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5 Attorneys for Plaintiff,
ELBERT MCCRAY, on behalf of himself and
6 all others similarly situated

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ORANGE**

10
11 ELBERT MCCRAY, on behalf of himself and)
all others similarly situated,)
12)
13 Plaintiffs,)
14 v.)
15 LOS ALAMITOS RACE COURSE, a)
California corporation; and DOES 1 through)
16 100, Inclusive)
17 Defendants.)

CASE NO.: 30-2020-01131139-CU-OE-CXC
[Assigned for all purposes to the Hon. Randall
J. Sherman - Dept. "CX105"]
~~AMENDED~~ **[PROPOSED] ORDER**
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT,
APPLICATION FOR ATTORNEYS'
FEES AND COSTS, AND
ENHANCEMENT AWARD; JUDGMENT
DATE: April 28, 2023
TIME: 10:00 a.m.
DEPT.: CX105

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20
21 This matter having come before the Court for final fairness hearing of the class settlement
22 upon the terms set forth in the Stipulation of Class Action Settlement and Amendment to
23 Stipulation of Class Action Settlement ("Settlement Agreement") submitted in support of Motion
24 for Preliminary Approval of Class Settlement; and due and adequate notice having been given to
25 the Class Members as required in the Order Granting Preliminary Approval of Class Action
26 Settlement ("Preliminary Approval Order") and the Court having considered all papers filed and
27 proceedings had herein and otherwise being fully informed and good cause appearing therefor, it
28 is hereby **ORDERED, ADJUDGED AND DECREED THAT:**

1 1. The Motion for Final Approval of Class Action Settlement is hereby granted
2 in its entirety, except the enhancement award is reduced to \$5,000.00.

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4 2. All terms used herein shall have the same meaning as defined in the Settlement
5 Agreement.

6
7 3. This Court has jurisdiction over the subject matter of this Litigation and over all
8 Parties to this Litigation, including all Class Members.

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10 4. Distribution of the Notice of Class Action and Proposed Resolution (“Class
11 Notice”) directed to the Class Members as set forth in the Settlement Agreement and the other
12 matters set forth herein have been completed in conformity with the Preliminary Approval Order,
13 including individual notice to all Class Members who could be identified through reasonable
14 effort, and was the best notice practicable under the circumstances. This Class Notice provided
15 due and adequate notice of the proceedings and of the matters set forth therein, including the
16 proposed class settlement set forth in the Settlement Agreement, to all persons entitled to such
17 Class Notice, and the Class Notice fully satisfied the requirement of due process.

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19 5. One Class Member, Veronica Ramos, has requested to exclude herself from the
20 settlement, i.e., opted-out of the settlement, and therefore will not be bound by the judgment.

21
22 6. No Class Member objected to the settlement.

23
24 7. The Court further finds that the settlement is fair, reasonable and adequate and that
25 plaintiffs have satisfied the standards and applicable requirements for final approval of class
26 action settlement under California law, including the provisions of California Code of Civil
27 Procedure §382 and Federal Rules of Civil Procedure 23, approved for use by the California state
28 courts in *Vasquez v. Superior Court* (1971) 4 Cal.3d 800, 821.

1 8. This Court hereby approves the class and PAGA settlement set forth in the
2 Settlement Agreement and finds that the settlement is, in all respects, fair, adequate and
3 reasonable and directs the parties to effectuate the settlement according to its terms. The Court
4 finds that the settlement appears reached as a result of intensive, serious and non-collusive arms
5 length negotiations. The Court further finds that the parties have conducted extensive and costly
6 investigation and research and counsel for the parties are able to reasonably evaluate their
7 respective positions. The Court also finds that settlement at this time will avoid additional
8 substantial costs, as well as avoid the delay and risks that would be presented by the further
9 prosecution of the action. The Court has noted the significant benefits to the Class Members and
10 PAGA Group Members under the settlement. The Court also finds that the class is properly
11 certified as a class for settlement purposes only.

