

6 13. The Settlement Administrator shall, among other things, calculate and administer
7 the payments to be made to the Class Members and Aggrieved Employees, transmit payment for
8 attorneys' fees and costs to Class Counsel, transmit the Class Representative Service Payment to
9 the Plaintiff, issue all required tax reporting forms, calculate withholdings and perform all other
10 duties set forth in the Agreement. Settlement Administration Expenses in the amount of \$12,250
11 are reasonable in light of the work already performed and to be performed by the Settlement
12 Administrator.

13 **PAGA Payment**

14 14. The Agreement provides for a PAGA Payment in the amount of \$20,000.00,
15 which shall be allocated as follows: \$15,000.00 to the Labor & Workforce Development Agency
16 ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under the
17 Agreement pursuant to the PAGA and \$5,000.00 as the Aggrieved Employees' 25% share based
18 on the number of pay periods worked as Aggrieved Employees during the PAGA Period, which is
19 August 1, 2022 through December 31, 2023. Aggrieved Employees include all persons employed
20 by Defendant in the Food & Beverage Operation at Snapdragon Stadium as hourly, non-exempt
21 employees during the PAGA Period. Pursuant to Labor Code section 2699, subdivision (1)(2), the
22 LWDA was provided notice of the Agreement and these settlement terms and has not indicated
23 any objection thereto. The Court finds the PAGA Payment is reasonable and adequate.

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1 9. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
2 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
3 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
4 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
5 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement
6 is, may be construed as, or may be used as an admission by or against Defendant of any fault,
7 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
8 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
9 evidence of, an admission or concession with regard to the denials or defenses by Defendant.
10 Notwithstanding these restrictions, Defendant may file in any other proceeding this Final
11 Approval Order and Judgment, the Agreement, or any other papers and records on file in the
12 Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel,
13 release, or other theory of claim or issue preclusion or similar defense as to the Class Released
14 Claims, the PAGA Released Claims and/or the Plaintiff's Released Claims.

15 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
16 Parties by Class Counsel on behalf of Plaintiff and all Class Members, the LWDA and all
17 Aggrieved Employees. The Final Approval Order and Judgment shall be posted on Class
18 Counsel's website as set forth in the Class Notice. It shall not be necessary to send notice of entry
19 of this Final Approval Order and Judgment to individual Class Members or Aggrieved Employees.

20 11. If the Agreement does not become final and effective in accordance with the terms
21 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
22 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
23 revert to their respective positions as of before entering into the Agreement, and expressly reserve
24 their respective rights regarding the prosecution and defense of this Action, including all available
25 defenses and affirmative defenses, and arguments that any claim in the Action could not be
26 certified as a class action and/or managed as a representative action.

1 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

2 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
3 Plaintiff, all Class Members and Aggrieved Employees and the State of California, shall take
4 nothing in the Action.

5 2. The Court shall retain jurisdiction over the Action and the Parties to construe,
6 interpret, implement and enforce the Agreement, to hear and resolve any contested challenge to a
7 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
8 connection with the distribution of settlement benefits.

9 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
10 provided in the Agreement and in this Final Approval Order and Judgment.

11 4. Class Released Claims. Upon the Effective Date, Participating Class Members of
12 the Class, for the Class Period, shall be deemed to have forever released, acquitted, and discharged
13 the Released Parties from any and all demands, rights, liabilities, claims and/or causes of action
14 that are alleged in the Action or that could have been alleged based on the facts alleged in the
15 Action or in the PAGA Letter, including, all claims under California Labor Code sections 201,
16 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through 248.7, 256, 510, 512, 516, 558, 1174,
17 1194, 1197, 1197.1, 1198, all claims for Minimum Wage Violations; Failure to Pay All Overtimes
18 Wages; Meal Period Violations; Rest Period Violations; Paid Sick Leave Violations; Untimely
19 Payment of Wages; Wage Statement Violations; Waiting Time Penalties; Failure to Provide
20 Records; and Unfair Competition (*i.e.*, California Business and Professions Code section 17200)
21 ("Class Released Claims").

22 5. PAGA Released Claims. Upon the Effective Date, Aggrieved Employees and the
23 State of California, for the PAGA Period, shall be deemed to have forever released, acquitted, and
24 discharged the Released Parties from any and all demands, rights, liabilities, claims and/or causes
25 of action that are alleged in the Action or that could have been alleged based on the facts alleged
26 in the Action or in the PAGA Letter, including, all PAGA claims based on alleged violations of
27 California Labor Code sections 201, 202, 203, 204, 204b, 210, 226, 226.3, 226.7, 246 through
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1 248.7, 256, 510, 512, 516, 558, 1174, 1194, 1197, 1197.1, 1198, all claims for Minimum Wage
2 Violations; Failure to Pay All Overtimes Wages; Meal Period Violations; Rest Period Violations;
3 Paid Sick Leave Violations; Untimely Payment of Wages; Wage Statement Violations; Waiting
4 Time Penalties; and Failure to Provide Records("PAGA Released Claims").

