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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

RIGOBERTO TECALIZ, individually and on
behalf of others similarly situated and on
behalf of other aggrieved employees,

Plaintiff,

vs.

NATIONAL RESTAURANT INC. DBA
BLACK BEAR DINER, a California
corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No.: 37-2023-00046906-CU-OE-CTL

Honorable Matthew C. Braner
Department C-60

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: April 18, 2025
Time: 9:00 a.m.
Dept.: C-60

Complaint Filed: October 27, 2023
FAC Filed: November 27, 2023
Trial Date: Not Set

FILED
San Diego Superior Court

APR 18 2025

Clerk of the Superior Court
By: K. Sorianosos, Deputy

1 **[PROPOSED] ORDER**

2 On April 18, 2025 at 9:00 a.m. in Department C-60 of the above-captioned Court located at
3 330 West Broadway San Diego, California 92101, Plaintiff Rigoberto Tecaliz's ("Plaintiff") Motion
4 for Preliminary Approval of Class Action and PAGA Settlement, came on for hearing before the
5 Honorable Matthew C. Braner. Blackstone Law, APC appeared on behalf of Plaintiff and O'Hagan
6 Meyer LLP appeared on behalf of Defendant National Restaurant Inc. dba Black Bear Diner
7 ("Defendant").

8 The Court, having carefully considered the papers, argument of counsel, and all matters
9 presented to the Court, and good cause appearing, hereby **GRANTS** Plaintiff's Motion for Preliminary
10 Approval of Class Action and PAGA Settlement.

11 **IT IS HEREBY ORDERED THAT:**

12 1. The Court preliminarily approves the Joint Stipulation of Class Action and PAGA
13 Settlement ("Settlement" or "Settlement Agreement") attached as Exhibit 3 to the Declaration of
14 Jonathan M. Genish in Support of Plaintiff's Motion for Preliminary Approval of Class Action and
15 PAGA Settlement. This is based on the Court's determination that the Settlement falls within the
16 range of possible approval as fair, adequate, and reasonable.

17 2. This Order incorporates by reference the definitions in the Settlement Agreement, and
18 all capitalized terms defined therein shall have the same meaning in this Order as set forth in the
19 Settlement Agreement.

20 3. It appears to the Court on a preliminary basis that the Settlement is fair, adequate, and
21 reasonable. It appears to the Court that extensive investigation and research have been conducted such
22 that counsel for the parties at this time are able to reasonably evaluate their respective positions. It
23 further appears to the Court that the Settlement, at this time, will avoid substantial additional costs by
24 all parties, as well as avoid the delay and risks that would be presented by the further prosecution of
25 the case. It further appears that the Settlement has been reached as the result of intensive, serious, and
26 non-collusive, arms-length negotiations, and was entered into in good faith.

27 4. The Court preliminarily finds that the Settlement, including the allocations for the
28 Attorneys' Fees and Costs, Enhancement Payment, LWDA Payment, Settlement Administration
Costs, and payments to the Settlement Class Members and PAGA Employees provided for in the

1 Settlement Agreement, appear to be within the range of reasonableness of a settlement that could
2 ultimately be given final approval by this Court. Indeed, the Court has reviewed the monetary recovery
3 that is being granted as part of the Settlement and preliminarily finds that the monetary settlement
4 awards made available to the Class Members and PAGA Employees are fair, adequate, and reasonable
5 when balanced against the probable outcome of further litigation relating to certification, liability, and
6 damages issues and are consistent with the requirements of California Labor Code § 2699(1).

7 5. The Court concludes that, for settlement purposes only, the proposed Class meets the
8 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
9 the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable;
10 (b) common questions of law and fact predominate, and there is a well-defined community of interest
11 amongst the members of the Class with respect to the subject matter of the litigation; (c) Plaintiff's
12 claims are typical of the claims of the members of the Class; (d) Plaintiff will fairly and adequately
13 protect the interests of the members of the Class; (e) a class action is superior to other available
14 methods for the efficient adjudication of the controversy; and (f) Class Counsel is qualified to act as
15 counsel for Plaintiff in his individual capacity and as the representative of the Class.

16 6. The Court conditionally certifies, for settlement purposes only, the Class, defined as
17 follows:

18 All current and former hourly-paid and/or non-exempt employees who worked for
19 Defendant in the State of California at any time during the Class Period (or if any
20 such person is incompetent, deceased, or unavailable due to military service, the
person's legal representative or successor in interest evidenced by reasonable
verification).

21 (The Class Period is defined as the period from October 27, 2019 through
22 November 25, 2024.)

23 7. The Court provisionally appoints Jonathan M. Genish, Miriam L. Schimmel, Joana
24 Fang, and Alexandra Rose of Blackstone Law, APC as counsel for the Class ("Class Counsel").

25 8. The Court provisionally appoints Plaintiff Rigoberto Tecaliz as the representative of
26 the Class ("Class Representative").

27 9. The Court provisionally appoints ILYM Group, Inc. to handle the administration of the
28 Settlement ("Settlement Administrator").

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1 10. Within fourteen (14) calendar days after entry of this order, Defendant will provide a
2 list in a formatted readable Microsoft Office Excel spreadsheet to the Settlement Administrator
3 containing the following information for each Class Member: (1) full name; (2) last known mailing
4 address; (3) Social Security number; (4) dates worked for Defendant during the Class Period; and (8)
5 such other information as is necessary for the Settlement Administrator to calculate Workweeks and
6 PAGA Pay Periods (collectively referred to as the "Class List") in conformity with the Settlement
7 Agreement.

