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VENTURA SUPERIOR COURT

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07/13/2023

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

BRENDA BALTAZAR RAMIREZ, an
individual, on behalf of herself, the State of
California, as a private attorney general, and on
behalf of all others similarly situated,

Plaintiff,

v.

W.K.S. FROSTY CORPORATION, a California
Corporation; and DOES 1 TO 50,

Defendants.

Case Number: 56-2021-00560191-CU-OE-VTA

~~[Proposed]~~ **Order Granting Approval of
PAGA Settlement and Entering Judgment**

Judge: Hon. Matthew P. Guasco
Department: 20

Complaint Filed: November 18, 2021
FAC Filed: February 15, 2022
Trial Date: None Set

~~PROPOSED~~ **ORDER AND JUDGMENT**

This matter came before the Court on July 10, 2023, in Department 20 of the above-captioned Court on plaintiff Brenda Baltazar Ramirez's ("Plaintiff") *Motion for Approval of Settlement Pursuant to the California Labor Code Private Attorneys General Act of 2004 ("PAGA")* (the "Motion"), which seeks approval of the *Stipulation and Agreement for PAGA Representative Action Settlement* (the "Settlement") entered into between Plaintiff, acting in her capacity as a private attorney general for the State of California, and Defendant W.K.S. Frosty Corporation ("Defendant") (collectively, the "Parties). Having considered the Parties submissions, and all legal authorities and documents submitted in support thereof, including the Settlement Agreement, and good cause appearing, Plaintiff's motion is **GRANTED**, subject to the following findings and orders:

1. Except as otherwise defined in this Order and Judgment ("Order"), all capitalized terms have the same meaning as defined in the Settlement.

2. The Court grants Plaintiff leave file the overlength brief attached to the Motion.

3. The California Labor Workforce and Development Agency ("LWDA") has been provided notice of the Settlement in accordance with PAGA, California Labor Code § 2699(1)(2), (1)(4). In particular, on May 9, 2023, Plaintiff submitted to the LWDA a notice of the Settlement enclosing a copy of the Settlement. Plaintiff's notice of the Settlement to the LWDA complied with the notice requirements of PAGA.

4. The Court confirms approval of the Settlement as to the Aggrieved Employees and the State of California.

5. The Court has jurisdiction over the subject matter of this litigation, over all Aggrieved Employees, and over those persons undertaking affirmative obligations under the Settlement.

6. Pursuant to PAGA and Labor Code section 2699, subdivision (1)(2), in particular, the Court approves the Settlement and Gross Settlement Amount of \$450,000.00 and finds that it is fair and reasonable and furthers PAGA's objectives. The Court finds that the Settlement is, in all respects, fair, adequate, and reasonable and directs the Parties to effectuate the Settlement according to its terms. The Court finds that the Settlement has been reached as a result of informed and non-collusive arm's-length negotiations. The Court further finds that the Parties have conducted extensive investigation and

1 research, and their attorneys were able to reasonably evaluate their respective positions. The Court also
2 finds that settlement now will avoid additional and potentially substantial litigation costs, as well as
3 delay and risks if the Parties were to continue to litigate the case. The Court has reviewed the monetary
4 recovery being provided as part of the Settlement and recognizes the significant value accorded to the
5 Aggrieved Employees and the State of California. The Court confirms approval of the Settlement as to
6 the Aggrieved Employees and the State of California.

7 7. The PAGA Settlement Notice to Aggrieved Employees, attached as Exhibit A to the
8 Settlement, fairly and adequately describes the Action, the approved Settlement, and is the best notice
9 practicable under the circumstances.

10 8. The Court finds that each Aggrieved Employee, in accordance with the Settlement,
11 releases all Released Claims against the Released Parties.

12 9. The Gross Settlement Amount, Net Settlement Amount, and the methodology used to
13 calculate the LWDA Payment and PAGA Aggrieved Employee Payment (which is comprised of the
14 Individual PAGA Payments), in accordance with the Settlement is approved.

15 10. The Court approves Phoenix Settlement Administrators to act as the Settlement
16 Administrator. The Court approves payment to the Settlement Administrator in this Action its actual
17 fees and costs in accordance with the terms of the Settlement, not to exceed \$14,000.00, to be paid
18 from the Gross Settlement Amount.

19 11. The Court approves Jonathan Melmed, Kyle D. Smith, and Joanne H. Kim of Melmed
20 Law Group P.C as PAGA Counsel.

21 12. The Court awards PAGA Counsel attorneys' fees in the amount of \$150,000.00 and
22 actual litigation costs in the amount of \$11,999.29 to be paid from the Gross Settlement Amount, both
23 of which the Court finds to be fair and reasonable. The Court authorizes the Settlement Administrator
24 to make these payments, in accordance with the terms of the Settlement.

25 13. The Court authorizes the Settlement Administrator to calculate the PAGA Payment
26 Amount, inclusive of the LWDA Payment and PAGA Aggrieved Employee Payment (which is
27 comprised of the Individual PAGA Payments), in accordance with the terms of the Settlement.
28

1 14. The Court finds that the LWDA Payment of \$198,000.53 as its share of the settlement
2 of civil penalties is fair and reasonable. The Court authorizes the Settlement Administrator to pay the
3 LWDA Payment, in accordance with the terms of the Settlement as modified by the Approval Order.

4 15. The Court finds that the PAGA Aggrieved Employee Payment of \$66,000.18 as the
5 Aggrieved Employees' share of the settlement of civil penalties is fair and reasonable. The Court
6 authorizes the Settlement Administrator to pay the PAGA Aggrieved Employee Payment, in
7 accordance with the terms of the Settlement.

8 16. The Court finds the Plaintiff's Enhancement Award of \$10,000.00 to the Plaintiff is fair
9 and reasonable. The Court authorizes the Settlement Administrator to pay the Plaintiff's Enhancement
10 Award, in accordance with the terms of the Settlement as modified by the Approval Order.

11 17. Checks for Individual PAGA Payments sent to Aggrieved Employees shall be valid for
12 180 days after issuance. Funds remaining from any checks for Individual PAGA Payments uncashed
13 after 180 days will be transmitted to the California State Controller's Unclaimed Property Fund.

14 18. Upon completion of the Settlement, the Settlement Administrator will provide written
15 certification of the completion to the Court and counsel for the Parties which shall be filed with the
16 Court on or before September 16, 2024. See additional order 24 below

17 19. Without affecting the finality of this order and entry of judgment, the Court retains
18 exclusive and continuing jurisdiction over this Action for purposes of supervising, administering,
19 implementing, and enforcement of this Order and the Settlement.

20 20. Nothing in this Order or the Settlement shall be construed as an admission or concession
21 by any party. The Settlement and this resulting Order and entry of judgement simply represent a
22 compromise of disputed allegations.

23 21. The Court enters final judgment in accordance with the terms of the Settlement and this
24 Order.

25 22. The Court dismisses, without prejudice, Plaintiff's non-PAGA class claims—
26 specifically, those alleged in causes of action one through ten in the operative complaint in this action—
27 pursuant to California Rules of Court, rule 3.770.
28

23. Plaintiff is directed to submit a copy of this Order and entry of judgment to the LWDA within 10 days of the date of this Order and entry of judgment.

IT IS SO ORDERED.

Dated: 07/10/2023



HON. MATTHEW P. GUASCO

Judge of the Superior Court of the State of California

24. September 16, 2024. A hearing re status of completion of settlement is scheduled for September 24, 2024, at 8:30 a.m. in Courtroom 20. No appearance is necessary if the certification of completion is filed not later than two (2) court days before the hearing.