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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN DIEGO

14 ROGEBERTO BENITEZ, an individual, on
15 behalf of himself and on behalf of all persons
16 similarly situated,

17 Plaintiff,

18 vs.

19 HYATT CORPORATION, a Corporation; and
20 DOES 1 through 50, inclusive,

21 Defendants.

CASE NO.: **37-2023-00028524-CU-OE-CTL**

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

Hearing Date: January 31, 2025

Hearing Time: 9:30 a.m.

Judge: Hon. Marcella O. McLaughlin

Dept.: 72

Date Action Filed: July 7, 2023

Trial Date: Not set

1 The motion of Plaintiff Rogeberto Benitez (“Plaintiff”) for an order finally approving the
2 Class Action and PAGA Settlement Agreement (“Agreement”) with Defendant Hyatt Corporation
3 (“Defendant”) and for an award of attorneys’ fees and costs, service payment, and the fees of the
4 Administrator duly came on for hearing on January 31, 2024 before the Honorable Marcella O.
5 McLaughlin.

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 this litigation pending before
12 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
13 including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Seven Hundred Sixty
16 Thousand Dollars (\$760,000) 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 and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On September 6, 2024, the Court granted preliminary approval of the Settlement.
26 At this same time, the Court approved conditional certification of the Class for settlement
27 purposes only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
3 by first class mail to members of the Class at their last known addresses on or about October 30,
4 2024. Mailing of the Class Notice to their last known addresses was the best notice option under
5 the circumstances and was reasonably calculated to communicate actual notice of the litigation
6 and the proposed settlement to the Class. The Class Notice given to the Class Members fully and
7 accurately informed the Class Members of all material elements of the proposed Settlement and of
8 their opportunity to object to or comment thereon or to seek exclusion from the Settlement;
9 constituted valid, due, and sufficient notice to all Class Members; and complied fully with the
10 laws of the State of California, the United States Constitution, due process and other applicable
11 law. The Class Notice fairly and adequately described the Settlement and provided Class
12 Members adequate instructions and a variety of means to obtain additional information.

13 7. The Response Deadline for opting out of the Class or submitting written objections
14 to the Settlement was December 16, 2024, which was extended by 14 days for re-mailed Class
15 Notices. There was an adequate interval between mailing of the Class Notice and the response
16 deadline to permit Class Members to choose what to do and act on their decision. A full
17 opportunity has been afforded to the Participating Class Members to participate in this hearing,
18 and all Participating Class Members and other persons wishing to be heard have been heard. Class
19 Members also have had a full and fair opportunity to exclude themselves from the proposed
20 Settlement and Class. Accordingly, the Court determines that all Class Members who did not
21 timely and properly submit a request for exclusion are bound by the Settlement and this Final
22 Approval Order and Judgment.

23 **Fairness Of Settlement**

24 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
25 48 Cal.App.4th 1794, 1801 (1996).

26 a. The settlement was reached through arm's-length bargaining between the
27 parties during an all-day mediation before David Rotman, a respected and experienced mediator of
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1 wage and hour class actions. There has been no collusion between the parties in reaching the
2 proposed settlement.

3 b. Plaintiff's investigation and discovery have been sufficient to allow the
4 Court and counsel to act intelligently.

5 c. Counsel for both parties are experienced in similar employment class action
6 litigation. All counsel recommended approval of the Agreement.

7 d. The percentage of objectors and requests for exclusion is small. No
8 objections were received. No requests for exclusion were received.

9 e. The participation rate was high. 588 Participating Class Members will be
10 mailed a settlement payment, representing 100% of the overall Class.

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

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

18 **Attorneys' Fees and Costs**

19 11. An award of \$253,333 for attorneys' fees, representing one-third of the Gross
20 Settlement Amount, and \$25,090.45 for litigation costs and expenses, is reasonable, in light of the
21 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
22 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
23 and billing statement.

