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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF CONTRA COSTA**

JOSE RAMON DE LA CRUZ, an individual,  
on behalf of himself, and on behalf of all  
persons similarly situated,

Plaintiff,

v.

GALPAO GAUCHO TWO, LLC, a Texas  
limited liability company; GALPAO  
GAUCHO THREE, LLC, a California limited  
liability company; GALPAO GAUCHO FOUR  
LLC, a California limited liability company;  
GALPAO GAUCHO FIVE LLC, a California  
limited liability company; GALPAO  
GAUCHO EIGHT LLC, a California limited  
liability company; GALPAO GAUCHO NINE  
LLC, a California limited liability company;  
and DOES 1-50, Inclusive,

Defendants.

Case No. C23-01770

**~~PROPOSED~~ ORDER GRANTING  
FINAL APPROVAL**

Date: June 26, 2025  
Time: 9:00 a.m.

Judge: Hon. Edward G. Weil  
Dept.: 39

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class and  
2 PAGA Action Claims and Release of Claims ("Agreement") and Motion for Class Counsel Award  
3 and Class Representative Service Award duly came on for hearing on June 26, 2025, before the  
4 above-entitled Court. JCL Law Firm, APC and Zakay Law Group, APLC appeared on behalf of  
5 Plaintiff JOSE RAMON DE LA CRUZ ("Plaintiff"). Farella Braun + Martell LLP appeared on  
6 behalf of Defendants Galpao Gaucho Two, LLC, Galpao Gaucho Three, LLC, Galpao Gaucho Four  
7 LLC, Galpao Gaucho Five LLC, Galpao Gaucho Eight LLC, and Galpao Gaucho Nine LLC  
8 (hereinafter "Defendants").

9 Plaintiff Jose Ramon De La Cruz moves for final approval of his class action and PAGA  
10 settlement with defendants Galpao Gaucho Two, LLC (and five others). He separately moves for  
11 approval of attorney's fees and a class representative award. The motions will be considered jointly.

12 **A. Background and Settlement Terms**

13 The original complaint was filed on July 12, 2022, raising class action claims on behalf of  
14 nonexempt employees, alleging that defendants violated the Labor Code in various ways, including  
15 failure to pay minimum and overtime wages, failure to provide meal breaks, failure to provide proper  
16 wage statements, failure to reimburse necessary business expenses, and failure to pay all wages due  
17 on separation.

18 The settlement would create a gross settlement fund of \$985,516.67. The class representative  
19 payment to the plaintiff would be \$10,000. Attorney's fees would be \$328,505.56 (one-third of the  
20 settlement). Litigation costs would not exceed \$30,000. The settlement administrator's costs (Apex

21 Class Action Administration) were bid at \$13,950. PAGA penalties would be \$30,000,  
22 resulting in a payment of \$22,500 to the LWDA and \$7,500 to plaintiffs. The net amount paid  
23 directly to the class members would be about \$573,061.11. The fund is non-reversionary. There are  
24 1,302 class members.

25 Based on the class size, the average net payment for each class member is approximately  
26 \$440. These figures differ somewhat from those reflected in the Court's preliminary approval of the  
27 settlement, because the application of an "escalator clause," which was triggered when the calculated  
28

1 number of workweeks increased by more than 10% above the previous estimate. An amendment to  
2 the settlement was approved by stipulation and order on April 11, 2025.

3 The proposed settlement would certify a class of all current and former non-exempt  
4 employees employed by Defendants in California from July 20, 2019 through July 1, 2024.

5 The class members will not be required to file a claim. Class members may object or opt out  
6 of the settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.)  
7 Funds would be apportioned to class members based on the number of workweeks worked during  
8 the class period.

9 Since preliminary approval of the settlement was granted, notice has been given to the class.  
10 Of 1,302 packages mailed, 139 were returned as undeliverable. Sip traces found another 53 mailing  
11 addresses, to which packets were remailed. 86 remain undeliverable. No objections or requests to  
12 opt out have been received.

13 Various prescribed follow-up steps will be taken with respect to mail that is returned as  
14 undeliverable. Checks undelivered or uncashed 180 days after mailing will be voided, and will be  
15 paid to tendered to the California Controller's Unclaimed Property Fund in the name of the Class  
16 Members who did not cash their checks.

