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Attorney for Plaintiff and the Putative Class

RECEIVED

MAY 18 2023

SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 12 2023

BY Jessica Gardez
JESSICA GARDEZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER

ELIZABETH MORENO, individually, and
on behalf of all others similarly situated,

Plaintiffs,

A.H. RESTAURANTS, a California
corporation; and DOES 1 through 50,
inclusive,

Defendant.

CASE NO.: CIVSB2134700

[Hon. Joseph T. Ortiz, Dept. S-17]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

1 **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL**

2 The Court now has before it, Plaintiff's unopposed Motion for Preliminary Approval of Class
3 Action Settlement ("Motion"). After reviewing the Motion, the Class Action and PAGA Settlement
4 Agreement and Release ("Settlement Agreement") and exhibits attached thereto, and good cause
5 appearing therefore, the Court hereby finds and orders as follows:

6 1. The Court finds on a preliminary basis that the settlement memorialized in the
7 Settlement Agreement appears to be fair and adequate, and falls within the range of reasonableness,
8 and therefore meets the requirement for preliminary approval.

9 2. The Court conditionally certifies for settlement purposes only the following class (the
10 "Class" or "Settlement Class"):

11 All non-exempt employees employed by Defendant in the State of California,
12 at any time from December 20, 2017, through the date of preliminary approval.

13 The Class Period is from December 20, 2017, through the date of preliminary approval.

14 3. The Court conditionally approves for settlement purposes the PAGA allocation of this
15 settlement to the California Labor and Workforce Development Agency ("LWDA") and PAGA
16 Members. The PAGA Period is from October 16, 2020 through preliminary approval.

17 4. The Court finds, for settlement purposes, that the Class meets the requirements for
18 certification under California Code of Civil Procedure § 382 in that: (1) the Class is so numerous that
19 joinder is impractical; (2) there are questions of law and fact that are common, or of general interest,
20 to the Class, which predominate over any individual issues; (3) Plaintiff's claims are typical of the
21 claims of the Class; (4) Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests
22 of the Class; and (5) a class action is superior to other available methods for the fair and efficient
23 adjudication of the controversy.

24 5. The Court appoints, for settlement purposes, Plaintiff Elizabeth Moreno as
25 Representative for the Class.

26 6. The Court appoints, for settlement purposes, the Law Office of Scott E. Wheeler as
27 Counsel for the Class.

1 7. The Parties are ordered to carry out the Settlement according to the terms of the
2 Settlement Agreement.

3 8. The Court appoints Phoenix Settlement Administrators (“Phoenix”) as the Settlement
4 Administrator and is ordered to carry out the administration of the settlement according to the terms
5 of the Settlement Agreement.

6 9. The Court approves as to form and content of the Class Action and PAGA Settlement
7 Notice. The Court finds that the dates selected for the mailing and distribution of the Notice Packet
8 meet the requirements of due process, provide the best notice practicable under the circumstances,
9 and shall constitute due and sufficient notice to all persons entitled thereto.

10 10. If any Class Member objects to the Settlement Agreement, the objecting party is not
11 required, either personally or through counsel: 1) to appear at the hearing on the motion for final
12 approval for that party’s objection to be considered; or 2) to file or serve, or to state in the objection,
13 a notice of intention to appear at the hearing on the motion for Final Approval of the Class Settlement.

14 11. Phoenix, the Settlement Administrator, shall provide notice to any objecting party of
15 any continuance of the hearing of Plaintiff’s Motion for Final Approval.

16 12. The Parties are ordered to carry out the Settlement according to the following
17 implementation schedule:

Event	Date
Last day for Defendant to provide the Settlement Administrator with the Class Information	July 12, 2023
Last day for Settlement Administrator, Phoenix to mail Class Notice	July 24, 2023 (10 th day is a Saturday)
Last day for Class Members to submit a dispute regarding Workweeks, Request for Exclusion, or written Objection	August 7, 2023
Last Day for Plaintiff to file Motion for Final Approval of the Class Settlement, Attorneys’ Fees and Costs and Class Representative Service Award	Per Code.
Final Approval Hearing	September 18, 2023

1 13. The Court finds that the method of giving notice to the Class constitutes the best means
2 practicable of providing notice under the circumstances. The Court further finds that the Notice Packet
3 and the method of giving notice to the Class meet the requirements of California Code of Civil
4 Procedure § 382, California Rules of Court, Rules 3.766 and 3.769, and due process under the
5 California and United States Constitutions, and other applicable law.

6 14. At the Final Approval Hearing, the Court will consider whether the Settlement should
7 be finally approved as fair, reasonable and adequate, whether a final judgment should be entered, and
8 whether the payments provided for under the Settlement, including attorneys' fees and costs and class
9 representative service award, should be finally approved and granted.

10 15. Pending the Final Approval Hearing, all proceedings in this Action, other than
11 proceedings necessary to implement the Settlement and this Order, are stayed.

12 **IT IS SO ORDERED.**

13 JUN 12 2023

14 DATED: _____

JOSEPH T. ORTIZ

HONORABLE JOSEPH T. ORTIZ
JUDGE OF THE SUPERIOR COURT