

ACKERMANN & TILAJEF, P.C.

Craig J. Ackermann, CA Bar No. 229832

cja@ackermanntilajef.com

1180 South Beverly Drive, Suite 610

Los Angeles, California 90035

Telephone: (310) 277-0614

Facsimile: (310) 277-0635

LAW OFFICE OF TATIANA HERNANDEZ, P.C.

Tatiana Hernandez, CA Bar No. 255322

tatiana@thlawpc.com

1180 South Beverly Drive, Suite 610

Los Angeles, California 90035

Telephone: (213) 909-4248

Facsimile: (310) 388-0639

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA
10/26/2022

Darrel E. Parker, Executive Officer

BY Barajas-Garcia, Cynthia

Deputy Clerk

Attorneys for Plaintiff, the Putative Settlement Class, the LWDA, and the Aggrieved Employees.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

HILDA ORELLANA, individually, on behalf of
all others similarly situated, and on behalf of the
State of California, as private attorney general,

Plaintiff,

v.

TORTILLERIA EL TORO II, INC., a
California Corporation, and DOES 1 to 50,
inclusive,

Defendant.

CASE NO: 20CV04199

**~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: October 26, 2022

Time: 8:30 a.m.

Dept: 3

Judge: Hon. Timothy J. Staffel

1 On October 26, 2022, the Court held a hearing on Plaintiff Hilda Orellana's ("Plaintiff") Motion
2 for Final Approval of Class Action Settlement and Attorneys' Fees and Costs between Plaintiff and
3 Defendant Tortilleria El Toro II, Inc. ("Defendant").

4 Due and adequate notice having been given to Class Members, and the Court having considered
5 the Joint Stipulation of Class Action Settlement and Release (the "Settlement Agreement" or
6 "Settlement"), all of the legal authorities and documents submitted in support thereof, all papers filed and
7 proceedings had herein, all oral and written comments received regarding the proposed settlement, and
8 having reviewed the record in this litigation, and good cause appearing, the Court GRANTS final approval
9 of the Settlement and ORDERS AND MAKES THE FOLLOWING FINDINGS AND
10 DETERMINATIONS:

11 1. All terms used in this Order Granting Final Approval of Class Action Settlement (the
12 "Order") shall have the same meanings given as those terms are used and/or defined in the Parties'
13 Settlement Agreement.¹

14 2. The Court has personal jurisdiction over the parties to this litigation and subject matter
15 jurisdiction to approve this Settlement and all exhibits thereto.

16 3. For settlement purposes only, the Court finally certifies the Class, as defined in the
17 Agreement and as follows:

18 *All individuals who worked for Defendant in California as an hourly, non-exempt*
19 *employee at Defendant's restaurants/tortillerias who worked at least one shift of 3.51*
hours or more from December 9, 2016 through March 23, 2022.

20 4. The Court deems this definition sufficient for the purpose of California Rule of Court
21 3.765(a) and for the purpose of effectuating the Settlement.

22 5. The Court finds that an ascertainable class of 223 Class Members exists and a well-defined
23 community of interests exists in the questions of law and fact involved because in the context of the
24 Settlement: (i) all related matters, predominate over any individual questions; (ii) the claims of the Plaintiff
25 are typical of claims of the Class Members; and (iii) in negotiating, entering into and implementing the
26 Settlement, Plaintiff and Class Counsel have fairly and adequately represented and protected the interest

27
28 ¹ A copy of the Settlement Agreement is in the Court record as Exhibit 1 to the Declaration of Crag J. Ackermann in Support
of Plaintiff's Motion for Preliminary Approval of Class Action Settlement and is made a part of this Order.

1 of the Class Members.

2 6. The Court is satisfied that CPT Group, Inc., which functioned as the Settlement
3 Administrator, completed the distribution of Class Notice to the Class in a manner that comports with
4 California Rule of Court 3.766. The Class Notice informed the Class Members of the Settlement terms,
5 their rights to do nothing and receive their settlement share, their rights to submit a request for exclusion,
6 their rights to comment on or object to the Settlement, and their rights to appear at the Final Approval
7 Hearing, and be heard regarding approval of the Settlement. Adequate periods of time to respond and to
8 act were provided by each of these procedures.