24 **Class Representative Service Payment**

25 12. The Agreement provides for a Class Representative Service Payment of not more
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that Class
27 Representative Service Payment in the amount of \$10,000 to the Plaintiff is reasonable in light of
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1 the risks and burdens undertaken by the Plaintiff in the litigation and for their time and effort in
2 bringing and prosecuting this matter on behalf of the Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payment to be made to the
5 Participating Class Members in the manner set forth in the Agreement, transmit payment for
6 attorneys' fees and costs to Class Counsel, transmit the Class Representative Service Payment to
7 the Plaintiff, distribute the PAGA Penalties, issue any required tax reporting forms, calculate
8 withholdings and perform the other remaining duties set forth in the Agreement. The
9 Administrator has documented \$9,950 in fees and expenses, and this amount is reasonable in light
10 of the work performed by the Administrator.

11 **PAGA Penalties**

12 14. The Agreement provides for PAGA Penalties out of the Gross Settlement Amount
13 of \$20,000, which shall be allocated with 75% (\$15,000) allocated to the LWDA PAGA Payment
14 and 25% (\$5,000) allocated to the Individual PAGA Payments to be distributed to the Aggrieved
15 Employees. The Administrator will calculate each Individual PAGA Payment by (a) dividing the
16 amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number
17 of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
18 multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees
19 are all individuals who were employed by Defendant at the La Jolla, California Hyatt location in
20 California and classified as a non-exempt employee at any time during the PAGA Period (June 8,
21 2022 through July 5, 2024). The Court finds the PAGA Penalties to be reasonable. All Aggrieved
22 Employees will be sent their share of the PAGA Penalties and will be subject to the release of the
23 Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

24 **II.**

25 **ORDERS**

26 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:
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1 15. The certification of the Class for the purposes of settlement is confirmed. The
2 Class is defined as follows:

3 All individuals who were employed by Defendant in California at the La Jolla,
4 California Hyatt location and classified as a non-exempt employee at any time
5 during the Class Period (July 7, 2019 through July 5, 2024).

6 16. All persons who meet the foregoing definition are members of the Class, except for
7 those individuals who filed a valid request for exclusion (“opt out”) from the Class. There were
8 no individuals who requested exclusion from the Class.

9 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
10 best interest of the Class. Defendant shall fund the Gross Settlement Amount and the amount
11 necessary to pay payroll taxes thereon within 21 days of the Effective Date.

12 18. Class Counsel are awarded attorneys' fees in the amount of \$253,333 and costs in
13 the amount of \$25,090.45. In accordance with the Agreement, the attorneys’ fees award shall be
14 allocated 75% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 25% to The Gomez Law
15 Firm. Class Counsel shall not seek or obtain any other compensation or reimbursement from
16 Defendant, Plaintiff or members of the Class.

17 19. The payment of the Class Representative Service Payment in the amount of
18 \$10,000 to the Plaintiff is approved.

19 20. The payment of \$9,950 to the Administrator for their fees and expenses is
20 approved.

21 21. The PAGA Penalties in the amount of \$20,000 are approved and shall be allocated
22 in accordance with the Agreement.

23 22. The Agreement and this Settlement are not an admission by Defendant, nor is this
24 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
25 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
26 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
27 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
28 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability

1 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
2 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
3 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
4 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval
5 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
6 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
7 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
8 Released PAGA Claims.

9 23. Notice of entry of this Final Approval Order and Judgment shall be given to all
10 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
11 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
12 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
13 to individual Class Members. Plaintiff shall serve this Final Approval Order and Judgment on the
14 LWDA.

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

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

23 25. Except as set forth in the Agreement and this Final Approval Order and Judgment,
24 Plaintiff, and all members of the Class, shall take nothing in the Action.

25 26. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
26 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
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1 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
2 arising from or in connection with the distribution of settlement benefits.

3 27. The Parties are authorized to agree to and to adopt such amendments, modifications
4 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
5 Final Approval Order and Judgment and as approved by the Court.