17 The settlement contains release language covering "all class claims alleged, or reasonably  
18 could have been alleged based on the facts alleged, in the operative complaint." Under recent  
19 appellate authority, the limitation to those claims with the "same factual predicate" as those alleged  
20 in the complaint is critical. (Amaro v. Anaheim Arena Mgmt., LLC (2021) 69 Cal.App.5th 521, 537  
21 ["A court cannot release claims that are outside the scope of the allegations of the complaint." "P ut  
22 another way, a release of claims that goes beyond the scope of the allegations in the operative  
23 complaint' is impermissible." (Id., quoting Marshall v. Northrop Grumman Corp. (C.D. Cal.2020)  
24 469 F.Supp.3d 942, 949.) PAGA claims are released to the extent they were "alleged in the operative  
25 complaint in the Action and Plaintiff's PAGA notice to the LWDA[.]"

26 Informal written discovery was undertaken, some of which was reviewed by retained  
27 statisticians and economists. The matter settled after arms-length negotiations, which included a  
28 session with an experienced mediator, in July of 2024.

1 Counsel also has provided an analysis of the case, and how the settlement compares to the  
2 potential value of the case, after allowing for various risks and contingencies. This included an  
3 estimate of defendant's exposure for the class claims of about \$3,499,826.10.

4 The potential liability needs to be adjusted for various evidence and risk-based  
5 contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number  
6 of reasons: they derive from other violations, they include "stacking" of violations, the law may only  
7 allow application of the "initial violation" penalty amount, and the total amount may be reduced in  
8 the discretion of the court. (See Labor Code, § 2699(e)(2) [PAGA penalties may be reduced where  
9 "based on the facts and circumstances of the particular case, to do otherwise would result in an  
10 award that is unjust arbitrary and oppressive, or confiscatory."])

11 Counsel attest that notice of the proposed settlement was transmitted to the LWDA  
12 concurrently with the filing of the motion.

### 13 **B. Legal Standards**

14 The primary determination to be made is whether the proposed settlement is "fair,  
15 reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801,  
16 including "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further  
17 litigation, the risk of maintaining class action status through trial, the amount offered in settlement,  
18 the extent of discovery completed and the state of the proceedings, the experience and views of  
19 counsel, the presence of a governmental participant, and the reaction ... to the proposed settlement."  
20 (See also *Amaro v. Anaheim Arena Mgmt., LLC*, supra, 69 Cal.App.5th 521.)

21 Because this matter also proposes to settle PAGA claims, the Court also must consider the  
22 criteria that apply under that statute. Recently, the Court of Appeal's decision in *Moniz v. Adecco*  
23 *USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found  
24 that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA  
25 settlements. (/d., at 64.) The Court also held that the trial court must assess "the fairness of the  
26 settlement's allocation of civil penalties between the affected aggrieved employees[.]" (Id., at 64-  
27 65.)

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1 California law provides some general guidance concerning judicial approval of any  
2 settlement. First, public policy generally favors settlement. (Neary v. Regents of University of  
3 California (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary  
4 to law or public policy. (Bechtel Corp. v. Superior Court (1973) 33 Cal.App.3d 405, 412; Timney  
5 v. Lin (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "[t]he court cannot surrender its duty to see  
6 that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter."  
7 (California State Auto. Assn. Inter-Ins. Bureau v. Superior Court (1990) 50 Cal.3d 658, 664.) As a  
8 result, courts have specifically noted that Neary does not always apply, because "[w]here the rights  
9 of the public are implicated, the additional safeguard of judicial review, though more cumbersome  
10 to the settlement process, serves a salutatory purpose." (Consumer Advocacy Group, Inc. v. Kintetsu  
11 Enterprises of America (2006) 141 Cal.App.4th 48, 63.)

12 **C. Attorney fees, costs, representative award, and administrative costs**

13 Plaintiff seeks one-third of the total settlement amount, \$328,505.56, as fees, relying on the  
14 common fund" theory. Even a proper common fund-based fee award, however, should be reviewed  
15 through a lodestar cross-check. In Lafitte v. Robert Half International (2016) 1 Cal.5th 480, 503, the  
16 Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the  
17 percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar  
18 cross-check is extraordinarily high or low, the trial court should consider whether the percentage  
19 used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court  
20 is not necessarily required to make such an adjustment." (Id., at 505.) Pursuant to the Court's earlier  
21 direction, counsel have computed a lodestar fee of \$211,712.50, resulting in an implied multiplier  
22 of 1.55. The lodestar is based on 215.5 hours at a blended hourly rate of \$670. Without specifically  
23 endorsing the hourly rates or the number of hours spent, no adjustment is required. The fees are  
24 approved.

