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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ADRIANA HERNANDEZ, individually, and
on behalf of all others similarly situated,

Plaintiffs,

v.

2523 E. ANAHEIM, INC. dba XS
AFTERHOURS GENTLEMENS CLUB, a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Lead Case No. 19STCV16831
(Related to Case No. 19STCV15211)

*Assigned for All Purposes to the Hon. Ann I.
Jones in Department 11*

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT,
APPROVING FORM OF NOTICE TO
THE CLASS, CERTIFYING THE
SETTLEMENT CLASS, AND SETTING
FINAL APPROVAL HEARING**

Action Filed: May 15, 2019

BY FAX

1 **RECITALS**

2 On October 8, 2020, Plaintiff Adriana Hernandez (the “Named Plaintiff”), individually and
3 on behalf of the Class, and Defendant 2523 E. Anaheim, Inc. dba XS Afterhours Gentlemen’s
4 Club and Defendant GC Brothers Entertainment, LLC dba The Palms Gentlemen’s Club
5 (“Defendants” or “Club Owners”) entered into a class action settlement, the terms and conditions
6 of which are set forth in the parties’ Class Action Settlement Agreement and Stipulation (hereafter
7 collectively, the “Settlement” or “Settlement Agreement”). Unless otherwise provided in this
8 Order, all capitalized terms shall have the same meaning as set forth in the Settlement Agreement.

9 The motion of Named Plaintiff for an order preliminarily approving the settlement of two
10 class action lawsuits: (1) *Adriana Hernandez v. Defendant 2523 E. Anaheim, Inc. dba XS*
11 *Afterhours Gentlemen’s Club*, Case No. 19STCV16831; and (2) *Defendant GC Brothers*
12 *Entertainment, LLC dba The Palms Gentlemen’s Club*, Case No. 19STCV15211 (the “Actions”);
13 and approving the form of notice to the class, certifying the settlement class for settlement
14 purposes, and setting a final approval hearing, came on for hearing in Department 11 of this Court
15 on _____. Appearing at the hearing were Peter E. Garrell of Fortis LLP on
16 behalf of Plaintiff Adriana Hernandez (“Plaintiff”) and the proposed Class; and Steven J. Shapero
17 of Shapero and Shapero on behalf of Defendant 2523 E. Anaheim, Inc. dba XS Afterhours
18 Gentlemen’s Club and Defendant GC Brothers Entertainment, LLC dba The Palms Gentlemen’s
19 Club.

20 This Court, having fully considered Plaintiff’s Motion, the Memorandum of Points and
21 Authorities in support thereof, the Declarations in support thereof, the Settlement Agreement, the
22 proposed form of Class Notice, and the oral argument presented to the Court, finds that: (1) the
23 proposed Settlement appears fair, reasonable and adequate, and that a final fairness hearing should
24 be held after notice to the Class (defined below) of the proposed settlement to determine if the
25 Settlement Agreement and settlement are fair, reasonable, and adequate such that a Final Order
26 and Judgment should be entered in these actions based upon the Settlement Agreement and (2) the
27 proposed PAGA Settlement Payment is fair and adequate and the PAGA Settlement Payment
28 should be approved.

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2 **THE COURT ORDERS AND MAKES DETERMINATIONS AS FOLLOWS:**
3 **ORDER PROVISIONALLY CERTIFYING SETTLEMENT CLASS AND**
4 **APPOINTMENT OF CLASS REPRESENTATIVE AND CLASS COUNSEL**

5 1. The Court finds that certification of the following class, for settlement purposes
6 only, is appropriate:

7 All individuals who worked as an independent contractor, lessee, employee or other
8 outside entertainer providing bikini, semi-nude, and/or nude entertainment for 2523
9 E. Anaheim, Inc. dba XS Afterhours Gentlemen's Club or GC Brothers
10 Entertainment, LLC dba The Palms Gentlemen's Club in the State of California
11 during the Class Period. The Class Period means the period beginning on May 2,
12 2015 and extending through the Preliminary Approval Order date.

13 2. The Court grants preliminary approval of the terms and conditions contained in the
14 Settlement Agreement. The Court finds that the terms of the Settlement Agreement are within the
15 range of possible approval at the final approval hearing.

