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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

COURTENAY ARNESON, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

v.

BAHN THAI, INC. (dba Thai Basil Café /
Veg Café & Bar), a California Corporation;
and DOES 1-50, Inclusive,

Defendants.

Case No. 34-2021-00295429

**~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING FINAL APPROVAL**

Date: July 21, 2022
Time: 1:30pm

Judge: Richard K. Sueyoshi
Dept.: 53

Trial Date: Not Set
Action Filed: February 26, 2021

Via Fax

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class
2 Action Claims and Release of claims ("Agreement") came on for hearing on July 21, 2022, before
3 the above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on
4 behalf of Plaintiff COURTENAY ARNESON ("Plaintiff"). Weintraub, Tobin, Chediak, Coleman
5 & Grodin, Law Corporation appeared on behalf of Defendant BAHN THAI, INC. ("Defendant").

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

10 1. All terms used herein shall have the same meaning as defined in the
11 Agreement.

12 2. This Court has jurisdiction over the subject matter of this litigation pending
13 in the California Superior Court for the County of Sacramento ("Court"), Case No. 34-2021-
14 00295429, entitled *Arneson v. Bahn Thai, Inc. (dba Thai Basil Café / Veg Café & Bar)*, and over
15 all Parties to this litigation, including the Class.

16 **Preliminary Approval of the Settlement**

17 3. On January 27, 2022, the Court granted preliminary approval of a class-
18 wide settlement. At this same time the court approved certification of a provisional settlement
19 class for settlement purposes only. The Court confirms this Order and finally approves the
20 settlement and the certification of the Class.

21 **Notice to the Class**

22 4. In compliance with the Preliminary Approval Order, the Notice Packet was
23 mailed by first class mail to the Class Members at their last known addresses on February 23,
24 2022. Mailing of the Notice Packet to their last known addresses was the best notice practicable
25 under the circumstances and was reasonably calculated to communicate actual notice of the
26 litigation and the proposed settlement to the members of the Class Members. The Court finds that
27 the Notice Packet provided fully satisfies the requirements of California Rules of Court, rule
28 3.769.

1 5. The Response Deadline for opting out or objecting was April 9, 2022.
2 There was an adequate interval between notice and deadline to permit Class Members to choose
3 what to do and act on their decision. No Class Members objected. No Class Members requested
4 exclusion.

5 **Fairness Of The Settlement**

6 6. The Agreement provides for a Total Settlement Amount of \$130,000. The
7 Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
8 Cal.App.4th 1794, 1801.)

9 a. The settlement was reached through arms-length bargaining between
10 the parties. There is no evidence of any collusion between the parties in reaching the proposed
11 settlement.

12 b. The Parties' investigation and discovery have been sufficient to
13 allow the Court and counsel to act intelligently.

14 c. Counsel for all parties are experienced in similar employment class
15 action litigation and have previously settled similar class claims on behalf of employees claiming
16 compensation. All counsel recommended approval of the Settlement.

17 d. The percentage of objectors and requests for exclusion is small. No
18 objections were received. No requests for exclusion were received.

19 e. The participation rate is high – 100%. All Class Members will be
20 participating in the Settlement and will be sent settlement payments.

21 7. The consideration to be given to the Settlement Class Members under the
22 terms of the Agreement is fair, reasonable and adequate considering the strengths and weaknesses
23 of the claims asserted in this Action and is fair, reasonable and adequate compensation for the
24 release of the Released Class Claims, given the uncertainties and risks of the litigation and the
25 delays which would ensue from continued prosecution of the Action.

26 8. The Agreement is finally approved as fair, adequate, and reasonable and in
27 the best interests of the Class Members.

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1 **Attorneys' Fees and Litigation Expenses**

2 9. The Agreement provides for a Class Counsel Award in the amount of up to
3 Fifty-Two Thousand, Three Hundred Thirty-Three Hundred Dollars and Thirty-Three Cents
4 (\$52,333.33) subject to Court approval, the Class Counsel Award consists of attorneys' fees equal
5 to one-third (1/3) of the Total Settlement Amount, or Forty-Three Thousand, Three Hundred
6 Thirty-Three Dollars and Thirty-Three Cents (\$43,333.33) and reimbursement of costs and
7 expenses not to exceed Nine Thousand Dollars (\$9,000). To date Class Counsel has incurred costs
8 and expenses of Seven Thousand, Seven Hundred Twenty-Four Dollars and Eighty-Four Cents
9 (\$7,724.84), less than the amount allocated in the Settlement Agreement.

10 10. A Class Counsel Award of Fifty-One Thousand, Fifty-Eight Dollars and
11 Seventeen Cents (\$51,058.17) comprised of attorneys' fees in the amount of Forty-Three
12 Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$43,333.33) and
13 reimbursement of actually incurred costs and expenses in the amount of Seven Thousand, Seven
14 Hundred Twenty-Four Dollars and Eight-Four Cents (\$7,724.84) is reasonable in light of the
15 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
16 achieved by Class Counsel. The requested attorneys' fee award represents 1/3 of the common
17 fund, which is reasonable and at the low end of the range for fee awards in common fund cases
18 and is supported by Class Counsel's lodestar.

