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Attorneys for PLAINTIFF GUSTAVO ADAME

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

GUSTAVO ADAME, an individual, on behalf
of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

HUSTEAD'S COLLISION CENTER, INC., a
California Corporation; and DOES 1 through
50, Inclusive,

Defendant.

Case No. 22CV018744

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

Date: February 6, 2025
Time: 10:00 a.m.

Judge: Hon. Michael Markman
Dept.: 23

FILED
Superior Court of California
County of Alameda
02/10/2025
Clad Fluke, Executive Officer / Clerk of the Court
By: *A. Tumorong* Deputy
A. Tumorong

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 Attorneys' Fees,
3 Attorneys' Expenses, and Service Award duly came on for hearing on February 6, 2025, before the
4 above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf
5 of Plaintiff GUSTAVO ADAME ("Plaintiff"). Wood, Smith, Henning & Berman LLP appeared on
6 behalf of Defendant HUSTEAD'S COLLISION CENTER, INC. (hereinafter "Defendant").

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

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

13 2. This Court has jurisdiction over the subject matter of this litigation
14 pending in the California Superior Court for the County of Alameda ("Court"), Case No.
15 22CV018744, entitled *Gustavo Adame v. Hustead's Collision Center, Inc.*, and over all Parties
16 to this litigation, including the Class.

17 **Preliminary Approval of the Settlement**

18 3. On August 20, 2024, the Court granted preliminary approval of a class-
19 wide settlement. At this same time, the court approved certification of a provisional settlement
20 class for settlement purposes only. The Court confirms this Order and finally approves the
21 settlement and the certification of the Class.

22 **Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Notice Packet
24 was mailed by first class mail to the Class Members at their last known addresses on September
25 24, 2024. Mailing of the Notice Packet to their last known addresses was the best notice
26 practicable under the circumstances and was reasonably calculated to communicate actual
27 notice of the litigation and the proposed settlement to the members of the Class Members. The
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1 Court finds that the Notice Packet provided fully satisfies the requirements of California Rules
2 of Court, rule 3.769.

3 5. The Response Deadline for opting out or objecting was November 8,
4 2024. There was an adequate interval between notice and deadline to permit Class Members
5 to choose what to do and act on their decision. No Class Members objected. No Class Members
6 requested exclusion. 100% of the Class Members will be participating in the Settlement and
7 will be sent Individual Settlement Payments.

8 **Fairness Of the Settlement**

9 6. The Agreement provides for a Gross Settlement Amount of \$300,000.00.
10 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
11 Cal.App.4th 1794, 1801.)

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

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

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

20 d. The percentage of objectors and requests for exclusion is zero. No
21 objections were received. No requests for exclusion were received.

22 e. The participation rate is high. 100% of Class Members will be
23 participating in the Settlement and will be sent settlement payments.

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

3 8. The Agreement is finally approved as fair, adequate, and reasonable and
4 in the best interests of the Settlement Class Members.

5 **Attorneys' Fees and Attorneys' Expenses**

6 9. The Agreement provides for an award of Attorneys' Fees and Attorneys'
7 Expenses in the amount of up to One Hundred Twenty Thousand Dollars and Zero Cents
8 (\$120,000.00). Subject to Court approval, the award of Attorneys' Expenses and Attorneys'
9 Fees consists of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount, or
10 One Hundred Thousand Dollars and Zero Cents (\$100,000.00) and reimbursement of costs and
11 expenses in an amount up to Twenty Thousand Dollars and Zero Cents (\$20,000.00).

12 10. An award of Attorneys' Expenses and Attorneys' Fees of One Hundred
13 Ten Thousand Dollars and Zero Cents (\$110,000.00) comprised of attorneys' fees in the
14 amount of Ninety Thousand Dollars and Zero Cents (\$90,000.00) and reimbursement of
15 actually incurred costs and expenses in an amount of up to Twenty Thousand Dollars and Zero
16 Cents (\$20,000.00) is reasonable in light of the contingent nature of Class Counsel's fee, the
17 hours worked by Class Counsel, and the results achieved by Class Counsel.

18 **Service Award**

19 11. The Agreement provides for a Service Award of Five Thousand Dollars
20 and Zero Cents (\$5,000.00) to Plaintiff, subject to the Court's approval. The Court finds that
21 the amount of Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff is reasonable in
22 light of the risks and burdens undertaken by the Plaintiff in this class action litigation.

23 **Administration Expenses**

24 12. The Agreement provides for Administration Expenses to be paid in an
25 amount not to exceed \$7,500.00. The Declaration of the Settlement Administrator provides
26 that the actual claims administration expenses were \$7,500.00. The amount of this payment is
27 reasonable in light of the work performed by the Settlement Administrator.

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II.
ORDERS

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

1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include all non-exempt employees who are or previously were employed by Hustead's Collision Center, Inc. and performed work in California at any time between September 29, 2018, to March 4, 2024 ("Class Period").

2. Every person in the Class who did not submit a timely and valid Request for Exclusion is a Settlement Class Member. The Court finds, based on the declaration of the Settlement Administrator, that zero Class Members opted-out of the Settlement.

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

4. Class Counsel are awarded \$106,583.69 for the award of Attorneys' Fees and Attorney's Expenses comprised of one-third of the Gross Settlement Amount, or Ninety Thousand Dollars and Zero Cents (\$90,000.00) and litigation expenses in the amount of \$16,583.69. Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff, or members of the Class.

