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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

SALVADOR VILLANUEVA and MARCO
PEREZ, individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

LA ROSA TORTILLA FACTORY, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 22CV00226

**CLASS AND REPRESENTATIVE
ACTION**

*[Assigned for all purposes to: Syda Kosofsky
Cogliati, Dept. 5]*

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed with Notice of Motion and Motion,
Memorandum of Points and Authorities, the
Declaration of Justin F. Marquez, and the
Declaration of Kane Moon]*

PRELIMINARY APPROVAL HEARING

Date: July 25, 2024

Time: 8:30 a.m.

Dept: 5

Complaint filed: January 28, 2022

FAC filed: May 16, 2022

SAC filed: February 16, 2024

Trial date: Not set

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10 *Attorneys for Plaintiffs*

1 The Court has before it Plaintiff Salvador Villanueva's and Plaintiff Marco Perez's
2 (collectively, "Plaintiffs") Motion for Preliminary Approval of Class Action Settlement. Having
3 reviewed the Motion for Preliminary Approval of Class Action Settlement, the Declarations of Justin
4 F. Marquez and Kane Moon, the Joint Stipulation Of Class Action And PAGA Settlement (which is
5 referred to here as the "Settlement Agreement"), and good cause appearing, the Court hereby finds
6 and orders as follows:

7 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
8 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
9 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
10 the terms set forth in the Settlement Agreement between Plaintiffs and Defendant La Rosa
11 Tortilla Factory, Inc. ("Defendant"), attached to the Declaration of Justin F. Marquez in Support
12 of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement as Exhibit 1.

13 2. The Settlement falls within the range of reasonableness of a settlement which
14 could ultimately be given final approval by this Court, and appears to be presumptively valid,
15 subject only to any objections that may be raised at the Final Approval Hearing and final
16 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
17 \$500,000.00 to cover (a) settlement payments to class members who do not validly opt out; (b)
18 a \$20,000.00 payment to the State of California, Labor & Workforce Development Agency for
19 its share of the settlement of claims for penalties under the Private Attorneys General Act, with
20 75% of which (\$15,000.00) will be paid to the LWDA and 25% (\$5,000.00) will be paid to
21 eligible Aggrieved Employees; (c) Class Representative service payment of up to \$5,000.00 for
22 Plaintiff Salvador Villanueva and \$5,000.00 for Plaintiff Marco Perez; (d) Class Counsel's
23 attorneys' fees, not to exceed 33 1/3% of the Gross Settlement Amount (\$166,666.67), and up
24 to \$15,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e)
25 Settlement Administration Costs of up to \$15,000.00.

26 3. The Court preliminarily finds that the terms of the Settlement appear to be within
27 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
28 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair

ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

1 and reasonable to the class members when balanced against the probable outcome of further
2 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
3 significant informal discovery, investigation, research, and litigation have been conducted such
4 that counsel for the parties at this time are able to reasonably evaluate their respective positions;
5 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
6 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
7 the result of intensive, serious, and non-collusive negotiations between the Parties with the
8 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
9 that the Settlement Agreement was entered into in good faith.

10 4. A final fairness hearing on the question of whether the proposed settlement,
11 attorneys' fees and costs to Class Counsel, payment to the State of California, Labor &
12 Workforce Development Agency for its share of the settlement of claims for penalties under the
13 Private Attorneys General Act, and the class representative's enhancement award should be
14 finally approved as fair, reasonable and adequate as to the members of the class is hereby set in
15 accordance with the Implementation Schedule set forth below.

16 5. The Court provisionally certifies for settlement purposes only the following class
17 (the "Settlement Class"): "all persons currently or formerly employed as non-exempt employees
18 in California by Defendant at any time during the class period (defined below) who do not
19 timely and validly exclude themselves from the Class in compliance with the exclusion
20 procedures set forth in this Settlement." The Settlement Class shall release all claims described
21 in Section 1(DD) of the Settlement Agreement during the Class Period and PAGA Period, as
22 applicable to the claims, as of the dates specified in the Settlement Agreement.

23 6. "Class Period" means the period from January 28, 2018 through the date of this
24 Order. If change to the end date of the Class Period is necessary based on Section III(D)(5) of
25 the Settlement Agreement, then the parties shall submit an amended proposed order reflecting
26 the change. The "PAGA Period" means the period from January 28, 2021, through the date of
27 this Order.

28 7. The Court finds, for settlement purposes only, that the Settlement Class meets the

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1 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
2 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
3 of law and fact that are common, or of general interest, to all Settlement Class Members, which
4 predominate over individual issues; (3) Plaintiffs' claims are typical of the claims of the
5 Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect
6 the interests of the Settlement Class Members; and (5) a class action is superior to other
7 available methods for the fair and efficient adjudication of the controversy.

8 8. The Court appoints as Class Representative, for settlement purposes only,
9 Plaintiffs Salvador Villanueva and Marco Perez. The Court further preliminarily approves
10 Plaintiffs' ability to request an incentive award up to \$5,000.00 each.

11 9. The Court appoints, for settlement purposes only, Justin F. Marquez and
12 Benjamin H. Haber of Wilshire Law Firm, PLC and Kane Moon and Allen Feghali of Moon
13 Law Group, PC as Class Counsel. The Court further preliminarily approves Class Counsel's
14 ability to request attorneys' fees of up to one-third of the Total Settlement Amount
15 (\$166,666.67), and costs not to exceed \$15,000.00.

16 10. The Court appoints CPT Group, Inc. as the Settlement Administrator with
17 reasonable administration costs estimated not to exceed \$15,000.00.

18 11. The Court approves, as to form and content the Class Notice, attached to the
19 Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the
20 Notice to Settlement Class Members satisfies due process, provides the best notice practicable
21 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
22 thereto.

23 12. The parties are ordered to carry out the Settlement according to the terms of the
24 Settlement Agreement.

25 13. Any class member who does not timely and validly request exclusion from the
26 settlement may object to the Settlement Agreement.

27 14. The Court orders the following Implementation Schedule:

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Defendants to provide Class List to the Settlement Administrator	10 days after notice of entry of the Court's order granting Motion for Preliminary Approval
Settlement Administrator to mail the Notice Packets	10 days after receipt of the Class List from the Defendant
Response Deadline	45 days after Notice is mailed out by the Settlement Administrator
Deadline to Provide Written Objections, if any	45 days after Notice is mailed out by the Settlement Administrator
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and Service Award to Plaintiff	16 court days before hearing on Motion for Final Approval, which is _____;
Final Approval Hearing	_____ at _____ a.m./p.m., or first available date thereafter, in Department 5. The hearing may be continued to another date without further notice to the Class Members.

15. The Court further ORDERS that, pending further order of this Court, all proceedings in this lawsuit, except those contemplated herein and in the settlement, are stayed.

IT IS SO ORDERED.

DATE:

Hon. Syda Kosofsky Cogliati
Santa Cruz County Superior Court

Villanueva, et al. v. La Rosa Tortilla Factory, Inc., et al.
22CV00226