5 6. Upon the Effective Date, and in addition to the releases above, Plaintiff, on her own
6 behalf and on behalf of her heirs, spouses, executors, administrators, attorneys, agents and assigns,
7 forever releases, acquits and discharges the Released Parties from all claims as set forth in the
8 Agreement ("Plaintiff's Released Claims") and to a waiver of all rights under California Civil
9 Code section 1542.

10 7. If the check representing a Settlement Share remains uncashed for 180 days after
11 they are mailed by the Settlement Administrator, the funds from such uncashed checks shall be
12 paid to the California State Controller's Unclaimed Property Fund in the name of the Participating
13 Class Member where they may claim the funds as permitted by law.

14 8. The Court hereby enters Judgment in the Action as of the filing date of this Final
15 Approval Order and Judgment, pursuant to the terms set forth in the Settlement.

16 9. A Status Conference is set for January 31, 2025 at
17 9:15am in Dept. 70 to confirm completion of the settlement process.

Dated: 9/26/24

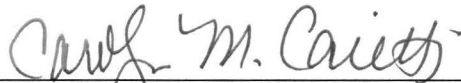
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19 HON. CAROLYN M. CAIETTI
20 JUDGE OF THE SUPERIOR COURT
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EXHIBIT 2

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL COURTHOUSE

TENTATIVE RULINGS - September 25, 2024

HEARING DATE: 09/26/24 HEARING TIME: 10:30 AM DEPT.: C-70

JUDICIAL OFFICER: CAROLYN M. CAIETTI

CASE NO.:37-2023-00007756-CU-OE-CTL

CASE TITLE: Hayward vs AZTEC SHOPS LTD [E-FILE]

CASE TYPE: (U)Other Employment

HEARING TYPE:

Plaintiff Jessica Hayward's unopposed Motion for Preliminary Approval of Class Action Settlement is **GRANTED**.

This motion seeks final approval of the parties' proposed \$485,000 wage and hour class action and PAGA settlement. The Court granted preliminary approval of the settlement. (ROA 33 - Order filed May 17, 2024; ROA 31 – Minute Order.) There is no opposition to this motion.

The settlement class is certified for purposes of settlement. The class action settlement is fair, adequate and reasonable, including the Gross Settlement Amount of \$485,000.

Class counsel is awarded \$161,505 in attorney fees and \$21,236.28 in litigation costs. Plaintiff's service award of \$10,000 and the PAGA award of \$20,000 (75% to LWDA (\$10,000) and 25% to the aggrieved employees (\$5,000)) are approved. The Court also approves \$12,250 in settlement administration expenses to CPT Group, Inc.

The class consists of 1038 class members. Of the notices sent, 30 remain undeliverable. There were zero objections, zero work week disputes and two requests for exclusion. The Court finds the settlement to be fair, adequate and reasonable. (See, e.g., *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01; Cal. Rules of Ct. rule 3.769(g).) The reasonableness of the settlement is further demonstrated by the fact that there is no opposition or objections and only two requests to be excluded.

Plaintiff requests \$161,505 in attorney fees, which is 33.33% of the gross settlement amount. A percentage method may be used to calculate a reasonable fee in a common fund case such as this. (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503.) This is more than the lodestar and results in a 2.2 multiplier, but class counsel obtained a good result on behalf of the class members. Counsel bore the entire risk and cost of litigation on a contingency basis. Plaintiff's request for attorney fees is approved.

Plaintiff's request for litigation costs of \$21,236.28 is less than was what agreed to and anticipated and is approved.

The \$12,250 in settlement administration costs for services provided by CPT Group, Inc. is supported by the Declaration of Regina Cutler and is reasonable and approved. (ROA 39.)

Incentive payments to class representatives “must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.” (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1395.) The court must also consider the “risk to the class representative in commencing suit” and any “notoriety and personal difficulties” he or she encounters as a result of the litigation. (*Id.*, at p. 1394.)

Plaintiff invested “many” hours and effort assisting with the prosecution of the action and considerable time which is documents in her supporting declaration. (ROA 40 – Declaration of Jessica Hayward.) The incentive payment is reasonable, uncontested and appropriate to compensate Plaintiff for their efforts.

The Court assessed *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538 and finds the released claims appear to be appropriately tethered to the operative complaint’s factual allegations and do not extend beyond the scope of its allegations. (*Amaro*, supra.)

The PAGA portion of the settlement also appears fair, reasonable and adequate in terms of PAGA’s purposes to remediate present labor law violations, deter future ones and to maximize enforcement of state labor laws. (*Muniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.) Plaintiff provided the LWDA with notice of this case and the proposed settlement. (ROA 38 – Ferraro Decl., at ¶ 5.)

For these reasons, the motion is **GRANTED**.

Concluding Orders

The Court sets a status conference on January 31, 2025, at 9:15 a.m. in Department 70 to confirm the completion of the settlement process.

Plaintiff is ordered to prepare and submit a judgment.

The Court will: (1) modify the proposed order (ROA 49) to reflect the status conference; and (ii) sign the proposed order.