6 28. Each party shall bear its own attorneys' fees and costs, except as otherwise
7 provided in the Agreement and in this Final Approval Order and Judgment.

8 29. As of the Effective Date and upon full funding of the Gross Settlement Amount by
9 Defendant and all employer payroll taxes owed by Defendant, all Participating Class Members, on
10 behalf of themselves and each of their respective executors, administrators, representatives,
11 agents, heirs, successors, assigns, trustees, spouses, or guardians, release Released Parties from the
12 Released Class Claims. The "Released Class Claims" are any and all claims, rights, demands,
13 charges, complaints, causes of action, obligations, or liability of any and every kind that are based
14 on the facts stated in the Operative Complaint which occurred during the Class Period and for any
15 and all claims that were raised or could have been raised based on the factual allegations made in
16 the Operative Complaint that occurred during the Class Period. This includes claims for (1)
17 Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.; (2) Failure to Pay
18 Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to Pay
19 Overtime Wages in Violation of Cal. Lab. Code § 510; (4) Failure to Provide Required Meal
20 Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5)
21 Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the
22 Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of
23 Cal. Lab. Code § 226; (7) Failure to Reimburse Employees for Required Expenses in Violation of
24 Cal. Lab. Code § 2802; (8) Failure to Provide Wages When Due in Violation of Cal. Lab. Code §§
25 201, 202 and 203; (9) Failure to Pay Sick Pay Wages in Violation of Cal. Lab Code §§ 201-204,
26 233, 246; and (10) Failure to Provide Gratuities in Violation of Cal. Lab. Code § 351. Except as
27 expressly set forth in this Agreement, Participating Class Members do not release any other
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1 claims, including claims for vested benefits, wrongful termination, violation of the Fair
2 Employment and Housing Act, unemployment insurance, disability, social security, workers'
3 compensation, or Class claims based on facts occurring outside the Class Period

4 30. As of the Effective Date and upon full funding of the Gross Settlement Amount by
5 Defendant and all employer payroll taxes owed by Defendant, all Aggrieved Employees and the
6 LWDA are deemed to release, on behalf of themselves and their respective executors,
7 administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians,
8 the Released Parties from the Released PAGA Claims. The "Released PAGA Claims" are all
9 claims for PAGA penalties that were alleged based on the facts stated in the Operative Complaint
10 and the PAGA Notice, which occurred during the PAGA Period. This includes claims for PAGA
11 penalties based on underlying claims for (1) Failure to Pay Minimum Wages in Violation of Cal.
12 Lab. Code §§ 1194, 1197 & 1197.1; (2) Failure to Pay Overtime Wages in Violation of Cal. Lab.
13 Code § 510; (3) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7
14 & 512 and the Applicable IWC Wage Order; (4) Failure to Provide Required Rest Periods in
15 Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to
16 Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; (6) Failure to
17 Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; (7) Failure
18 to Provide Wages When Due in Violation of Cal. Lab. Code §§ 201, 202 and 203; (8) Failure to
19 Pay Sick Pay Wages in Violation of Cal. Lab Code §§ 201-204, 233, 246; (9) Failure to Provide
20 Gratuities in Violation of Cal. Lab. Code § 351; (10) Failure to Pay All Vested Vacation Time in
21 Violation of Cal. Lab. Code § 227.3; and (11) Failure to Provide Suitable Seating. The Released
22 PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for
23 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
24 discrimination, unemployment insurance, disability, social security, worker's compensation, and
25 PAGA claims outside of the PAGA Period.

1 31. As of the Effective Date and upon full funding of the Gross Settlement Amount by
2 Defendant, Plaintiff releases and discharges the Defendant and the Released Parties from the
3 Plaintiff's Release as set forth fully in the Agreement.

4 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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6 Dated: _____

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HON. MARCELLA O. MCCLAUGHLIN,
JUDGE, SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT