

FILED

2023 SEP 25 AM 11:31

CLERK OF THE SUPERIOR COURT
BY  DEPUTY

Kane Moon (SBN 249834)
Allen Feghali (SBN 301080)
Charlotte Mikat-Stevens (SBN 327047)
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
E-mail: kmoon@moonlawgroup.com
E-mail: afeghali@moonlawgroup.com
E-mail: cmikat-stevens@moonlawgroup.com

Attorneys for Plaintiff MARCO ANTONIO ZARAGOZA

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

MARCO ANTONIO ZARAGOZA, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

THE ROMAN CATHOLIC BISHOP OF
FRESNO, a California corporation dba
SACRED HEART CHURCH; and DOES 1
through 10, inclusive,

Defendants

Case No.: **22CV-00282.**

CLASS ACTION

[Hon. Brian McCabe, Dept. 8]

~~PROPOSED~~ **FINAL ORDER
GRANTING PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

*[Filed with Plaintiff's Notice of Motion and
Motion for Final Approval, and the
Declarations of Kane Moon, Plaintiff
Zaragoza, and Nathalie Hernandez in Support
of Motion]*

FINAL APPROVAL HEARING:

Date: September 25, 2023
Time: 8:15 a.m.
Dept.: 8

Complaint Filed: January 25, 2022
Trial Date: Not set

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

On May 11, 2023, the Court entered an Order granting Plaintiff Marco Antonio Zaragoza's ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement, conditional class certification, and approval of Class Notice, and setting a Final Approval Hearing (the "Preliminary Approval Order"), thereby preliminarily approving a settlement of the above-entitled action (the "Action") that was reached between Plaintiff and Defendant The Roman Catholic Bishop of Fresno dba Sacred Heart Church ("Defendant," and together with Plaintiff, the "Parties"), in accordance with the Parties' Class Action and PAGA Settlement Agreement and Class Notice (the "Settlement" or "Settlement Agreement"). The Settlement Agreement was attached as Exhibit 1 to the Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and which, together with the Exhibit A annexed thereto, set forth the terms and conditions for settlement of the Action. The Court now has before it a Proposed Final Order and Judgment to finally approve the Settlement.

Due and adequate notice having been given to Class Members, and the Court having reviewed the Settlement Agreement and duly considered Plaintiff's Motion for Final Approval of Class Action Settlement, the supporting declarations and exhibits thereto, all other papers filed and proceedings had hereto, the record in this Action, and any oral argument, and good cause appearing,

THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:

1. The Court, for purposes of this Final Order and Judgment, refers to all terms and definitions as set forth in the Settlement Agreement.

2. Plaintiff's Motion for Final Approval of Class Action Settlement, including a motion for payment of attorneys' fees and litigation costs to Class Counsel, class representative service payment, Settlement Administrator's fees, and PAGA Penalties to the California Labor and Workforce Development Agency (the "LWDA") (collectively "Motion for Final Approval"), and whether the Settlement should be finally approved as fair, reasonable, and adequate as to Class Members, came before Department 8 of this Court, the Honorable Brian McCabe presiding, on September 25, 2023.

3. The Court finds that the Settlement Agreement appears to have been made and entered

1 into in good faith, the terms of which are fair, reasonable, and adequate; was reached following
2 meaningful discovery and investigation conducted by Plaintiff and his counsel of record ("Class
3 Counsel"); is the result of serious, informed, adversarial, and arms-length negotiations between the
4 Parties; and therefore, meets the requirements for final approval. In so finding, the Court has
5 considered all the evidence presented, including evidence regarding the strength of Plaintiff's claims;
6 the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the
7 amount offered in the Settlement; the extent of investigation and discovery completed; and the
8 experience and views of Class Counsel. The Court has further considered the absence of objections
9 to the Settlement, and the minimal requests for exclusion from the Settlement, by Class Members.
10 Accordingly, the Court hereby **GRANTS** Plaintiff's Motion for Final Approval and **ORDERS**
11 Judgment to be entered in accordance with the terms herein.

12 4. The Court certifies, for settlement purposes only, the following Class (the "Settlement
13 Class"): "All non-exempt employees of Defendant who worked for Defendant in California at any
14 time from January 25, 2018 to May 11, 2023." Excluded from the Settlement Class are all persons
15 who properly and timely elected to opt out from the Settlement.