16 3. The Court preliminarily finds, for settlement purposes only, that the Class meets
17 (i) the ascertainability and numerosity requirements; (ii) the commonality requirement because, in
18 the absence of class certification and settlement, each individual Class Member would have to
19 litigate core common issues of law and fact, all relating to Defendant 2523 E. Anaheim, Inc. dba
20 XS Afterhours Gentlemen's Club's and Defendant GC Brothers Entertainment, LLC dba The
21 Palms Gentlemen's Club's alleged wage-and-hour violations asserted in the action; (iii) the
22 typicality requirement because the Named Plaintiff and the Class Members' claims all arise from
23 the same alleged events and course of conduct, and are based on the same legal theories; and (iv)
24 the adequacy of representation requirement because the Named Plaintiff have the same interests as
25 all members of the Class, and they are represented by experienced and competent counsel.

26 4. The Court further finds, preliminarily and for settlement purposes only, that
27 common issues predominate over individual issues in this litigation and that class treatment is
28 superior to the other means of resolving this dispute. Employing the class device here will not

1 only achieve economies of scale for Class Members with individual claims, but also conserve the
2 resources of the judicial system and preserve public confidence in the integrity of the system by
3 avoiding the waste and delay of repetitive proceedings. In addition, certifying the class will
4 prevent inconsistent adjudications of similar issues and claims.

5 5. For settlement purposes only, the Court finds that the Named Plaintiff, Adriana
6 Hernandez, is an adequate representative and appoints her as such. The Court further finds that
7 Peter E. Garrell and John M. Kennedy of Fortis LLP have adequately represented the Named
8 Plaintiff and the Class in this litigation, and the Court appoints them as Class Counsel.

9 6. The Court appoints Kurtzman Carson Consultants, LLC (“KCC”) to perform the
10 duties of a Settlement Administrator for the purpose of issuing the Class Notice and administering
11 the Settlement.

12 7. The Court recognizes that certification under this Order is for *settlement purposes*
13 *only*, and shall not constitute or be construed as a finding by the Court, or an admission on the part
14 of Defendants, that this action is appropriate for class treatment for litigation purposes. Entry of
15 this Order is without prejudice to the rights of Defendants to oppose class certification in the
16 Actions, should the proposed Settlement Agreement not be granted final approval.

17 **PRELIMINARY APPROVAL OF THE SETTLEMENT AGREEMENT**

18 8. The Court has reviewed the Settlement Agreement and the proposed Class Notice,
19 which is attached as an exhibit to the Settlement Agreement. The Court finds, on a preliminary
20 basis, that the Settlement Agreement appears to be within the range of reasonableness of a
21 settlement that could ultimately be given final approval by this Court. It appears to the Court on a
22 preliminary basis that:

23 a. The settlement amount is fair and reasonable to all Class Members when
24 balanced against the probable outcome of further litigation relating to liability and damages issues;

25 b. Extensive and costly investigation and research have been conducted such
26 that counsel for the parties at this time are reasonably able to evaluate their respective positions;

27 c. Settlement at this time will avoid additional substantial costs, such as those
28 that have already been incurred by both parties, as well as avoid the delay and risks that would be

1 presented by the further prosecution of this litigation; and

2 d. The proposed settlement has been reached as the result of intensive, serious,
3 and non-collusive arm's-length negotiations.

4 9. The Court further approves the following representative group of employees as
5 governed by the Settlement Agreement with respect to the PAGA Claim:

6 Class Members who worked from May 2, 2018 through the Preliminary Approval
7 Order date.

8 10. The Court grants approval of the PAGA Settlement Payment pursuant to the terms
9 and conditions contained in the Settlement Agreement. The Court finds that the terms of the
10 PAGA settlement are fair and reasonable and approves the PAGA settlement pursuant to Labor
11 Code § 2699(1)(2).

12 11. Because a PAGA action is not a class action, Class Members may not opt out of, or
13 object to, the PAGA Settlement Payment.

14 12. If the Court does not grant final approval of the Settlement Agreement, approval of
15 the PAGA settlement will be vacated.

16 **APPROVAL OF DISTRIBUTION OF THE CLASS NOTICE**

17 **AND TIMELINE FOR SENDING CLASS NOTICE**

18 13. This Court finds that the Class Notice fairly and adequately advises potential Class
19 Members of the terms of the Settlement and the process for the Class Members to obtain the
20 benefits available under the Settlement Agreement, as well as the right of Class Members to opt
21 out of the class, to file documentation in opposition to the proposed settlement, and to appear at the
22 settlement hearing to be conducted on the date set by the Court. The Court further finds that the
23 Class Notice and proposed distribution of such Class Notice by first-class mail to each identified
24 Class Member at their last known address comports with all constitutional requirements, including
25 those of due process under the United States and California constitutions, and meets the
26 requirements of Code of Civil Procedure § 382 and California Rules of Court rule 3.766.
27 Accordingly, good cause appearing therefore, the Court hereby approves the proposed Class
28 Notice, attached as **Exhibit 1**.

