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Attorneys for MARK FRANKLIN, on behalf of himself,
all others similarly situated, and on behalf of the general public

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

MARK FRANKLIN on behalf of
himself, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

DESERT HAVEN ENTERPRISES; and
DOES 1-100,

Defendants.

Case No. BCV-23-101153
(Consolidated with Case No. BCV-23-101829)

*[Assigned for All Purposes to the
Honorable Gregory A. Pulskamp; Div. J]*

**[PROPOSED] ORDER GRANTING PLAINTIFF
MARK FRANKLIN'S MOTION FOR FINAL
APPROVAL OF CLASS AND PAGA ACTION
SETTLEMENT AND JUDGMENT**

Date: October 30, 2024
Time: 8:30 a.m.
Division: J
Location: 1215 Truxton Avenue
Bakersfield, California 93301

Complaint Filed: April 13, 2023
Trial Date: None Set

1 **I. RECITALS**

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

11 **II. FINDINGS**

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

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

16 2. The “Class” or “Class Members” are defined to include all California hourly, non-
17 exempt employees of Desert Haven Enterprises in California at any time during the period from April
18 13, 2019, through June 1, 2024, and includes, but is not limited to, job positions Defendant refers to
19 as Trainers and Consumers.

20 3. The “Aggrieved Employees” are defined to include all non-exempt, hourly employees
21 of Defendant in the State of California from April 7, 2022 through June 1, 2024, and includes, but is
22 not limited to, job positions Defendant refers to as Trainers and Consumers.

23 4. The Class Notice was mailed by first-class U.S. mail to Class Members. The Class
24 Notice informed Class Members of the material terms of the settlement, of their right to receive a *pro*
25 *rata* portion of the Net Settlement Amount, of their right to request exclusion from the settlement, of
26 their right to comment upon or object to the settlement and to appear in person or through counsel at
27 the Final Approval Hearing and of the date set for the Final Approval Hearing. Adequate periods of
28 time were provided by each of these procedures.

1 5. In response to the Class Notice, no member of the Class submitted a written objection
2 to the settlement or stated an intention to appear at the Final Approval Hearing. Two members of the
3 Class requested to be excluded from the settlement.

4 **III. ORDER**

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

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

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

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

18 4. Pursuant to California law, the Court hereby grants final approval of the settlement.
19 The Court finds that the settlement was reached as a result of informed and non-collusive arm's-length
20 negotiations facilitated by a neutral mediator. The Court further finds that the Parties conducted
21 extensive investigation, research, and discovery and that their attorneys were able to reasonably
22 evaluate their respective positions. The Court also finds that settlement will enable the Parties to avoid
23 additional and potentially substantial litigation costs, as well as delay and risks if the Parties were to
24 continue to litigate the case. The Court has considered the absence of objections to and the low number
25 of requests for exclusion from the settlement, reviewed the monetary recovery provided as part of the
26 settlement, and recognizes the significant value accorded to the Class. Accordingly, the Court hereby
27 approves the terms set forth in the Settlement Agreement and finds that the settlement is, in all respects,
28 fair, adequate, and reasonable, and directs the Parties to effectuate the settlement according to its terms.

1 5. A full opportunity has been afforded to the Class Members to participate in the Final
2 Approval Hearing, and all Class Members and other persons wishing to be heard have been heard. The
3 Class Members also have had a full and fair opportunity to exclude themselves from the settlement.
4 Accordingly, the Court determines that all Class Members who did not submit a timely and valid
5 request for exclusion from the settlement to the Settlement Administrator (“Participating Class
6 Members”) are bound by this Order Granting Plaintiff’s Motion for Final Approval of Class and
7 PAGA Action Settlement (“Final Approval Order and Judgment”).

8 6. In exchange for a portion of the Net Settlement Amount, all Participating Class
9 Members will be bound by the following release: “The Participating Class Members will, upon the
10 Effective Date, release all claims during the Class Period that were pled or could have been pled based
11 on a reasonable interpretation of the facts included in the operative complaint.”

12 7. In exchange for a portion of the PAGA Payment, all Aggrieved Employees will be
13 bound by the following release: “The PAGA Group Members will, upon the Effective Date, release
14 all claims during the PAGA Period for civil penalties that were pled or could have been pled based on
15 a reasonable interpretation of the facts included in the operative complaint. Further, the State of
16 California will release all claims raised in the PAGA demand letter submitted to the Labor and
17 Workforce Development Agency on or about April 7, 2023.”

