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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

SEAN W POWERS, as an individual and on
behalf of all employees similarly situated,

Plaintiff,

v.

MARIO'S PLACE, INC., a California
Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: CVRI2301652

[Assigned for all purposes to Hon. Harold W.
Hopp, Dept. 1]

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

Date: November 4, 2024
Time: 8:30 a.m.
Courtroom: Dept. 1
Judge: Hon. Harold W. Hopp

Action Filed: April 3, 2023
Trial Date: Not Set

1 This matter has come before the Honorable Harold W. Hopp in Department 1 of the above -
2 entitled Court, located at 4050 Main Street, Riverside, California 92501, on Plaintiff Sean w Powers’
3 (“Plaintiff”) motion for final approval of Class and PAGA representative action settlement (“Motion for
4 Final Approval”). Tunyan Law, APC appeared on behalf of Plaintiff, and Lester, Cantrell & Kraus, LLP
5 appeared on behalf of Defendant Mario’s Place, Inc. (“Defendant”).

6 On June 10, 2024, the Court entered the order granting preliminary approval of class and PAGA
7 representative action settlement (“Preliminary Approval Order”), thereby preliminarily approving the
8 settlement of the above-entitled action (“Action”) in accordance with the JOINT STIPULATION OF
9 AMENDED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT (“Settlement”,
10 “Agreement” or “Settlement Agreement”) which is attached as **Exhibit 1** to the Supplemental
11 Declaration of Lilit Tunyan in Support of Plaintiff’s Motion for Preliminary Approval of Class and
12 PAGA Representative Action Settlement [“Tunyan Decl.”], at Exhibit 1) filed on May 20, 2024.

13 Having reviewed the Settlement Agreement and duly considered the parties’ papers and
14 oral argument, and good cause appearing,

15 **THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:**

16 1. This Order incorporates by reference the definitions in the Agreement, and all capitalized
17 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

18 2. The Court finds that the terms of the proposed Settlement are fair, reasonable, and
19 adequate, pursuant to California Code of Civil Procedure § 382 and California Rule of Court 3.769, et
20 seq. have been satisfied with respect to the Class and the Settlement. The Court hereby makes final its
21 earlier provisional certification of the Class for settlement purposes, as set forth in the Preliminary
22 Approval Order.

23 3. The following persons are certified as Class Members solely for the purpose of entering
24 a settlement in this matter:

25 All individuals employed by Defendant in California and classified as “non-
26 exempt” at any time during the Class Period (the “Class Period” is April 3, 2019,
27 through May 12, 2024) who did not submit timely exclusion requests to the Settlement
28 Administrator.

4. The PAGA Employee is defined as follows:

1 All Class Members that worked at any time during the PAGA Period (the “PAGA
2 Period” is April 3, 2022 through May 12, 2024.) All PAGA Employees are “aggrieved
3 employees” as defined pursuant to PAGA. PAGA Employees cannot opt out of the
4 settlement of the PAGA claim.

5 5. The Notice Packet, comprised of the Notice of Class Action Settlement (“Class
6 Notice”), Exclusion Form (“Exclusion Form”), and Objection Form (“Objection Form”), that was
7 provided to the Class Members, fully and accurately informed the Class Members of all material
8 elements of the Settlement and of their opportunity to participate in, object to or comment thereon, or to
9 seek exclusion from, the Class Settlement; was the best notice practicable under the circumstances; was
10 valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of
11 California, the United States Constitution, due process and other applicable law. The Notice Packet
12 fairly and adequately described the Settlement and provided the Class Members with adequate
13 instructions and a variety of means to obtain additional information.

14 6. No Class Members submitted any Requests for Exclusion, Notices of Objection or
15 Workweek Disputes.

16 7. The Court hereby grants final approval of the Settlement and finds that it is reasonable
17 and adequate, and in the best interests of the Class as a whole. More specifically, the Court finds that the
18 Settlement was reached following meaningful discovery and investigation conducted by Tunyan Law,
19 APC (“Class Counsel”); that the Settlement is the result of serious, informed, adversarial, and arms-
20 length negotiations between the parties; and that the terms of the Settlement are in all respects fair,
21 adequate, and reasonable. In so finding, the Court has considered all of the evidence presented, including
22 evidence regarding the strength of Plaintiff’s claims; the risk, expense, and complexity of the claims
23 presented; the likely duration of further litigation; the amount offered in the Settlement; the extent of
24 investigation and discovery completed; and the experience and views of Class Counsel. The Court has
25 further considered the absence of Notices of Objection and Requests for Exclusion from the Class
26 Settlement submitted by Class Members. Accordingly, the Court hereby directs that the Settlement be
27 affected in accordance with the Settlement Agreement and the following terms and conditions.

28 8. A full opportunity has been afforded to the Class Members to participate in the Final
Approval Hearing, and all Class Members and other persons wishing to be heard have been heard. The

1 Class Members also have had a full and fair opportunity to exclude themselves from the Class
2 Settlement. Accordingly, the Court determines that all Class Members who have not submitted a valid
3 and timely Request for Exclusion (“Settlement Class Members”) and the State of California and all
4 hourly-paid or non-exempt employees of Defendant in California from April 3, 2022 through May 12,
5 2024 (“PAGA Employees”) are bound by this Final Approval Order and Judgment.

6 9. The Court finds that payment of Settlement Administration Fees in the amount of
7 **\$8,576.10** is appropriate for the services performed and costs incurred and to be incurred for the notice
8 and settlement administration process. It is hereby ordered that the Settlement Administrator, Phoenix
9 Class Action Administration Solutions, shall issue payment to itself in the amount of \$8,576.10, in
10 accordance with the terms set forth in Settlement Agreement.

11 10. Plaintiff Sean W. Powers is appointed as the representative of the class (“Class
12 Representative”). The Court finds that the Service Payment sought is fair and reasonable for the work
13 performed by Plaintiff on behalf of the Class, the State of California, and the PAGA Employees. It is
14 hereby ordered that the Settlement Administrator issue payment in the amount of **\$7,500.00** to Plaintiff
15 for his Service Payment, according to the terms set forth in the Settlement Agreement.

16 11. The Court finds that the allocation of **\$15,000.00** toward penalties under the California
17 Private Attorneys General Act of 2004 (“PAGA Payment”), is fair, reasonable, and appropriate, and
18 hereby approved. The Settlement Administrator shall distribute the PAGA Payment as follows: the
19 amount of \$11,250.00 to the California Labor and Workforce Development Agency (“LWDA
20 Payment”), and the amount of \$3,750.00 to be distributed on a pro rata basis to PAGA Employees,
21 according to the terms set forth in the Settlement Agreement.

22 12. The Court appoints Tunyan Law, APC as counsel for the Class (“Class Counsel”). The
23 Court finds that the request for attorneys’ fees in the amount of **\$67,000.00** to Class Counsel falls within
24 the range of reasonableness, and the results achieved justify the award sought. The requested attorneys’
25 fees to Class Counsel are fair, reasonable, and appropriate, and are hereby approved. It is hereby ordered
26 that the Settlement Administrator issue payment in the amount of \$67,000.00 to Class Counsel for
27 attorneys’ fees, in accordance with the terms set forth in the Settlement Agreement.

28 13. The Court finds that reimbursement of litigation costs and expenses in the amount of

1 **\$17,170.61** to Class Counsel is reasonable, and hereby approved. It is hereby ordered that the Settlement
2 Administrator issue payment in the amount of \$17,170.61 to Class Counsel for reimbursement of
3 litigation costs and expenses, in accordance with the terms set forth in the Settlement Agreement.

4 14. The Court hereby enters Judgment by which Settlement Class Members shall be
5 conclusively determined to have given a release of any and all Released Class Claims against the
6 Released Parties, and all PAGA Members shall be conclusively determined to have given a release of
7 any and all Released PAGA Claims against the Released Parties, as set forth in the Settlement
8 Agreement and Class Notice.

9 15. It is hereby ordered that Defendant shall deposit the Gross Settlement Amount and the
10 employer's share of payroll taxes in connection with the wages portion of the Settlement Shares
11 ("Employer Taxes") into an account established by the Settlement Administrator within fifteen (15)
12 calendar days after the Effective Date, in accordance with the terms and methodology set forth in the
13 Settlement Agreement.

14 16. It is hereby ordered that the Settlement Administrator shall prepare and mail Individual
15 Settlement Payment checks, minus applicable withholding, to the Settlement Class Members and
16 Individual PAGA Payment checks, to the PAGA Employees within fourteen (14) calendar days after
17 Defendant fully funds the Gross Settlement Amount, according to the methodology and terms set forth in
18 the Settlement Agreement. It is hereby ordered that any envelope transmitting an Individual Settlement
19 Payment check to a Settlement Class Member shall bear the notation, "YOUR CLASS ACTION
20 SETTLEMENT CHECK IS ENCLOSED."

21 17. Each check issued to a Settlement Class Member and/or PAGA Member for his or her
22 Individual Settlement Payment and/or Individual PAGA Payment shall be negotiable for a period of one
23 hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be
24 cancelled. The funds associated with such cancelled checks will be distributed to those class members
25 who have cashed their checks. It is hereby ordered that the Settlement Administrator shall mail a
26 reminder postcard to any Settlement Class Member or PAGA Employee whose Settlement check has not
27 been negotiated within sixty (60) calendar days after the date of the initial mailing. If any of Class
28 Members are current employees of Defendant, or the distribution mailed to those Class Members is

1 returned to the Settlement Administrator as being undeliverable, and the Settlement Administrator is
2 unable to locate a valid mailing address, the Settlement Administrator shall arrange with Defendant to
3 have those distributions delivered to the Class Members at their place of employment.

4 18. After entry of this Final Approval Order and Judgment, pursuant to California Rules of
5 Court, Rule 3.769(h), the Court shall retain jurisdiction to construe, interpret, implement, and enforce the
6 Settlement Agreement and this Final Approval Order and Judgment, to hear and resolve any contested
7 challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute arising from or
8 in connection with the distribution of settlement benefits.

9 19. Notice of entry of this Final Approval Order and Judgment shall be given to the Class
10 Members by posting a copy of the Final Approval Order and Judgment on the Settlement
11 Administrator's website for a period of at least ninety (90) calendar days after the date of entry of this
12 Final Approval Order and Judgment. Individualized notice is not required.

13 20. A Final Compliance Hearing is set for _____ at _____
14 a.m/p.m. in Department 1 of the Riverside County Superior Court, located at 4050 Main Street,
15 Riverside, California 92501. Class Counsel shall submit a final accounting report in the form of a
16 declaration from the Settlement Administrator regarding the status of the settlement administration at
17 least five (5) court days prior to the Final Compliance Hearing. The declaration shall describe the date
18 the checks were mailed, the total number of checks mailed to Settlement Class Members and PAGA
19 Members, the average amount of those checks, the number of checks that remain uncashed, the total
20 value of those uncashed checks, the average amount of the uncashed checks, and the nature and date of
21 the disposition of those unclaimed funds, and if Code of Civil Procedure section 384.5 is applicable, the
22 declaration shall be accompanied by a proposed amended judgment that complies with that section.

23 **IT IS SO ORDERED.**

24
25 Dated: _____

26 Hon. Harold W. Hopp
RIVERSIDE COUNTY SUPERIOR COURT JUDGE