25 Counsel seek approval of "up to \$30,000," which they document currently as \$22,528.63.  
26 Those costs are reasonable and are approved. Additional cost reimbursement requests, even costs  
27 that would not exceed the \$30,000 cap, must be approved separately.

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1 Plaintiff requests a representative award of \$10,000. Criteria for evaluation of representative  
2 payment requests are discussed in *Clark v. American Residential Services LLC* (2009) 175  
3 Cal.App.4th 785, 804-807. Mr. De La Cruz attests that he spent about 15-20 hours working on the  
4 case and that his participation could make it more difficult to find employment. He points out that  
5 he gave a broader release than the class, but he does not indicate that he had any additional individual  
6 claims of value. Given the size of the overall settlement and the other factors, the request is approved  
7 in the amount of 10,000.

8 Settlement Administrator's costs of \$13,950 are reasonable and are approved.

9 **D. Conclusion**

10 The Court finds the settlement is fair, reasonable, and adequate, and the motion for final  
11 approval is granted. The motion for fees and costs is granted, with the proviso that additional costs  
12 above \$22,568.63 must be separately approved. Counsel are directed to prepare an order reflecting  
13 this tentative ruling and the other findings in the previously submitted proposed order. The ultimate  
14 judgment must provide for a compliance hearing after the settlement has been completely  
15 implemented. Plaintiffs' counsel are to submit a compliance statement one week before the  
16 compliance hearing date. 5% of the attorney's fees are to be withheld by the claims administrator  
17 pending satisfactory compliance as found by the Court.

18  
19 **I. FINDINGS**

20 Based on the written argument and evidence presented in connection with the motion, the  
21 Court makes the following findings:

22 1. All capitalized terms used herein shall have the same meaning as defined in  
23 the Agreement.

24 2. This Court has jurisdiction over the subject matter of this litigation pending  
25 in the California Superior Court for the County of Contra Costa ("Court"), Case No. C23-01770,  
26 entitled *Jose Ramon De La Cruz v. Galpao Gaucho Two, LLC, et al.* and over all Parties to this  
27 litigation, including the Class.

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1 **Preliminary Approval of the Settlement**

2                 3.       On February 20, 2025, and again on April 11, 2025, the Court granted  
3 preliminary approval of a class-wide settlement. At the same time the court approved certification  
4 of a provisional settlement class for settlement purposes only. The Court confirms this Order and  
5 finally approves the settlement and the certification of the Class.

6 **Notice to the Class**

7                 4.       In compliance with the Preliminary Approval Order, the Notice Packet was  
8 mailed by first class mail to the Class Members at their last known addresses on April 22, 2025.  
9 Mailing of the Notice Packet to their last known addresses was the best notice practicable under the  
10 circumstances and was reasonably calculated to communicate actual notice of the litigation and the  
11 proposed settlement to the members of the Class Members. The Court finds that the Notice Packet  
12 provided fully satisfies the requirements of California Rules of Court, rule 3.769.

13                 5.       The Response Deadline for opting out or objecting was June 9, 2025. There  
14 was an adequate interval between notice and deadline to permit Class Members to choose what to  
15 do and act on their decision. No Class Members objected. No Class Members requested exclusion.

16 **Fairness Of the Settlement**

17                 6.       The Agreement provides for a Gross Settlement Amount of \$985,516.67.  
18 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48  
19 Cal.App.4th 1794, 1801.)

20                         a.       The settlement was reached through arms-length bargaining between  
21 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed  
22 settlement.

23                         b.       The Parties' investigation and discovery have been sufficient to allow  
24 the Court and counsel to act intelligently.

25                         c.       Counsel for all parties are experienced in similar employment class  
26 action litigation and have previously settled similar class claims on behalf of employees claiming  
27 compensation. All counsel recommended approval of the Settlement.

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1 d. No objections were received. No requests for exclusion were  
2 received.

3 e. The participation rate is high. All Class Members will be  
4 participating in the Settlement and will be sent settlement payments.

5 7. The consideration to be given to the Class Members under the terms of the  
6 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims  
7 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the  
8 Released Class Claims and Released PAGA Claims, given the uncertainties and risks of the  
9 litigation and the delays which would ensue from continued prosecution of the Action.

10 8. The Agreement is finally approved as fair, adequate, and reasonable and in  
11 the best interests of the Participating Class Members.

