

Edwin Aiwarzian (SBN 232943)
Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

SPENCER SUMISAKI, DAVIAN
MONTGOMERY, individually, and on behalf
of other members of the general public
similarly situated; NADIA MORALES,
individually, and on behalf of other members
of the general public similarly situated and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General
Act; NINA WILLIAMS, individually, on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General
Act,

Plaintiffs,

v.

BERKELEY BOWL PRODUCE, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: RG19014520

Honorable Evelio Grillo
Department 21

CLASS ACTION

**SUPPLEMENTAL DECLARATION OF
EDWIN AIWAZIAN IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Supplemental Brief in Support of Plaintiffs'
Motion for Preliminary Approval of Class
Action Settlement; Declaration of Sean
Bothamley; and [Revised Proposed] Order
filed concurrently herewith]

Reservation No. 768154232963
Date: February 15, 2022
Time: 10:00 a.m.
Department: 21

Complaint Filed: April 10, 2019
FAC Filed: July 17, 2019
SAC Filed: November 20, 2020

SUPPLEMENTAL DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiffs Davian Montgomery, Nadia Morales, and Nina Williams (together, “Plaintiffs” or “Class Representatives”). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

PRELIMINARY APPROVAL

3. Plaintiffs Davian Montgomery, Nadia Morales, and Nina Williams, on the one hand, and Defendant Berkeley Bowl Produce, Inc. (“Defendant”), on the other hand (collectively, the “Parties”) entered into the Class Action and PAGA Settlement Agreement and Stipulation on or about January 4, 2022. On January 5, 2022, Plaintiffs filed their Notice of Motion and Motion for Preliminary Approval of Class Action Settlement and papers in support thereof (“Motion for Preliminary Approval”). The Motion for Preliminary Approval was noticed for hearing on January 26, 2022. On January 25, 2022, the Court issued a tentative ruling, continuing the hearing of the Motion for Preliminary Approval to February 15, 2022, so that the Parties’ counsel can provide declarations in conformity with California Code of Civil Procedure section 382.4 regarding the proposed cy pres recipient and reserve a hearing date for the motion for final approval. A true and correct copy of the Court’s Minute Order entered on January 26, 2022 is attached hereto as “**Exhibit 1.**”

4. California Code of Civil Procedure section 382.4 provides “If a proposed settlement in a class action established pursuant to Section 382, including a consent judgment, decree, or settlement agreement, provides for the distribution of money or any other thing of value to a person or entity that is not a party to the action, an attorney for a party to the action shall, in connection with the hearing for preliminary approval pursuant to subdivision (c) of Rule 3.769 of the California Rules of Court, notify the court if the attorney has a connection to or a relationship with a nonparty recipient of the distribution that could reasonably create the appearance of impropriety as between the selection of the recipient of the money or thing of

1 value and the interests of the class.”

2 5. Neither undersigned nor any other attorney at Lawyers *for* Justice, PC has a
3 connection to or relationship with the proposed cy pres recipient, Katherine and George Alexander
4 Community Law Center. As such, Plaintiffs’ counsel has no connection to or relationship with
5 the proposed cy pres recipient that could reasonably create the appearance of impropriety as to the
6 selection of the entity.

7 6. With the input of Defendant, Plaintiffs have reserved June 15, 2022 at 10:00 a.m.
8 for the hearing for the motion for final approval (Reservation ID: 876901747574) and anticipate
9 filing the motion for final approval, together with supporting documentation, per California Code
10 of Civil Procedure section 1005(b), by May 23, 2022.

11 7. Having taken the additional steps requested by the Court with respect to the Motion
12 for Preliminary Approval, Plaintiffs respectfully request that the Court grant preliminary approval
13 of the Settlement. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and
14 is in the best interest of the Class, State of California, and PAGA Members.

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

17 Executed on this 8th day of February 2022, at Glendale, California.

18 
19 Edwin Aiwasian

EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Spencer Sumisaki et al
Plaintiff/Petitioner(s)
VS.
Berkeley Bowl Produce Inc
Defendant/Respondent(s)

No. RG19014520

Date: 01/26/2022

Time: 10:00 AM

Dept: 21

Judge: Evelio Grillo

ORDER re: Hearing on Motion - Other

Motion for Preliminary

Approval of Class Action

Settlement

Motion continued to February 15, 2022 at 10:00 am in Department 21. Counsel to prepare and submit a supplemental declaration providing the information required by CCP section 382.4.

Pursuant to oral stipulation, the Hearing on Motion - Other Motion for Preliminary Approval of Class Action Settlement scheduled for 01/26/2022 is continued to 02/15/2022 at 10:00 AM in Department 21 at Rene C. Davidson Courthouse.

The Court orders counsel to obtain a copy of this order from the eCourt portal.

Dated: 01/26/2022



Evelio Grillo / Judge