9 7. Not a single Class Member filed or submitted a written objection to the Settlement as part
10 of this notice process.

11 8. No Class Member opted out of the Settlement.

12 9. The Court hereby approves the terms set forth in the Settlement Agreement and finds that
13 the Settlement Agreement is, in all respects, fair, adequate, and reasonable, consistent and compliant with
14 all applicable requirements of the California Code of Civil Procedure, the California and United States
15 Constitutions, including the Due Process clauses, the California Rules of Court, and any other applicable
16 law, and in the best interests of each of the Parties and Class Members.

17 10. The Court directs the Parties to effectuate the Settlement Agreement according to its terms
18 and declares the Settlement Agreement to be binding on all Class Members.

19 11. The Court finds that the Settlement Agreement has been reached as a result of informed
20 and non-collusive arm's-length negotiations. The Court further finds that the Parties have conducted
21 extensive investigation and research, and their attorneys were able to reasonably evaluate their respective
22 positions.

23 12. The Court also finds that Settlement now will avoid additional and potentially substantial
24 litigation costs, as well as delay and risks if the parties were to continue to litigate the case. Additionally,
25 after considering the monetary recovery provided as part of the Settlement in light of the challenges posed
26 by continued litigation, and the Court concludes that Class Counsel secured significant relief for Class
27 Members.

28 13. The Settlement Agreement is not an admission by Defendant, nor is this Order a finding of

1 the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the Settlement
2 Agreement, nor any document referred to herein, nor any action taken to carry out the Settlement
3 Agreement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
4 concession, or liability whatsoever by or against Defendant.

5 14. The Court appoints Plaintiff as Class Representative and finds her to be adequate.

6 15. The Court appoints Craig J. Ackermann and Avi Kreienberg of Ackermann & Tilajef, P.C.
7 and Tatiana Hernandez of Law Office of Tatiana Hernandez, P.C. as Class Counsel, and finds each of
8 them to be adequate, experienced, and well-versed in similar class action litigation.

9 16. The terms of the Agreement, including the gross settlement amount of **\$280,000.00**, and
10 the individual Settlement Shares, are fair, adequate, and reasonable to the Class and to each Class Member,
11 and the Court grants final approval of the Settlement set forth in the Agreement, subject to this Order. The
12 Court approves the following allocations, which fall within the ranges stipulated by and through the
13 Settlement Agreement:

- 14 a. The **\$8,000.00** designated for payment to CPT Group, Inc., the Settlement Administrator,
15 is fair and reasonable. The Court grants final approval of, and orders the Parties to make,
16 the payment to the Settlement Administrator in accordance with the Agreement.
- 17 b. The **\$93,333.33** requested by Plaintiff and Class Counsel for the Class Counsel's attorneys'
18 fees is fair and reasonable in light of the benefit obtained for the Class. The Court grants
19 final approval of, awards, and orders the Class Counsel Fees Payment to be made in
20 accordance with the Agreement.
- 21 c. The Court awards **\$9,382.65** in litigation costs, an amount which the Court finds to be
22 reflective of the reasonable costs incurred. The Court grants final approval of and orders
23 the Class Counsel Litigation Expenses Payment in this amount to be made in accordance
24 with the Agreement and divided between counsel in proportion with their respective costs
25 expenditures.²

26
27 ² The Settlement Agreement contemplates litigation cost reimbursement in the amount of \$10,000.00 which was already
28 preliminarily approved by this Court and noticed to the Class; however, Plaintiff's counsel is only requesting reimbursement
of litigation costs in the amount of \$9,382.65, with the balance added to the Net Settlement Amount to be distributed pro rata
to the Participating Class Members.

d. The **\$12,000.00** requested by Plaintiff for the Class Representative Payment is fair and reasonable. The Court grants final approval of and orders the Class Representative Payment to be made in accordance with the Agreement.

e. The Court grants final approval of the **\$9,000.00** PAGA payment to the LWDA and orders the payment to be made in accordance with the Agreement.