18 8. The Court hereby confirms David Mara and Jill Vecchi of Mara Law Firm, PC, and
19 Peter Horton of Lawyers for Employee and Consumer Rights., as Class Counsel in this action.

20 9. The Court hereby confirms Plaintiff Mark Franklin as the Class Representative in this
21 action.

22 10. The Court finds and determines that the Individual Settlement Payments provided for
23 by the terms of the Settlement Agreement to be paid to the Participating Class Members are fair and
24 reasonable. The Court hereby grants final approval to and orders the payment of those amounts be
25 made to the Participating Class Members in accordance with the terms of the Settlement Agreement.

26 11. The Court finds and determines the Class Representative Enhancement Payment in the
27 sum of \$15,000 to Plaintiff Mark Franklin is fair and reasonable. The Court hereby orders the
28 Settlement Administrator to make the payment to the Plaintiff/Class Representative Mark Franklin in

1 the amount of \$15,000 for the Class Representative Enhancement Payment in accordance with the
2 terms of the Settlement Agreement.

3 12. The Court finds and determines that the payment to the Settlement Administrator,
4 APEX Class Action, LLC, in the sum of \$10,000 for its fee and expenses incurred and to be incurred
5 for the notice and settlement administration process is fair and reasonable. The Court hereby orders
6 the Settlement Administrator to make payment to itself in the amount of \$10,000 for Administration
7 Costs in accordance with the terms of the Settlement Agreement.

8 13. Pursuant to the terms of the settlement, and the authorities, evidence and argument
9 submitted by Class Counsel, the Court hereby approves of an Attorney Fee Award in the sum of
10 \$612,500 and a Cost Award of \$22,346.18 to Class Counsel. The Court finds such amounts to be fair
11 and reasonable. The Court hereby orders the Settlement Administrator to make payment to Class
12 Counsel in the amount of \$612,500 for attorneys' fees and \$22,346.18 for litigation expenses in
13 accordance with the terms of the Settlement Agreement.

14 14. The Court finds and determines that the payment to the Labor and Workforce
15 Development Agency ("LWDA"), in the sum of \$56,250 (which is 75% of the \$75,000 allocated to
16 claims under the Private Attorneys General Act of 2004 ("PAGA")), is fair and reasonable. The Court
17 hereby orders the Settlement Administrator to make the payment to the LWDA in the amount of
18 \$56,250 for the PAGA payment in accordance with the terms of the Settlement Agreement.

19 15. Neither Defendant nor any related persons or entities shall have any further liability for
20 costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as
21 provided for by the Settlement Agreement.

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

24 17. Nothing in this Final Approval Order and Judgment shall preclude any action to enforce
25 the Parties' obligations pursuant to the Settlement Agreement or pursuant to this Final Approval Order
26 and Judgment, including the requirement that Defendant make payments to Settlement Class Members
27 in accordance with the Settlement Agreement.

28 18. The Court finds and determines that nothing in the Settlement Agreement or this Final

1 Approval Order and Judgment (1) is intended or will be construed as an admission of liability or
2 wrongdoing by Defendant or (2) may be offered in evidence against Defendant (other than solely in
3 connection with this settlement).

4 19. The Court hereby enters final judgment in this action in accordance with the terms of
5 the Settlement Agreement, Preliminary Approval Order, and this Final Approval Order and Judgment.

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

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

11 **IV. JUDGMENT**

12 This Final Approval Order and Judgment shall constitute a judgment for purposes of California
13 Rule of Court 3.769(h). In accordance with, and for the reasons stated in this Final Approval Order
14 and Judgment, judgment shall be entered within the meaning and for purposes of Code of Civil
15 Procedure sections 577, 904.1(a), and California Rules of Court 3.769 and 8.104 whereby the Named
16 Plaintiff/Class Representative and all Settlement Class Members shall take nothing from Defendant
17 except as expressly set forth in the Settlement Agreement, in conjunction with Plaintiff's Motion for
18 Preliminary Approval of the Class Action Settlement. The Court, pursuant to California Rule of Court
19 3.769(h), shall retain jurisdiction over the Parties to enforce the terms of the judgment.

20 **IT IS SO ORDERED.**

21
22 Dated:

Honorable Gregory Pulskamp
Superior Court Judge

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