12 **PAGA Payment**

13 9. The Agreement provides for a payment of PAGA Payment in the amount of  
14 \$30,000.00. The Court has reviewed the PAGA Payment and finds and determines that the PAGA  
15 Payment and the allocation of \$22,500.00 (75% of the PAGA Payment) to the LWDA and \$7,500.00  
16 (25% of the PAGA Payment) to the Aggrieved Employees is fair and reasonable and complies with  
17 the requirements set forth in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56.

18 **Class Counsel Award**

19 10. The Agreement provides for a payment of a Class Counsel Award in the  
20 amount of up to Three Hundred Fifty-One Thousand Thirty-Four Dollars and Nineteen Cents  
21 (\$351,034.19). Subject to Court approval, the Class Counsel Award consists of attorneys' fees equal  
22 to one-third (1/3) of the Gross Settlement Amount, or Three Hundred Twenty-Eight Thousand Five  
23 Hundred Five Dollars and Fifty-Six Cents (\$328,505.56) and reimbursement of costs and expenses  
24 in the amount of Twenty-Two Thousand Five Hundred Twenty-Eight Dollars and Sixty-Three Cents  
25 (\$22,528.63).

26 11. A payment of Class Counsel Award of Three Hundred Fifty-One Thousand  
27 Thirty-Four Dollars and Nineteen Cents (\$351,034.19) comprised of attorneys' fees in the amount  
28 of Three Hundred Twenty-Eight Thousand Five Hundred Five Dollars and Fifty-Six Cents

1 (\$328,505.56) and reimbursement of costs and expenses in the amount of Twenty-Two Thousand  
2 Five Hundred Twenty-Eight Dollars and Sixty-Three Cents (\$22,528.63) is reasonable in light of  
3 the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results  
4 achieved by Class Counsel. The requested attorneys' fee award represents 1/3 of the common fund,  
5 which is reasonable, and is supported by Class Counsel's lodestar.

6 **Class Representative Service Award**

7           12. The Agreement provides for a Class Representative Service Award of up to  
8 Ten Thousand Dollars and Zero Cents (\$10,000.00) for Plaintiff, Jose Ramon De La Cruz, subject  
9 to the Court's approval. The Court finds that the amount of Ten Thousand Dollars and Zero Cents  
10 (\$10,000.00) is reasonable in light of the risks and burdens undertaken by the Plaintiff in this class  
11 action litigation.

12 **Settlement Administration Expenses**

13           13. The Agreement provides for Settlement Administration Expenses to be paid  
14 in an amount not to exceed \$13,950.00. The Declaration of the Administrator provides that the  
15 actual claims administration expenses were \$13,950.00. The amount of this payment is reasonable  
16 in light of the work performed by the Administrator.

17 **II. ORDERS**

18 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

19           1. The Class is certified for the purposes of settlement only. The Settlement  
20 Class is hereby defined to include:

21           "All persons who are or previously were employed by Defendants Galpao Gaucho  
22 Two, LLC, Galpao Gaucho Three, LLC, Galpao Gaucho Four LLC, Galpao Gaucho  
23 Five LLC, Galpao Gaucho Eight LLC, or Galpao Gaucho Nine LLC in California  
24 and classified as non-exempt employees during the period from July 20, 2019 to July  
25 1, 2024."

26           2. There are 1,302 members of the Class. Every person in the Class who did  
27 not opt out is a Participating Class Member. After providing Notice to the Class, there are zero opt-  
28 outs to the Settlement.

1                   3.       The Agreement is hereby approved as fair, reasonable, adequate, and in the  
2 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with  
3 this Order and the terms of the Agreement.

4                   4.       Defendants shall fully fund the Gross Settlement Amount on the Funding  
5 Date. In exchange, the Class Members shall release the “Released Parties” from the “Released Class  
6 Claims” and the “Aggrieved Employees” shall release the “Released Parties” from the “Released  
7 PAGA Claims.”

8                   a.       “Released Parties” means Defendants and any of their past, present  
9 and future direct or indirect parents, subsidiaries, predecessors, successors, affiliates, and all entities  
10 that could be held to be joint employers, as well as each of its or their past, present, and future  
11 officers, directors, employees, partners, members, shareholders, and agents, attorneys, insurers,  
12 reinsurers, and any individual or entity which could be jointly liable with Defendants.

