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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

MANUEL BALUX OCH and PEDRO
GARCIA ALFEREZ on behalf of
themselves, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

SAC PROFLOORS; and DOES 1-100,

Defendants.

Case No. 23CV031860
(Consolidated with Case No. 23CV039543)

*[Assigned for All Purposes to the
Hon. Michael Markman; Dept. 23]*

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

Date: September 12, 2024
Time: 10:30 a.m.
Reservation ID: A-31860-001

Action File: April 25, 2023
Trial Date: None Set

1 **I. RECITALS**

2 This action is currently pending before this Court as a class action and representative action
3 (the “Action”). Plaintiffs Manuel Balux Och and Pedro Garcia Alferez have applied to this Court
4 for an order finally approving the settlement of the Action in accordance with the Joint Stipulation
5 and Settlement Agreement (the “Agreement” or “Settlement Agreement”) and Addendum to Joint
6 Stipulation and Settlement Agreement (the “Addendum”) which, together, set forth the terms and
7 conditions for a proposed settlement and entry of judgment upon the terms and conditions set forth
8 therein. The Court has read and considered the Memorandum of Points and Authorities in Support
9 of Plaintiff’s Motion for Final Approval of Class and PAGA Settlement, and the declarations
10 submitted therewith. For purposes of this Order, the Court adopts all defined terms as set forth in
11 the Agreement.

12 **II. FINDINGS**

13 After review and consideration of the Agreement and Plaintiffs’ motion for final approval
14 and the papers in support thereof, the Court hereby finds and orders as follows:

15 1. The Court has jurisdiction over the claims of the Class Members asserted in this
16 proceeding and over all parties to the proceeding.

17 2. The “Class” or “Class Members” are defined to include: All non-exempt, hourly
18 employees of Defendant in the State of California from April 25, 2019 through December 15,
19 2023.

20 3. The “PAGA Aggrieved Employees” are defined to include: All non-exempt, hourly
21 employees of Defendant in the State of California from April 13, 2022 through December 15,
22 2023.

23 4. The Court-approved Notice of Class Action Settlement (“Class Notice”) was
24 mailed by first-class U.S. mail to all Class Members in English and Spanish. The Class Notice
25 informed the Class of the material terms of the settlement, of their right to receive a *pro rata*
26 portion of the Net Settlement Amount, of their right to request exclusion from the settlement, of
27 their right to comment upon or object to the settlement and to appear in person or through counsel
28 at the Final Approval Hearing and of the date set for the Final Approval Hearing. Adequate periods

of time were provided by each of these procedures.

5. In response to the Class Notice, no member of the Class submitted a written objection to the settlement or stated an intention to appear at the Final Approval Hearing. No members of the Class requested to be excluded from the settlement. No member of the Class submitted a dispute regarding the number of workweeks credited to him or her.

III. ORDER

The Court having considered the papers submitted in support of the motion for final approval, HEREBY ORDERS THE FOLLOWING:

1. The Court finds that the applicable requirements of California Code of Civil Procedure section 382 and California Rule of Court 3.769, *et seq.* have been satisfied with respect to the Class and the settlement. The Court hereby makes final its earlier provisional certification of the Class for settlement purposes, as set forth in the Preliminary Approval Order.

2. The Court finds and determines that this notice procedure afforded adequate protections to Class Members and provides the basis for the Court to make an informed decision regarding approval of the settlement based on the Class Members' response. The Court finds and determines that the Class Notice was the best notice practicable under the circumstances, and satisfied the requirements of law and due process.

3. The Court further finds and determines that the terms of the settlement are fair, reasonable and adequate to the Class and to each Class Member.

4. Pursuant to California law, the Court hereby grants final approval of the settlement. The Court finds that it appears that the settlement was reached as a result of informed and non-collusive arm's-length negotiations facilitated by a neutral mediator. The Court further finds that it appears that the Parties conducted extensive investigation, research, and discovery and that their attorneys were able to reasonably evaluate their respective positions. The Court also finds that settlement will enable the Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate the case. The Court has considered the absence of objections to and requests for exclusion from the settlement, reviewed the monetary recovery provided as part of the settlement, and recognizes the significant value

1 accorded to the Class. Accordingly, the Court hereby approves the terms set forth in the
2 Settlement Agreement and finds that the settlement is, in all respects, fair, adequate, and
3 reasonable, and directs the Parties to effectuate the settlement according to its terms.