19 **Class Representative Service Award**

20 11. The Agreement provides for a Class Representative Service Award of up to
21 \$7,500 for Plaintiff, Courtenay Arneson, subject to the Court's approval. The Court finds that the
22 amount of \$7,500 is reasonable in light of the risks and burdens undertaken by the Plaintiff in this
23 class action litigation, the broad general release granted to Defendant by Plaintiff, and for the time
24 expended by Plaintiff assisting in the prosecution of this Action.

25 **Settlement Administration Costs**

26 12. The Agreement provides for Settlement Administration Costs to be paid in
27 an amount not to exceed \$6,000. The Declaration of the Settlement Administrator provides that
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1 the actual claims administration expenses were \$6,000. The amount of this payment is reasonable
2 in light of the work performed by the Settlement Administrator.

3 **II.**

4 **ORDERS**

5 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

6 1. The Class is certified for the purposes of settlement only. The Class is
7 hereby defined to include:

8 All non-exempt employees who are or previously were employed by Defendant in
9 California during the Class Period. The Class Period means the period between
10 February 26, 2017, to September 17, 2021.

11 2. Every person in the Class who did not opt out is a Settlement Class
12 Member. The Court finds, based on the declaration of the Settlement Administrator, that zero
13 Class Members opted-out of the Settlement.

14 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
15 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
16 this Order and the terms of the Agreement.

17 4. Class Counsel are awarded attorneys' fees in the amount of \$51,058.17
18 comprised of attorneys' fees in the amount of \$43,333.33 and litigation expenses in the amount of
19 \$7,724.84. Class Counsel shall not seek or obtain any other compensation or reimbursement from
20 Defendant, Plaintiff, or members of the Class.

21 5. The payment of the Class Representative Service Award to the Plaintiff in
22 the amount of \$7,500 is approved.

23 6. The payment of \$6,000 to the Settlement Administrator for Settlement
24 Administration Costs is approved.

25 7. The PAGA Settlement of \$5,000 is hereby approved as fair, reasonable,
26 adequate and adequately protects the interests of the public and the LWDA. Further, the Court
27 finds that Plaintiff and Class Counsel negotiated the PAGA Settlement at arms-length, absent of
28 any fraud or collusion.

1 8. Final Judgment is hereby entered in this action. The Final Judgment shall
2 bind each Settlement Class Member. The Final Judgment shall operate as a full release and
3 discharge of Defendant from all claims alleged in the operative complaint which occurred during
4 the Class Period, and expressly excluding all other claims, including claims for vested benefits,
5 wrongful termination, unemployment insurance, disability, social security, workers'
6 compensation, and class claims outside of the Class Period. To the extent employees are required
7 to "opt-in" to have this release be deemed effective under federal law, the acceptance and
8 negotiation of any settlement check shall be deemed effective for that purpose.

9 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
10 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General
11 Act ("PAGA") and shall release Defendant from all PAGA claims alleged in the operative
12 complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period,
13 and expressly excluding all other claims, including claims vested benefits, wrongful termination,
14 unemployment insurance, disability, social security, workers' compensation, and PAGA claims
15 outside the PAGA Period.

16 10. The term "Aggrieved Employees" is hereby defined to include all non-
17 exempt employees who are or previously were employed by Defendant in California during the
18 PAGA Period. The PAGA Period means the period between October 22, 2019, until September
19 26, 2021.

20 11. In addition to the release given by each Settlement Class Member, Plaintiff
21 also generally releases Defendant from any and all of the Released Class Claims as defined in the
22 Agreement. This general release by Plaintiff also includes a waiver of rights under California
23 Civil Code Section 1542.

24 12. The Agreement is not an admission by Defendant, nor is this Final
25 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
26 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
27 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
28 be used as an admission by or against Defendant of any fault, wrongdoing or liability whatsoever.

1 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
2 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
3 concession with regard to the denials or defenses by Defendant and shall not be offered in
4 evidence in any action or proceeding against Defendant in any court, administrative agency or
5 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
6 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
7 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
8 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
9 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
10 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
11 claims being released by the Settlement.

12 13. Notice of entry of this Final Approval Order and Judgment shall be given to
13 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
14 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
15 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
16 indicated in the Notice Packet.

17 14. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
18 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
19 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
20 connection with the distribution of settlement benefits.

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15. If the Settlement does not become final and effective in accordance with the terms of the Settlement, resulting in the return and/or retention of the Total Settlement Amount to Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment, and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

IT IS SO ORDERED.

DATED: JUL 21 2022

JUDGE RICHARD M. SUEYOSHI

Judge, Superior Court for the State of California,
County of Sacramento