13                   b.       “Released Class Claims” means all class claims alleged, or reasonably  
14 could have been alleged based on the facts alleged, in the operative complaint in the *Jose Ramon*  
15 *De La Cruz v. Galpao Gaucho Two, LLC et. al.* Action which occurred during the Class Period, and  
16 expressly excluding all other claims, including claims for vested benefits, wrongful termination,  
17 unemployment insurance, disability, social security, workers’ compensation, and class claims  
18 outside the Class Period.

19                   c.       “Aggrieved Employees” shall mean all non-exempt employees who  
20 are or previously were employed by any of the Defendants in California at any time during the  
21 PAGA Period.

22                   d.       “Released PAGA Claims” means all PAGA claims alleged in the  
23 operative complaint in the Action matter and Plaintiff’s PAGA notice to the LWDA which occurred  
24 during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits,  
25 wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and  
26 PAGA claims outside of the PAGA Period.

27                   5.       Class Counsel are awarded Class Counsel Award in the amount of  
28 \$351,034.19 comprised of attorneys’ fees in the amount of Three Hundred Twenty-Eight Thousand

1 Five Hundred Five Dollars and Fifty-Six Cents (\$328,505.56) and reimbursement of costs and  
2 expenses in the amount of Twenty-Two Thousand Five Hundred Twenty-Eight Dollars and Sixty-  
3 Three Cents (\$22,528.63). Class Counsel shall not seek or obtain any other compensation or  
4 reimbursement from Defendant, Plaintiff, or members of the Class.

5           6.       The payment of the Class Representative Service Award to the Plaintiff in  
6 the amount of \$10,000.00 is approved.

7           7.       The payment of \$13,950.00 to the Settlement Administration Expenses is  
8 approved.

9           8.       The PAGA Payment of \$30,000.00 is hereby approved as fair, reasonable,  
10 adequate and adequately protects the interests of the public and the LWDA. Further, the Court finds  
11 that Plaintiff and Class Counsel negotiated the PAGA Payment at arms-length, absent of any fraud  
12 or collusion.

13           9.       The Net Settlement Amount available for distribution to the Settlement Class  
14 Members is estimated to be \$580,521.37 and is calculated by subtracting the Class Counsel Award  
15 (\$351,034.19), the Class Representative Service Award (\$10,000.00), the Settlement  
16 Administration Expenses (\$13,950.00), and the PAGA Payment (\$30,000.00) from the Gross  
17 Settlement Amount (\$985,516.67).

18           10.      Final Judgment is hereby entered in this action. The Final Judgment shall  
19 bind each Participating Class Member.

20           11.      Final Judgment shall also bind Plaintiff, acting on behalf of the State of  
21 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General Act  
22 ("PAGA").

23           12.      The Court further finds and determines that Class Counsel satisfied California  
24 Labor Code § 2699(l)(2) by giving the LWDA notice of the proposed Settlement of claims arising  
25 under the Private Attorney General Act ("PAGA") on September 24, 2024, and again on June 2,  
26 2025.

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1                   13.     The Court orders Class Counsel to comply with California Labor Code §  
2 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court's  
3 entry of this Order.

4                   14.     The Agreement is not an admission by Defendants, nor is this Final Approval  
5 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by  
6 Defendants. Neither this Final Approval Order, the Settlement, nor any document referred to herein,  
7 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an  
8 admission by or against Defendants of any fault, wrongdoing, or liability whatsoever. The entering  
9 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not  
10 in any event be construed as, or deemed to be evidence of, an admission or concession with regard  
11 to the denials or defenses by Defendants and shall not be offered in evidence in any action or  
12 proceeding against Defendants in any court, administrative agency or other tribunal for any purpose  
13 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and  
14 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,  
15 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and  
16 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the  
17 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim  
18 or issue preclusion or similar defense as to the claims being released by the Settlement.

19                   15.     Notice of entry of this Final Approval Order and Judgment shall be given to  
20 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice  
21 of entry of this Final Approval Order and Judgment to individual Class Members and the Final  
22 Approval Order and Judgment shall be posted on Administrator's website as indicated in the Notice  
23 Packet.

24                   16.     After entry of Final Judgment, the Court shall retain jurisdiction to construe,  
25 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a  
26 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in  
27 connection with the distribution of settlement benefits.

28 ///

1                    17. If the Settlement does not become final and effective in accordance with the  
2 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to  
3 Defendants consistent with the terms of the Settlement, then this Final Approval Order and  
4 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall  
5 be vacated.

6                    **IT IS SO ORDERED.**

7 DATED: 7/2/2025, 2025



Hon. Edward Weil

Hon. Edward G. Weil  
JUDGE OF THE SUPERIOR COURT