17. The Court orders the Parties to comply with and carry out all terms and provisions of the Settlement, to the extent that the terms thereunder do not contradict or conflict with this Order, in which case the provisions of this Order shall take precedence and supersede the Settlement.

18. Nothing in the Settlement or this Order purports to extinguish or waive Defendant's rights to continue to oppose the merits of the claims in this Action or class treatment of these claims in this case if the Settlement fails to become final or effective, or in any other case without limitation. The Settlement is not an admission by Defendant, nor is this Order or the subsequent Judgment that Plaintiff has asked the Court to enter based on this Order a finding of the validity of any allegations against Defendant in the Court proceeding or any wrongdoing by Defendant. Neither the Settlement nor this Order or the subsequent Court Judgment is a finding that certification of the Class is proper for any purpose or proceeding other than for settlement purposes.

19. All Class Members shall be bound by the Settlement and this Order, including the Class Released Claims³ and Release of PAGA Claims⁴ in favor of Defendant and the other Released Parties⁵ as set forth in the Agreement, and are permanently barred and enjoined from prosecuting against Defendant and the other Released Parties any and all of Class Members' Class Released Claims and Release of PAGA Claims as defined in the Agreement.

20. Plaintiff is bound to the release of claims against Defendant and the other Released Parties

³ "Class Released Claims" means "all claims, rights, demands, liabilities, and causes of action, that were pled or could have been pled in the operative First Amended Complaint and/or Plaintiff's LWDA letters based on the facts alleged or ascertained during the pendency of the action arising during the Class Period, including claims for Defendant's alleged violation of California Labor Code sections 201, 202, 203, 226, 226.3, 226.7, 432, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802 as well as Sections 3, 4, 7, 9, 11 and 12 of IWC Wage Order No. 5, and section 17200 et. Seq. of. the California Business and Professions Code, based on the foregoing, as well as any civil penalty claims under PAGA, Labor Code 2699 et seq." (S.A., ¶ 25).

⁴ "Release of PAGA Claims" means "all PAGA Covered Employees and the State of California shall be deemed to have fully, finally, and forever released, relinquished and will release all claims for civil penalties pursuant to PAGA for the Released Claims during the PAGA Period." (S.A., ¶ 75).

⁵ "Released Parties" means "El Toro and all of its subsidiaries, affiliates, predecessors, successors, and related entities, and its respective officers, directors, employees, fiduciaries, trustees, agents, and benefit plans." (S.A., ¶ 26).

1 as set forth in the Settlement Agreement and is permanently barred from prosecuting against Defendant
2 and the other Released Parties any and all of Plaintiff's Released Claims as defined in the Agreement.

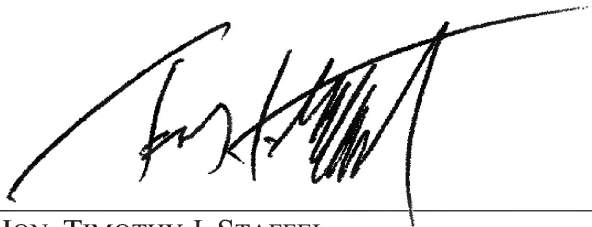
3 21. The Parties shall bear their own respective attorneys' fees and costs except as otherwise
4 provided in the Settlement Agreement.

5 22. Pursuant to California Rule of Court 3.769(h), the Court retains jurisdiction solely for
6 purposes of implementing the terms of the settlement, such as requiring the filing of a final report on
7 distributions made to the Class Members, enforcing the Settlement Agreement, addressing settlement
8 administration matters, and addressing such post-Judgment matters as may be appropriate under court
9 rules or applicable law.

10 23. Plaintiff or the Settlement Administrator shall file with the Court a report regarding the
11 status of distribution within sixty (60) days after all funds have been distributed.

12
13 **IT IS SO ORDERED.**

14
15 DATED: **10/26/2022**

16 
17 HON. TIMOTHY J. STAFFEL
18 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
19
20
21
22
23
24
25
26
27
28