1 18. All written objections must be signed by the Class Member or the Class Member's
2 representative and must include the information specified in the Class Notice.

3 19. A Class Member may appear either in person or through personal counsel at the
4 Final Hearing to object to the Settlement. If represented by personal counsel, their counsel will be
5 hired at the Class Member's expense.

6 20. Class Counsel and Defendants' counsel shall promptly furnish each other with
7 copies of any and all objections or written requests for exclusion that come into their possession.

8 **FINAL APPROVAL FAIRNESS HEARING**

9 21. The Court grants Plaintiff's motion to set a settlement hearing for final approval of
10 the Settlement Agreement on _____, 2021, at _____ in Department 11 of this
11 Court ("Final Hearing"), as set forth in the Class Notice, to determine whether the proposed
12 settlement of this action is fair, reasonable and adequate and should be finally approved. The
13 Court will also consider at the Final Hearing whether applications for Plaintiffs' attorneys' fees
14 and expenses and enhancement award to the Named Plaintiff should be granted and, if so, in what
15 amounts.

16 22. Members of the Class who have not timely elected to be excluded from the Class
17 and who object to the proposed Settlement may appear and present such objections at the
18 Settlement Hearing in person or by counsel, provided that the objecting Class Member complied
19 with the requirements to object to the Settlement. No person shall be heard, and no briefs or
20 papers shall be received or considered, unless the requirements to object to the Settlement have
21 been satisfied, except as this Court may permit for good cause shown.

22 23. Class Counsel shall file Plaintiff's memorandum of points and authorities in
23 support of the final approval of the Settlement Agreement and their request for approval of the
24 attorneys' fees, enhancement award, and litigation costs no later than _____ days prior to the
25 Final Hearing. After the Final Hearing, the Court may enter a Final Order and Final Judgment in
26 accordance with the Settlement Agreement that will adjudicate the rights of all Class Members.

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1 24. All discovery and other pretrial proceedings in this action are stayed and suspended
2 until further order of this Court, except such actions as may be necessary to implement the
3 Settlement Agreement and this Order.

4 25. If, for any reason, the Court does not grant final approval of the Settlement, all
5 evidence and proceedings held in connection therewith shall be without prejudice to the status quo
6 ante rights of the parties to the litigation as more specifically set forth in the Settlement Agreement.

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8 **IT IS SO ORDERED.**

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10 Dated: _____, 2020

JUDGE OF THE SUPERIOR COURT

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1 **PROOF OF SERVICE**

2 I am employed in the County of Orange, State of California. I am over the age of 18 and
3 not a party to the within action. My business address is 650 Town Center Drive, Suite 1530, Costa
4 Mesa, California 92626. On October 13, 2020, I served the within document(s) described as:

5 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF**
6 **CLASS ACTION SETTLEMENT, APPROVING FORM OF NOTICE TO THE CLASS,**
7 **CERTIFYING THE SETTLEMENT CLASS, AND SETTING FINAL APPROVAL**
8 **HEARING**

9 on the interested parties in this action as stated below:

10 *Attorneys for Defendants 2523 E. Anaheim,*
11 *Inc. dba XS Afterhours Gentlemens Club*
12 *and The Palms Gentlemens Club:*

13 Steven J. Shapero
14 Martin M. Shapero
15 SHAPERO & SHAPERO
16 5950 Canoga Ave., Suite 404
17 Woodland Hills, CA 91367
18 Tel: (818) 710-1200
19 Fax: (818) 710-1447
20 *sshapero@shaperoandshapero.com*
21 *mshapero@shaperoandshapero.com*

22 BY ELECTRONIC TRANSMISSION VIA CASE ANYWHERE: I caused said
23 document(s) to be sent to the parties listed on the Electronic Service List maintained by
24 Case Anywhere in the manner set forth in the Court’s Order Authorizing Electronic
25 Service dated July 29, 2019.

26 BY MAIL: By placing a true copy of the foregoing document(s) in a sealed envelope
27 addressed as set forth above. I am readily familiar with this firm's practice for collection
28 and processing of correspondence for mailing. Under that practice it would be deposited
with the U.S. Postal Service on that same day with postage thereon fully prepaid in the
ordinary course of business. I am aware that on motion of the party served, service is
presumed invalid if postal cancellation date or postage meter date is more than one day
after date of deposit for mailing contained in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 13, 2020, at Costa Mesa, California.

Lisa Dancel /s/ *Lisa Dancel*
(Type or print name) (Signature)