12
13 9. For settlement purposes only, the Court certifies the following class: All non-
14 exempt hourly employees of Defendant who performed work in the State of California at any time
15 during the Class Period, who have not already released claims through a separate individual
16 agreement or are not covered by any prior court approved class action settlement during the Class
17 Period of February 10, 2016 to September 16, 2021.

18
19 10. For settlement purposes, PAGA Group Members are defined as: All current and
20 former hourly non-exempt employees of Defendant within California at any time from February
21 10, 2019 to September 16, 2021.

22
23 11. Class Members, except those that have submitted a valid and timely request to be
24 excluded from the Settlement Agreement, release Defendant and its past or present parents,
25 subsidiaries, investors, owners (including but not limited to Dr. Edward Allred), affiliates
26 (including but not limited to Los Alamitos Quarter Horse Race Association, Los Alamitos Racing
27 Association, and Los Alamitos Racecourse), and all of their respective members, officers,
28 directors, shareholders, managing agents, owners, general partners, limited partners, employees,

1 servants, consultants, agents, independent contractors, representatives, their insurers, reinsurers,
2 and attorneys, and all persons acting by, through, under or in concert with any of them, and each
3 of their respective heirs, successors, and assigns, and any individual or entity which could be
4 jointly liable with Defendants, arising out of the facts and claims asserted in the Litigation for
5 wage and hour violations, or any other claims or causes of action that could have reasonably been
6 asserted in the Litigation, based upon the facts alleged in the Litigation, whether under common
7 law, statute, or regulation, including unpaid wages (minimum, overtime and double time wages),
8 meal period claims and premiums, waiting time claims and associated penalties, wage statement
9 claims and associated penalties, failure to pay wages owed every pay period, unfair competition
10 claims under Business & Professional Code section 17200, et al., damages for restitution,
11 liquidated damages, equitable relief, general damages, interest, cost and attorneys' fees related to
12 these claims ("Released Claims") at any time during the Class Period. The above Release Claims
13 do not include a Civil Code § 1542 waiver and general release on behalf of the Participating Class
14 Members and claims and damages that could not have reasonably been alleged arising from the
15 facts and claims alleged in the Litigation.

16

17 12. PAGA Group Members released any and all claims for civil penalties under PAGA
18 based on the Labor Code violations alleged in or arising from the factual allegations in Plaintiff's
19 notice(s) sent to the LWDA and alleged in the Litigation, including attorneys' fees and costs
20 related hereto, that arose during the PAGA Period, regardless of whether PAGA Group Members
21 opt out from the Settlement Agreement ("PAGA Released Claims").

22

23 13. Nothing contained in this Settlement Agreement shall be construed or deemed an
24 admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Each of
25 the parties has entered into this Settlement Agreement with the intention to avoid further disputes
26 and litigation, and the attendant inconvenience and expense. This Settlement Agreement shall be
27 inadmissible in evidence in any action or proceeding, except an action or proceeding to approve,
28 interpret, or enforce its terms.

1 14. The Settlement Agreement provides for the “Gross Settlement Amount” in the
2 amount of \$750,000.00. From the Gross Settlement Amount individual settlement payments to
3 Class Members, Court approved attorneys’ fees and costs, the claims administrative costs, the
4 class representatives enhancement fee, and payment to the LWDA for PAGA penalties in the
5 amount of \$15,000.00 shall be deducted. Defendant shall fund the employer’s share of payroll
6 taxes in addition to the Gross Settlement Amount. The payment of the settlement funds by
7 Defendant and payment of individual settlement checks to Class Members and PAGA Group
8 Members will be made as set forth in the Settlement Agreement.

9
10 15. The Court hereby awards Class Counsel attorneys’ fees in the total amount of
11 \$250,000.00 which is approximately 33% of the Gross Settlement Amount and to be deducted
12 therefrom. In addition, the Court awards Class Counsel reimbursement of their costs of \$9,381.07
13 to be deducted from the Gross Settlement Amount. Attorneys’ fees and costs will be paid by the
14 Claims Administrator from the Gross Settlement Amount as set forth in the Settlement
15 Agreement.