4 5. A full opportunity has been afforded to the Class Members to participate in the
5 Final Approval Hearing, and all Class Members and other persons wishing to be heard have been
6 heard. The Class Members also have had a full and fair opportunity to exclude themselves from
7 the settlement. Accordingly, the Court determines that all Class Members who did not submit a
8 valid and timely Request for Exclusion from the Settlement (“Participating Class Members”) are
9 bound by this Order.

10 6. In exchange for a portion of the Net Settlement Amount, all Participating Class
11 Members will be bound by the following release: “The Released Class Claims include, for the
12 entire Class Period, all claims that were pled or that could have been pled in the operative class
13 complaint based upon the facts alleged in the Lawsuits including: (1) Failure to Pay All Straight
14 Time Wages; (2) Failure to Pay All Overtime Wages; (3) Failure to Authorize and Permit Rest
15 Periods and pay for missed rest periods; (4) Failure to Provide Meal Periods and pay for missed
16 meal periods; (5) Failure to Provide Accurate and Complete Wage Statements; (6) Failure to
17 Adopt A Compliant Sick Pay/Paid Time Off Policy; (7) Waiting Time Penalties; (8) Failure to
18 Reimburse Business Expenses; (9) Failure to Timely Pay Wages During Employment; and (10)
19 Violation of Unfair Competition Law based upon violations of the California Labor Code sections
20 set forth herein.” The Class Period is April 25, 2019 through December 15, 2023.

21 7. In exchange for a portion of the PAGA Payment, all Aggrieved Employees will be
22 bound by the following release: “The Released PAGA Claims include, for the entire PAGA
23 Period, any and all claims belonging to the State of California, the LWDA, and Plaintiff (as
24 representative of the State of California, the LWDA, and the general public) under the California
25 Private Attorney General Act (“PAGA”), Cal. Lab. Code § 2698, *et seq.* to the extent such claims
26 are predicated on claims that were or reasonably could have been alleged based on the claims,
27 facts and/or allegations that were contained in Plaintiff’s PAGA Letters.” The PAGA Period is
28 April 13, 2022 through December 15, 2023.

1 8. The Court hereby confirms Mara Law Firm, PC; Lawyers for Employee and
2 Consumer Rights; and Melmed Law Group P.C. as Class Counsel in this action.

3 9. The Court hereby confirms Plaintiffs Manuel Balux Och and Pedro Garcia Alferez
4 as the Class Representatives in this action.

5 10. The Court finds and determines that the individual settlement payments provided
6 for by the terms of the Settlement Agreement to be paid to the Participating Class Members are
7 fair and reasonable. The Court hereby gives final approval to and orders the payment of those
8 amounts be made to the Participating Class Members in accordance with the terms of the
9 Settlement Agreement.

10 11. The Court finds and determines the Class Representative Enhancement Payments
11 in the sum of \$7,500 each to Plaintiffs Manuel Balux Och and Pedro Garcia Alferez are fair and
12 reasonable. The Court hereby orders the Settlement Administrator to make payments to the
13 Plaintiffs/Class Representatives Manuel Balux Och and Pedro Garcia Alferez in the amount of
14 \$7,500, each, for the Class Representative Enhancement Payments in accordance with the terms
15 of the Settlement Agreement.

16 12. The Court finds and determines that the payment to the Settlement Administrator,
17 APEX Class Action, LLC, in the sum of \$8,500 for its fee and expenses incurred and to be
18 incurred for the notice and settlement administration process is fair and reasonable. The Court
19 hereby orders the Settlement Administrator to make payment to itself in the amount of \$8,500 for
20 Administration Costs in accordance with the terms of the Settlement Agreement.

