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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 04 2024

BY 
VALERIE URJENA, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SAN BERNARDINO**

13 JUAN S. GONZALEZ, individually, and
14 on behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 LA PERGOLA TRATTORIA LLC, a
18 California limited liability company; and
19 DOES 1 through 50, inclusive,

20 Defendants.

Case No.: CIVSB2220337

CLASS ACTION

~~PROPOSED~~ ORDER AND JUDGMENT

1 **[PROPOSED] ORDER AND JUDGMENT**

2 The Court has before it Plaintiff's unopposed Motion for Final Approval of Class Action
3 Settlement.

4 On June 26, 2024, Plaintiff filed a motion for preliminary approval requesting that the Court
5 preliminarily approve the Settlement Agreement entered into between Plaintiff Juan S. Gonzalez,
6 on behalf of himself and the Class ("Plaintiff") and La Pergola Trattoria LLC ("Defendant")
7 (collectively, "the Parties").

8 On July 23, 2024, the Court issued an order granting preliminary approval. The Court
9 preliminarily approved that this litigation could be maintained as a class action for settlement
10 purposes and, therefore, it conditionally certified the following Class (the "Class" or "Settlement
11 Class") for settlement purposes:

12 All non-exempt employees who were employed by Defendant, in the State of
13 California, at any time from September 14, 2018, through December 31, 2023.

14 The Court conditionally approved for settlement purposes the PAGA allocation of this
15 settlement to the California Labor and Workforce Development Agency ("LWDA") and PAGA
16 Members ("PAGA Member" or "PAGA Members"), for settlement purposes:

17 Any Class Member who was employed or has been employed by Defendant at any
18 time during the time period of June 3, 2021, through December 31, 2023.

19 The Court appointed, for settlement purposes, the Law Office of Scott Ernest Wheeler as
20 Class Counsel, Plaintiff as representative for the Class, and Phoenix Settlement Administrators as
21 the Settlement Administrator.

22 The Court further directed the Parties to provide notice to the Class via U.S Mail to each
23 Class Members' last known mailing address. The Class Notice was mailed to Class Members in
24 both English and Spanish, informed them of the material terms of the Settlement, including, *inter*
25 *alia*, (a) the nature of the case and claims asserted, (b) each Class Member's estimated individual
26 settlement payment; (c) the payments to Class Counsel for costs, payment to the Class
27 Representatives as service awards, payment to the Settlement Administrator for settlement
28 administration costs, and payment to the California Labor and Workforce Development Agency for
PAGA penalties; (d) the claims that Class Members release if they do not exclude themselves from

1 the Settlement, (e) the right of any Class Member to object to the proposed Settlement, and an
2 explanation of the procedures to exercise that right; (f) the right of any Class Member to exclude
3 themselves from the proposed Settlement, and an explanation of the procedures to exercise that
4 right; (g) the right of any Class Member to dispute compensable work weeks and attributable to
5 them; and (h) the date, time, and location of the Final Approval Hearing which is now before the
6 Court.

7 The Court, upon Notice having been given in conformance with the Preliminary Approval
8 Order, and having considered the proposed Settlement, as well as all papers filed, hereby **ORDERS,**
9 **ADJUDGES, AND DECREES AS FOLLOWS:**

10 1. This Court has jurisdiction over the subject matter of the action and over all Parties
11 to the action, including all members of the Settlement Class.

12 2. The Settlement Class, defined as “All non-exempt employees who were employed
13 by Defendant, in the State of California, at any time from September 14, 2018, through December
14 31, 2023”, is certified as a Class for settlement purposes pursuant to California Code of Civil
15 Procedure § 382 in that: (a) the Class is so numerous that joinder is impractical; (b) there are
16 questions of law and fact that are common, or of general interest, to the Class, which predominate
17 over any individual issues; (c) Plaintiff’s claims are typical of the claims of the Class; (d) Plaintiff
18 and Plaintiff’s counsel will fairly and adequately protect the interests of the Class; and (e) a class
19 action is superior to other available methods for the fair and efficient adjudication of the controversy.

20 3. There have been no objections and zero requests for exclusion.

21 4. No disputes have been submitted by any Class Members or PAGA Member.

22 5. The Class Notice provided to the Settlement Class conforms with the requirements
23 of California Code of Civil Procedure § 382, California Rules of Court 3.766 and 3.769, the
24 California and United States Constitutions, and any other applicable law, and constitutes the best
25 notice practicable under the circumstances, by providing individual notice to all Class Members
26 who could be identified through reasonable effort, and by providing due and adequate notice of the
27 proceedings and of the matters set forth therein to the other Class Members. The Class Notice fully
28 satisfied the requirements of due process.

1 6. The Court finds the Settlement was entered into in good faith, that the Settlement is
2 fair, reasonable, and adequate, and that the Settlement satisfies the standards and applicable
3 requirements for final approval of this class action settlement under California law, including
4 California Rules of Court, Rule 3.769.

5 7. Neither the Settlement nor any of the terms set forth in the Settlement Agreement
6 and Amendment to the Settlement Agreement are admissions by Defendant, or any of the other
7 Released Parties, of liability on any of the allegations alleged in the action, nor is this Order a finding
8 of the validity of any claims in the action, or of any wrongdoing by the Defendant, or any of the
9 other Released Parties.

10 8. A class action settlement is presumed to be fair if: ““(1) it is reached through arm’s
11 length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to
12 act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors
13 is small.”” *Chavez v. Netflix* (2008) 162 Cal.App.4th 43, 52 (quotation omitted). The Court finds that
14 the Settlement is presumptively fair based on the foregoing factors because it was negotiated based
15 on sufficient information through arm’s length negotiations, under the auspices of a well-respected
16 mediator, by counsel experienced in wage and hour class action litigation.

