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FILED
Clerk of the Superior Court

FEB 03 2017

By: B. DELGADO

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

DALY McCULLOUGH, Individually and on
behalf of other members of the general public
similarly situated,

Plaintiff,

v.

FISH MARKET RESTAURANTS, INC., a
California Corporation; and DOES 1-10,
inclusive

Defendants

CASE NO. 37-2015-00029010-CU-OE-CTL

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF (1) CLASS ACTION
SETTLEMENT; (2) ATTORNEYS' FEES
AND COSTS; and (3) CLASS
REPRESENTATIVE AWARD**

Date: February 3, 2017

Time: 9:00 a.m.

Dept: C-75

Judge: Hon. Richard E.L. Strauss

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 Plaintiff DALY McCULLOUGH'S Unopposed Motion for Final Approval of (1) Class Action
3 Settlement; (2) Attorneys' Fees and Costs; and (3) Class Representative Award, in the above-captioned
4 matter came on for hearing before this Court on February 3, 2017 at 9:00 a.m. Sullivan Law Group,
5 APC appeared on behalf of Plaintiff and the Class; Procopio, Cory, Hargreaves & Savitch LLP,
6 appeared on behalf of Defendant. On good cause shown, and pursuant to the authority of California
7 statutory and case law, this Court finds that the settlement between Plaintiff and Defendant was made
8 in good faith pursuant to California Rules of Court, rules 3.769 and 3.770. Accordingly, this Court
9 rules as follows:

10 **IT IS HEREBY ORDERED THAT:**

- 11 1. Plaintiff's Motion for Final Approval of (1) Class Action Settlement; (2) Attorneys' Fees and
12 Costs; and (3) Class Representative Enhancement Award, is hereby granted.
- 13 2. Pursuant to this Court's Preliminary Approval order of October 28, 2016, the Notice of Class
14 Action Settlement (the "Class Notice"), and the Opt-Out forms were sent to the Class, which
15 was previously certified in this Court's Preliminary Approval Order, in the manner specified
16 by the parties Class Action Settlement Agreement attached to the Declaration of Eric K.
17 Yaeckel as Exhibit A ("Settlement Agreement") and the Preliminary Approval Order. The
18 Notice Packets informed the Class of the terms of the Settlement, their right to receive their
19 proportional share of the Settlement by not opting out, their right to request exclusion, their
20 right to object to the Settlement, and their right to appear in person or by counsel at the final
21 approval hearing and be heard regarding approval of the Settlement. Adequate periods of time
22 were provided by each of these procedures.
- 23 3. Out of a total of 2453 Class Members who were sent notice 34 have "Opted-Out" and these
24 **34** ~~18~~ individuals are hereby excluded from the Class. No (Zero) members of the Class filed
25 written objections to the proposed settlement as part of this notice process and no objectors
26 appeared at the final approval hearing.
- 27 4. The Court finds and determines that this notice procedure afforded adequate protections to
28 Class Members and provides the basis for the Court to make an informed decision regarding

1 approval of the Settlement based on the responses of Class Members. The Court finds and
2 determines that the notice provided in this case was the best notice practicable, which satisfied
3 the requirements of law and due process.

4 5. The Court further finds and determines that the terms of the Settlement are fair, reasonable and
5 adequate to the Class and to each Class Member. The Class Members who have not expressly
6 sent a request for exclusion (“Opt-Out”), will be bound by the Settlement, that the Settlement
7 is ordered finally approved, and that all terms and provisions of the Settlement should be and
8 hereby are ordered to be consummated.

9 6. The Court finds and determines that the Settlement sums to be paid to the Class Members as
10 provided for by the Settlement are fair and reasonable. The Court hereby gives final approval
11 to and orders the payment of those amounts be made to the Class Members in accordance with
12 the terms of the Settlement.

13 7. The Court finds the payment of \$61,875.00 to the Labor and Workforce Development Agency
14 (“LWDA”) in settlement of the LWDA’s share of the penalties alleged by Plaintiff and
15 compromised under the Settlement is fair and reasonable.

16 8. The Court finds and determines that the Class Representative Enhancement Payments to
17 Plaintiff, Daly McCullough, in the sum of \$10,000.00, in consideration for her service as the
18 Class Representative and for her general releases of all claims against Defendant, is fair and
19 reasonable. The Court hereby gives final approval to and orders that the payment of the
20 Enhancement be paid as provided by the Settlement Agreement and agreed to by the parties.

21 9. The Court finds and determines that the payment to the Claims Administrator, Phoenix
22 Settlement Administrators, in the sum of \$16,500.00 for claims administration expenses
23 incurred and to be incurred in completing its duties pursuant to the terms of the Settlement is
24 fair and reasonable. The Court hereby gives final approval to and orders that the payment of
25 said amount be paid from the Gross Settlement Amount as provided for by the Settlement
26 Agreement and agreed to by the parties.

27 10. The Court finds and determines that the payment of \$275,000.00 as Class Counsel’s Attorneys’
28 Fees, and \$10,812.74 for Class Counsel’s costs, is fair and reasonable. The Court hereby gives

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final approval to and orders that those amounts be paid to the Sullivan Law Group, APC, out of the total settlement amount in accordance with the terms of the Settlement Agreement. Aside from these approved payments of attorney’s fees and costs from the Gross Settlement Amount, the parties will bear their own fees and costs in this matter, in accordance with the terms of the Settlement Agreement.

11. All “Released Claims” against Defendant by the “Class Members”(as these terms are defined the parties’ Settlement Agreement) that have been, or might have been, asserted by any Class Member who did not timely submit a Request for Exclusion (“Opt-Out”) form, in accordance with the terms of the Settlement Agreement are hereby released, and all such Class Members shall be forever barred from pursuing any of the Released Claims as set forth in the Settlement Agreement against the Released Parties.

12. Accordingly, the Court enters this judgment consistent with the above and the parties’ Settlement Agreement. Pursuant to California Rules of Court, rule 3.769(h), this Court retains jurisdiction over the parties to enforce this judgment.

IT IS SO ORDERED.

Dated: FEB 03 2017

RICHARD E.L. STRAUSS

HON. RICHARD E.L. STRAUSS
JUDGE OF THE SUPERIOR COURT