21 13. Pursuant to the terms of the settlement, and the authorities, evidence and argument
22 submitted by Class Counsel, the Court hereby approves of an attorneys' fee award in the sum of
23 \$314,135 and a Cost Award of \$19,053.55 to Class Counsel. The Court finds such amounts to be
24 fair and reasonable. The Court hereby orders the Settlement Administrator to make payments in
25 accordance with the terms of the Settlement Agreement to Class Counsel in the amount of
26 \$314,135 for attorneys' fees and \$19,053.55 for litigation costs. The Settlement Administrator
27 shall retain 10% of the attorneys' fee award in an interest-bearing account, pending the
28 submission and approval of a final compliance status report after completion of the distribution

1 process.

2 14. The Court finds and determines that the payment to the Labor and Workforce
3 Development Agency (“PAGA Payment”), in the sum of \$37,500 (which is 75% of \$50,000
4 allocated to claims under the Private Attorneys General Act of 2004, is fair and reasonable. The
5 Court hereby orders the Settlement Administrator to make the payment to the LWDA in the
6 amount of \$37,500 for the PAGA payment in accordance with the terms of the Settlement
7 Agreement. The Court further orders that the remaining amount of \$12,500 be distributed to
8 Aggrieved Employees in accordance with the terms of the Settlement Agreement.

9 15. Neither Defendant nor any Released Parties shall have any further liability for costs,
10 expenses, interest, attorneys’ fees, or for any other charge, expense, or liability, except as provided
11 for by the Settlement Agreement.

12 16. The Court finds and determines that the release contained in the Settlement
13 Agreement is appropriate and shall bind all Participating Class Members.

14 17. Nothing in this Final Approval Order and Judgment shall preclude any action to
15 enforce the Parties’ obligations pursuant to the Settlement Agreement or pursuant to this Final
16 Approval Order and Judgment, including the requirement that Defendant make payments to
17 Participating Class Members in accordance with the Settlement Agreement.

18 18. The Court finds and determines that nothing in the Settlement Agreement or this
19 Final Approval Order (1) is intended or will be construed as an admission of liability or
20 wrongdoing by Defendant or (2) may be offered in evidence against Defendant (other than solely
21 in connection with this settlement).

22 19. The Court also orders that the Settlement Administrator hold in an interest-bearing
23 account 10% of the attorneys’ fees, pending the submission and approval of a final compliance
24 status report after completion of the distribution process. A final compliance hearing will be set
25 for _____ at __:____.m. A compliance status report and
26 proposed amended judgment per CCP 384 must be filed at least 5 court days prior to the
27 compliance hearing. Pursuant to Code Civ. Proc. §384, the compliance report shall specify the
28 total amount paid to class members, and the residual of unclaimed funds that will be paid to the

1 entity identified as the recipient of such funds in the proposed settlement, along with a proposed
2 amended judgment.

3 20. The Parties shall bear their own costs and attorneys' fees except as otherwise
4 provided for by the Settlement Agreement and this Final Approval Order and Judgment.

5 21. Without affecting the finality of this Final Approval Order and Judgment in any
6 way, the Court retains jurisdiction of all matters relating to the interpretation, administration,
7 implementation, effectuation and enforcement of this order and the Settlement.

8 **JUDGMENT**

9 This document shall constitute a judgment for purposes of California Rules of Court, Rule
10 3.769(h). In accordance with, and for the reasons stated in this Final Approval Order and Judgment,
11 judgment shall be entered within the meaning and for purposes of Code of Civil Procedure sections
12 577, 904.1(a), and Rules 3.769, and 8.104 of the California Rules of Court whereby named
13 Plaintiffs/Class Representatives and all Participating Class Members shall take nothing from
14 Defendants except as expressly set forth in the Settlement Agreement. The Court, pursuant to
15 California Rule of Court 3.769(h), shall retain jurisdiction over the parties to enforce the terms of
16 the judgment.

17
18 **IT IS SO ORDERED.**

19 Dated: _____, 2024

By _____
Honorable Michael Markman
Alameda County Superior Court Judge