17 9. Beyond determining whether a settlement is entitled to a presumption of fairness, a
18 court must further consider factors such as: (1) the strength of plaintiffs’ case; (2) the risk and
19 expense of further litigation; (3) the risk of maintaining class status through trial; (4) the amount
20 offered in settlement; (5) the extent of discovery completed; (6) the experience and views of counsel;
21 (7) the presence of a government participant; and (8) and the reaction of the class members to the
22 proposed class settlement. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *In re*
23 *Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723. The Court finds that each of these factors
24 weigh in support final approval.

25 10. First, the Court recognizes there are real risks to Plaintiff and the Class if they were
26 to proceed with the litigation.

27 11. Second, the risk and expense of further litigation supports the reasonableness of the
28 Settlement. For example, the Court recognizes that Plaintiff’s ability to prove damages on a

1 classwide basis at trial would be an expensive, time-consuming, and uncertain proposition.

2 12. Third, there are real risks that a Class would not be certified absent this Settlement.

3 13. Fourth, the Settlement was reached based on extensive investigation and informal
4 discovery, including thorough expert analysis of pertinent time and payroll data and other records
5 for the Class.

6 14. Fifth, Class Counsel, who is experienced in wage and our class action litigation,
7 endorse the Settlement as fair and reasonable and in the best interest of the Class.

8 15. Sixth, notice was provided to the California Labor and Workforce Development
9 Agency (“LWDA”) and it has not indicated that it objects to or opposes the Settlement.

10 16. Finally, the reaction of the Class to the Settlement is positive. There have been no
11 objections and zero exclusions. There are no work week disputes.

12 17. In sum, based on consideration of the foregoing factors, and the Court’s familiarity
13 with the litigation, the Court finds that the Settlement is in all respects fair, reasonable, and adequate,
14 is in the best interest of the Class, and it is hereby finally approved.

15 18. Upon entry of this Order, compensation to the Settlement Class Members shall be
16 effected pursuant to the terms of the Settlement Agreement.

17 19. In addition to any recovery that Plaintiff may receive as a Settlement Class Member
18 under the Settlement, and in recognition of Plaintiff’s efforts on behalf of the Settlement Class, the
19 Court hereby approves the payment of a Class Representative Service Award in the amount of
20 \$5,000 to Plaintiff Juan S. Gonzalez. The Court finds that this amount is appropriate based on the
21 factors articulated in *Golba v. Dick’s Sporting Goods, Inc.* (2015) 238 Cal.App.4th 1251. Among
22 other things, Plaintiff Juan S. Gonzalez took on risk, both financial and in terms of future
23 employment prospects, by agreeing to act as the Class Representative, devoted considerable time
24 and energy time to this action for the benefit of the Class, agreed to a section 1542 waiver, which
25 does not apply to the release of Class Members, and achieved an excellent result for the Class.

26 20. The Court finds that the \$1,780.74 in litigation costs incurred and requested by Class
27 Counsel were necessary and appropriate.

28 21. Accordingly, the Court approves the reimbursement of reasonable litigation expenses

1 to Class Counsel in the amount of \$2,350.12.

2 22. The Court approves the payment of settlement administration costs in the amount of
3 \$6,000 to Phoenix Settlement Administrators.

4 23. The Court approves and orders payment in the amount of \$5,000 allocated as PAGA
5 penalties (75% or \$3,750 allocated to the LWDA and 25% or \$1,250 allocated to the PAGA Group
6 Members) which represents a fair and equitable sum for resolution of claims raised pursuant to
7 California Labor Code section 2698 *et seq.*

8 24. The Gross Settlement Amount, the Net Settlement Amount, and the methodology
9 used to calculate and pay each Settlement Class Member's individual settlement payment are fair
10 and reasonable, and the Court authorizes the Settlement Administrator to issue individual settlement
11 payments to each Settlement Class Member pursuant to the terms of the Settlement Agreement.

12 25. Upon the Effective Date, Plaintiff and all members of the Settlement Class, shall
13 have, by operation of this Order and the accompanying Judgment, fully, finally, and forever
14 released, relinquished, and discharged Defendant and Released Parties from all Released Claims as
15 defined by the terms of the Amended Settlement Agreement.

16 26. A final accounting status conference regarding the status of settlement administration
17 shall take place on December 5, 2025, at 8:30 a.m., in Department S-26. The final report from
18 Phoenix Settlement Administrators Re: Status of Settlement Administration shall be filed at least
19 ten (10) calendar days prior to the hearing.

20 27. Plaintiff's Motion for Final Approval of Class Action Settlement is hereby granted
21 and the Court directs that a judgment shall be entered in accordance with the terms stated herein.

22 28. Judgment in this matter is entered in accordance with the terms of the Settlement
23 Agreement against Defendants in favor of Plaintiff and the Settlement Class.

24 29. This document shall constitute a Judgment for purposes of California Rule of Court
25 3.769(h). This Judgment is intended to be a final disposition of the above captioned action in its
26 entirety, and is intended to be immediately appealable.

27 30. This Judgment shall be posted online on Phoenix Settlement Administrator's website
28 for one-hundred and eighty (180) days.

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31. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement, to enforce the terms of the judgment, and any and all claims, asserted in, arising out of, or related to the subject matter of the lawsuit, including but not limited to all matters related to the Settlement and the determination of all controversies relating thereto, pursuant to Code of Civil Procedure, §664.6 and California Rules of Court, Rule 3.769(h).

IT IS SO ORDERED, ADJUDGED AND DECREED.

DEC 04 2024

Christian Towns

DATED: _____

HONORABLE CHRISTIAN TOWNS
JUDGE OF THE SUPERIOR COURT