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

6. The payment of \$7,500.00 to the Settlement Administrator for Administration Expenses is approved.

7. The PAGA Penalties payment of \$20,000.00 is hereby approved as fair, reasonable, adequate and adequately protects the interests of the public and the LWDA. Further, the Court finds that Plaintiff and Class Counsel negotiated the PAGA Penalties at arms-length, absent of any fraud or collusion.

8. Final Judgment is hereby entered in this action. The Final Judgment shall bind each Settlement Class Member. The Final Judgment shall operate as a full release

1 and discharge of Defendant and each of its present, former, and future parents, subsidiaries,
2 affiliates, predecessors, successors and assigns, and each of their respective past and present
3 members, shareholders, directors, officers, employees, agents, servants, registered
4 representatives, insurers and attorneys from all claims that reasonably could have been alleged
5 based on the facts and/or theories pled in the Operative Complaint, including claims for: unfair
6 competition predicated on claims for failure to pay minimum wages, failure to pay overtime
7 wages, failure to provide meal and rest periods, failure to reimburse business expenses, failure
8 to pay all wages due upon discharge or resignation, failure to provide accurate wage statements,
9 and regular rate violations with respect to overtime, double time, meal and rest period
10 premiums, and sick pay; and labor code violations for failure to pay minimum wages; failure
11 to pay overtime wages; failure to provide meal and rest periods; failure to reimburse business
12 expenses; failure to pay all wages due upon discharge or resignation; failure to provide accurate
13 wage statements; and regular rate violations with respect to overtime, double time, meal and
14 rest period premiums, and sick pay that accrued during the Class Period. The released claims
15 include, but are not limited to, claims for wages, statutory penalties, civil penalties, damages,
16 liquidated damages, or any other relief brought under state or federal law, the California Labor
17 Code, the Fair Labor Standards Act, California Business and Professions Code sections 17200
18 et seq, and/or any applicable Industrial Welfare Commission Wage Order, arising from the
19 labor code violations released herein; attorneys' fees and costs; and interest that accrued during
20 the Class Period. The release expressly excludes claims for vested benefits, wrongful
21 termination, unemployment insurance, disability, social security, workers' compensation, and
22 class claims outside of the Class Period. The release also expressly excludes PAGA claims,
23 which are separately released by the Aggrieved Employees.

24 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
25 California and all Aggrieved Employees, pursuant to the California Labor Code Private
26 Attorneys' General Act ("PAGA") and shall release Defendant and each of its present, former,
27 and future parents, subsidiaries, affiliates, predecessors, successors and assigns, and each of
28 their respective past and present members, shareholders, directors, officers, employees, agents,

servants, registered representatives, insurers and attorneys, from all claims for civil penalties, attorneys' fees, interest, costs, or any other relief under PAGA for alleged violations of Labor Code sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174(d), 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 198.5, 1199, 2802, 2804, 2699.5, and all applicable Industrial Welfare Commission Wage Order(s) that arise out of or reasonably relate to the factual allegations for the PAGA claims as alleged in the operative complaint and the relevant notice letter(s) to the LWDA, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation and PAGA claims outside the PAGA Period.

10. The term "Aggrieved Employees" is hereby defined as all non-exempt employees who are or previously were employed by Defendant and performed work in California during the PAGA Period. The PAGA Period means the period between September 29, 2021, through March 4, 2024.

11. The Agreement is not an admission by Defendant, nor is this Final Approval Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant and shall not be offered in evidence in any action or proceeding against Defendant in any court, administrative agency or other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of this Final Approval Order and Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions, any of the Parties may file in the Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the Action as evidence of

1 the Settlement to support a defense of res judicata, collateral estoppel, release, or other theory
2 of claim or issue preclusion or similar defense as to the claims being released by the Settlement.

3 12. Notice of entry of this Final Approval Order and Judgment shall be given
4 to Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
5 notice of entry of this Final Approval Order and Judgment to individual Class Members and
6 the Final Approval Order and Judgment shall be posted on Settlement Administrator's website
7 as indicated in the Notice Packet.

8 13. After entry of Final Judgment, the Court shall retain jurisdiction to
9 construe, interpret, implement, and enforce the Settlement, to hear and resolve any contested
10 challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute arising
11 from or in connection with the distribution of settlement benefits.

12 14. If the Settlement does not become final and effective in accordance with
13 the terms of the Settlement, resulting in the return and/or retention of the Gross Settlement
14 Amount to Defendant consistent with the terms of the Settlement, then this Final Approval
15 Order and Judgment, and all orders entered in connection herewith shall be rendered null and
16 void and shall be vacated.

17 15. Upon completion of administration of the Settlement, the Settlement
18 Administrator will provide written certification of such completion to the Court and counsel
19 for the Parties, which shall be filed with the Court.

20 16. Ten percent of the attorney's fee award must be kept in the
21 administrator's trust fund until the completion of the distribution process and court approval of
22 a final accounting.

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1 17. A final compliance hearing regarding distribution and accounting is set
2 for November 6, 2025, at 10:00 a.m. in Department 23.

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4 **IT IS SO ORDERED.**

5 DATED: 02/10/2025
6 _____, 2025

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9 HON. MICHAEL MARKMAN
10 JUDGE OF THE SUPERIOR COURT
11 **Michael Markman / Judge**