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17 16. The Court hereby approves an enhancement fee to Plaintiff, the named plaintiff in
18 the amount of \$5,000.00 ~~7,500.00~~. Payment for the enhancement fee will be paid by the Claims
19 Administrator from the Gross Settlement Amount as set forth in the Settlement Agreement.

20
21 17. The Court hereby approves the claims administrator’s fees and cost in the amount
22 of \$7,700.00. The claims administrator, CPT Group, Inc., shall be paid the cost of administration
23 of the settlement from the Gross Settlement Amount.

24
25 18. Except as expressly provided herein, the parties each shall bear all of their own fees
26 and costs in connection with this matter.

1 19. The Court approves the named Plaintiff as the class representative.

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3 20. The Court approves Michael Nourmand, Esq. and James A. De Sario, Esq. of The
4 Nourmand Law Firm, APC as class counsel.

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6 21. The Court approves CPT Group, Inc. as the claims administrator.

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8 22. Upon completion of administration of the settlement, the claims administrator shall
9 execute a declaration with a final reporting with respect to the final distribution and payment of
10 the individual settlement payments to participating Class Members and the declaration shall be
11 filed by **January 17, 2024**.

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13 23. The Court finds that the class and PAGA settlement on the terms set forth in the
14 Settlement Agreement was made in good faith, and constitutes a fair, reasonable and adequate
15 compromise of the released claims against Defendant.

16

17 24. The Court finds the class and PAGA settlement on the terms set forth in the
18 Settlement Agreement was made in good faith, and constitutes a fair, reasonable and adequate
19 compromise of the released claims against Defendant. Without affecting the finality of the
20 Judgment in any way, this Court hereby retains continuing jurisdiction over the interpretation,
21 implementation and enforcement of the settlement and all orders and judgments entered in
22 connection therewith.

23

24 25. Pursuant to California Rules of Court (“CRC”), Rule 3.769(h), California Rules of
25 Court, the Court hereby enters Judgment in this action; provided, however, that without affecting
26 the finality of the settlement or the Judgment entered herein, this Court shall retain exclusive and
27 continuing jurisdiction over the action and the parties, including all Class Members, for purposes
28 of enforcing and interpreting the Final Approval Order, the Settlement Agreement, and the

1 settlement funding and claims distribution process established therein.

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3 26. Pursuant to CRC Rule 3.771(b), CPT Group, Inc. is ordered to post on its website a
4 copy of this Judgment for a period of thirty days from the date the Court signs the Judgment.

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6 **IT IS SO ORDERED.**

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8 **DATED: April 28, 2023**

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Randall J. Sherman

HONORABLE RANDALL J. SHERMAN
ORANGE COUNTY SUPERIOR COURT

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
4 not a party to the within entitled action; my business address is 8822 West Olympic Boulevard,
Beverly Hills, California 90211.

5 On April 12, 2023, I served the following document(s) described as:

6 **AMENDED [PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION**
7 **SETTLEMENT, APPLICATION FOR ATTORNEYS' FEES AND COSTS, AND**
8 **ENHANCEMENT AWARD; JUDGMENT**

9 on the interested parties in this action by placing a true copy thereof enclosed in a sealed
envelope, with postage thereon fully prepaid, addressed as follows:

10 Bret Martin, Esq.
11 Fisher & Phillips LLP
12 4747 Execute Drive, Suite 1000
San Diego, California 92121

13 Courtesy Copy By Email: bmartin@fisherphilips.com

14 BY MAIL: I am readily familiar with our office's practice for collection and processing of
15 correspondence and other materials for mailing with the United States Postal Service. On this
16 date, I sealed the envelope(s) containing the above materials and placed the envelope(s) for
17 collection and mailing on this date at the address stated above, following our office's ordinary
business practices. The envelope(s) will be deposited with the United States Postal Service on
this date, in the ordinary course of business.

18 I declare under penalty of perjury under the laws of the State of California that the above is
19 true and correct and that this Proof of Service was executed on April 12, 2023, at Beverly Hills,
California.

20
21 /s/ Alejandra Beltran
22 Alejandra Beltran