

FILED

OCT 06 2022

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

BY _____ DEPUTY

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Attorneys for Plaintiff RECEIVED
10/4/2022 1:03 PM
FRESNO COUNTY SUPERIOR COURT
By: I. Herrera, Deputy

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF FRESNO

9 MARIA CHAVARIN DE GAMEZ, as an
10 individual and on behalf of all others similarly
11 situated,

Plaintiff,

vs.

13 CALIFORNIA FRUIT BASKET, INC.,
14 a California corporation; MELKONIAN
15 ENTERPRISES, INC., a California corporation;
and DOES 1 through 100,

Defendants.

Case No.: 20CECG02531

[Assigned for all purposes to the Hon.
Kimberly A. Gaab Dept. 503]

REVISD [PROPOSED] ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

Date: September 28, 2022
Time: 3:30 p.m.
Dept.: 503

Complaint Filed: August 28, 2020
Trial Date: None Set

1 The unopposed motion of Plaintiff Maria Chavarin De Gamez ("Plaintiff") for
2 Preliminary Approval of Class Action Settlement came on regularly for hearing before this Court
3 on September 28, 2022, at 3:30 p.m. The Court, having considered the proposed Stipulation of
4 Settlement (the "Settlement"), attached as Exhibit A to the Declaration of Daniel J. Brown filed
5 on March 21, 2022; having considered Plaintiff's Motion for Preliminary Approval of Class
6 Action Settlement, Memorandum of Points and Authorities in support thereof, and supporting
7 declarations filed therewith; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

8 1. The Court GRANTS preliminary approval of the class action settlement as set
9 forth in the Settlement and finds its terms to be within the range of reasonableness of a settlement
10 that ultimately could be granted approval by the Court at a Final Fairness Hearing. For purposes
11 of the Settlement, the Court finds that the proposed Settlement Class is ascertainable and that
12 there is a sufficiently well-defined community of interest among the members of the Settlement
13 Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants
14 conditional certification of the following Settlement Class:

15 All individuals who worked for Defendant California Fruit Basket,
16 Inc. and/or Defendant Melkonian Enterprises, Inc. (collectively
17 "Defendants") in California as non-exempt employees from August
28, 2016 through June 16, 2021 ("Settlement Class" or "Settlement
Class Members").

18 2. For purposes of the Settlement, the Court designates named Plaintiff Marian
19 Chavarin De Gamez as Class Representative, and Daniel J. Brown of Stansbury Brown Law, as
20 Class Counsel.

21 3. The Court designates Phoenix Settlement Administrators as the third-party
22 Settlement Administrator for mailing notices.

23 4. The Court approves, as to form and content, the Notice of Pendency of Class
24 Action and Proposed Settlement ("Class Notice"), Request for Exclusion Form, and Objection
25 Form, attached as Exhibits 1, 2, and 3 respectively to the Settlement.

26 5. The Court finds that the form of notice to the Settlement Class regarding the
27 pendency of the action and of the Settlement, and the methods of giving notice to members of the
28 Settlement Class constitute the best notice practicable under the circumstances, and constitute

1 valid, due, and sufficient notice to all members of the Settlement Class. The form and method of
2 giving notice complies fully with the requirements of California Code of Civil Procedure section
3 382, California Civil Code section 1781, California Rules of Court 3.766 and 3.769, the California
4 and United States Constitutions, and other applicable law.

5 6. The Court further approves the procedures for class members to opt out of or object
6 to the Settlement, as set forth in the Class Notice.

7 7. The procedures and requirements for filing objections in connection with the Final
8 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
9 presentation of any class member's objection to the Settlement, in accordance with the due
10 process rights of all class members.

11 8. The Court directs the Settlement Administrator to mail the Class Notice, Request
12 for Exclusion Form, and Objection Form to the members of the Settlement Class in accordance
13 with the terms of the Settlement. The Court directs the Settlement Administrator to carry out all
14 duties as required by the Settlement.

15 9. The Class Notice Packet shall provide at least 45 calendar days' notice for class
16 members to opt out of, or object to, the Settlement. Any Request for Exclusion or Objection shall
17 be submitted directly to the Settlement Administrator and not filed with the Court. Upon receipt
18 of any Requests for Exclusion or Objections, the Settlement Administrator shall forward copies
19 of all Requests for Exclusion or Objections to counsel for all Parties. The Settlement
20 Administrator shall file a declaration concurrently with the filing of the Motion for Final Approval
21 of Class Action Settlement which authenticates a copy of every Request for Exclusion and
22 Objection received by the Settlement Administrator.

23 10. The Final Fairness Hearing on the question of whether the Settlement should be
24 finally approved as fair, reasonable, and adequate is scheduled in Department 503 of this Court,
25 located at 1130 O Street, Fresno, California 93721, on February 9, 2023 at 3:30 ~~am~~ /p.m.
12:45 p.m. JDS.

26 11. At the Final Fairness Hearing, the Court will consider: (a) whether the Settlement
27 should be finally approved as fair, reasonable, and adequate for the Settlement Class; (b) whether
28 a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiff's

1 application for reasonable attorneys' fees, reimbursement of litigation expenses, administration
2 costs, Enhancement Payment to Plaintiff, and payment to the Labor and Workforce Development
3 Agency ("LWDA") for penalties under the Labor Code Private Attorneys General Act ("PAGA")
4 should be granted.

5 12. Counsel for the Parties shall file memoranda, declarations, or other statements and
6 materials in support of their request for final approval of the Settlement, attorneys' fees, litigation
7 expenses, Plaintiff's Enhancement Payment, settlement administration costs, and payment to the
8 LWDA for PAGA penalties prior to the Final Fairness Hearing according to the time limits set
9 by the Code of Civil Procedure and the California Rules of Court.

10 13. An implementation schedule is below:


Event	Date
Defendants to provide Class Data to Settlement Administrator no later than [15 business days after preliminary approval]:	October 19, 2022
Settlement Administrator to mail Class Notice, Request for Exclusion and Objection Form to Class Members no later than [7 business days after receiving class data]:	October 28, 2022
Deadline for Settlement Class members to request exclusion from, or object to, the Settlement [46 days after mailing]:	December 12, 2022
Deadline for Plaintiff to file (i) Motion for Final Approval of Class Action Settlement, and (ii) Motion for Attorney's Fees and Costs:	16 Court Days Prior to Final Fairness Hearing
Final Fairness Hearing:	February <u>9</u> , 2023

20 14. Pending the Final Fairness Hearing, all proceedings in this action, other than
21 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this
22 Order, are stayed.

23 15. Counsel for the Parties are hereby authorized to utilize all reasonable procedures
24 in connection with the administration of the Settlement which are not materially inconsistent with
25 either this Order or the terms of the Settlement.

26 **IT IS SO ORDERED.**

27 Dated: October 6, 2022

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Honorable Kimberly A. Gaab
Judge of the Superior Court

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PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 2610 ½ Abbot Kinney Blvd. Venice, CA 90212

On October 4, 2022 I served the document listed below on the parties in this action as follows:

- REVISED [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

- X (BY EMAIL) In accordance with California Code of Civil Procedure section 1010.6 in compliance with the Judicial Council’s Appendix I, Emergency Rules Related to Covid-19, Emergency Rule 12, I caused to be transmitted the document(s) described herein via the email address(s) listed on the attached service list.
- X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 4, 2022 at Venice, California.



Daniel J. Brown

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SERVICE LIST

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Attorneys for Defendants California Fruit Basket, Inc. and Melkonian Enterprises,
Inc.