8 11. The Court approves, both as to form and content, the Notice of Class Action Settlement
9 ("Class Notice") attached hereto as **Exhibit 1**. The Class Notice shall be provided to Class Members
10 in the manner set forth in the Settlement Agreement. The Court finds that the Class Notice appears to
11 fully and accurately inform the Class Members of all material elements of the Settlement, of Class
12 Members' right to be excluded from the Class Settlement by submitting a Request for Exclusion, of
13 Class Members' right to dispute the Workweeks and/or PAGA Pay Periods credited to each of them
14 by submitting a Dispute, and of each Settlement Class Member's right and opportunity to object to the
15 Class Settlement by submitting a Notice of Objection to the Settlement Administrator. The Court
16 further finds that distribution of the Class Notice substantially in the manner and form set forth in the
17 Settlement Agreement and this Order, and that all other dates set forth in the Settlement Agreement
18 and this Order, meet the requirements of due process and shall constitute due and sufficient notice to
19 all persons entitled thereto. The Court further orders the Settlement Administrator to mail the Class
20 Notice in English and Spanish by First-Class U.S. Mail to all Class Members within seven (7) calendar
21 days of receipt of the Class List, pursuant to the terms set forth in the Settlement Agreement.

22 12. The Court hereby preliminarily approves the proposed procedure, set forth in the
23 Settlement Agreement, for seeking exclusion from the Class Settlement. Any Class Member may
24 choose to be excluded from the Class Settlement by submitting a Request for Exclusion in conformity
25 with the requirements set forth in the Class Notice, to the Settlement Administrator, postmarked on or
26 before the date that is forty-five (45) calendar days from the initial mailing of the Class Notice by the
27 Settlement Administrator to Class Members ("Response Deadline"), or, in the case of a re-mailed
28 Class Notice, the Response Deadline shall be extended fifteen (15) calendar days from the original

1 Response Deadline. Any such person who timely and validly chooses to opt out of, and be excluded
2 from, the Class Settlement will not be entitled to any recovery under the Class Settlement and will not
3 be bound by the Class Settlement or have any right to object, appeal, or comment thereon.
4 Nevertheless, all PAGA Employees will be bound by the PAGA Settlement and issued their Individual
5 PAGA Payment, irrespective of whether they submit a Request for Exclusion. Class Members who
6 do not submit a timely and valid Request for Exclusion (i.e., Settlement Class Members) shall be
7 bound by the Settlement Agreement and any final judgment based thereon.

8 13. A Final Approval Hearing shall be held before this Court on
9 _____ at _____ a.m./p.m. in Department C-60 of the San Diego
10 County Superior Court, located at 330 West Broadway San Diego, California 92101, to determine all
11 necessary matters concerning the Settlement, including: whether the proposed settlement of the action
12 on the terms and conditions provided for in the Settlement is fair, adequate, and reasonable and should
13 be finally approved by the Court; whether a judgment, as provided in the Settlement, should be entered
14 herein; whether the plan of allocation contained in the Settlement should be approved as fair, adequate,
15 and reasonable to the Class Members and PAGA Employees; and determine whether to approve the
16 requests for the Attorneys' Fees and Costs, Enhancement Payment, Settlement Administration Costs,
17 and allocation for the PAGA Amount.

18 14. Class Counsel shall file a motion for final approval of the Settlement and for Attorneys'
19 Fees and Costs, Enhancement Payment, and Settlement Administration Costs, along with the
20 appropriate declarations and supporting evidence, including the Settlement Administrator's
21 declaration, by per call, to be heard at the Final Approval Hearing.

22 15. To object to the Class Settlement, a Settlement Class Member must submit their Notice
23 of Objection to the Settlement Administrator on or before the Response Deadline. The Notice of
24 Objection must be signed and must contain the information that is required, as set forth in the Class
25 Notice, including and not limited to the grounds for the objection. Settlement Class Members,
26 individually or through counsel, may also present their objection orally at the Final Approval Hearing,
27 regardless of whether they have submitted a Notice of Objection.

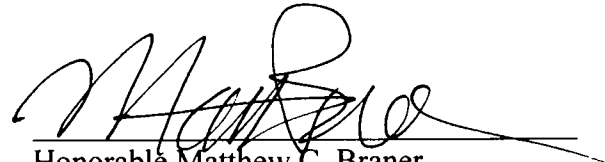
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1 16. In the event the Settlement does not become effective in accordance with the terms of
2 the Settlement Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails
3 to become effective for any reason, this Order shall be rendered null and void, shall be vacated, and
4 the parties shall revert back to their respective positions as of before entering into the Settlement
5 Agreement. The fact that the Court certified the Class for settlement purposes shall not be admissible
6 or have any bearing on the issue of whether any class should be certified in a non-settlement context.

7 17. The Court reserves the right to adjourn or continue the date of the Final Approval
8 Hearing and any dates provided for in the Settlement Agreement without further notice to the Class
9 Members and retains jurisdiction to consider all further applications arising out of or connected with
10 the Settlement.

11 **IT IS SO ORDERED.**

12 Dated: 4/18/25


Honorable Matthew C. Braner
Judge of the Superior Court