16 5. The deadline to request exclusion from or to submit written objections to the
17 Settlement was August 7, 2023. Seven requests for exclusion were received from the following
18 individuals: Gloria V. Torres, Lynne M. Pitchford Eid, Maria M. Rosales, Marlana Mikelsons, Ruth
19 E. Bond, Sofia Rosemary Zubacz, and Thiry Gail Bennett. Accordingly, these seven individuals are
20 Non-Participating Class Members and excluded from the Settlement Class.

21 6. All other Class Members who did not request exclusion from the Settlement had an
22 opportunity to object to the Settlement Agreement. No written objections were received.

23 7. The Court-approved Notice of Proposed Class Action Settlement (the "Notice"),
24 which was attached to the Settlement Agreement as Exhibit A and provided to the Class pursuant to
25 the plan for distribution described under the Settlement Agreement, conformed with the requirements
26 of California Rules of Court 3.766 and 3.769, and constituted the best notice practicable under the
27 circumstances, by providing individual and adequate notice of the proceedings and of the matters set
28 forth therein to Class Members. The Notice fully satisfied the requirements of due process and

1 provided the Class Members with adequate instructions and a variety of means to obtain additional
2 information.

3 8. A full opportunity has been afforded to the Settlement Class Members to participate
4 in the Final Approval Hearing, and all Settlement Class Members and other persons wishing to be
5 heard have been heard and/or had an opportunity to be heard. The Settlement Class Members have
6 had a full and fair opportunity to exclude themselves from the Settlement or object to the Settlement.
7 Accordingly, the Court determines that all Settlement Class Members who did not timely and validly
8 opt out of the Settlement ("Participating Class Members") are bound by this Final Order and
9 Judgment.

10 9. Class Members' Release of Claims. Effective on the date when Defendant fully funds
11 the entire Gross Settlement Amount and upon entry of this Final Order approving this Settlement,
12 Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
13 follows (Settlement Agreement, ¶ 5):

14 a. Date Release Becomes Effective. "Effective Date" means the date by when both
15 of the following have occurred: (a) the Court enters a Judgment on its Order Granting
16 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as
17 of the latest of the following occurrences: (a) if no Participating Class Member objects
18 to the Settlement, or if an objection is made but withdrawn prior to the Final Approval
19 Hearing, the day the Court enters Judgment; (b) if one or more Participating Class
20 Members objects to the Settlement, the day after the deadline for filing a notice of appeal
21 from the Judgment; or if a timely appeal from the Judgment is filed, the day after the
22 appellate court affirms the Judgment and issues a remittitur. (Settlement Agreement, ¶
23 1.18.)

24 b. Released Parties. "Released Parties" means: Defendant and any parent,
25 subsidiary, affiliate, predecessor or successor, and all agents, employees, contracting
26 parties, joint employers, officers, directors and attorneys thereof. (Settlement Agreement,
27 ¶ 1.41.)

28 c. Release by Plaintiff.

1 1) Scope of Plaintiff's Release. Plaintiff and his respective former
2 and present spouses, representatives, agents, attorneys, heirs,
3 administrators, successors, and assigns generally, release and discharge
4 Released Parties from all claims, transactions, or occurrences that occurred
5 during the Class Period, including, but not limited to: (a) all claims that
6 were, or reasonably could have been, alleged, based on the facts contained,
7 in the Operative Complaint and (b) all PAGA claims that were, or
8 reasonably could have been, alleged based on facts contained in the
9 Operative Complaint, Plaintiff's PAGA Notice ("Plaintiff's Release.")
10 Plaintiff's Release does not extend to any claims or actions to enforce this
11 Agreement, or to any claims for vested benefits, unemployment benefits,
12 disability benefits, social security benefits, workers' compensation benefits
13 that arose at any time, or based on occurrences outside the Class Period.
14 Plaintiff acknowledges that Plaintiff may discover facts or law different
15 from, or in addition to, the facts or law that Plaintiff now knows or believes
16 to be true but agrees, nonetheless, that Plaintiff's Release shall be and
17 remain effective in all respects, notwithstanding such different or additional
18 facts or Plaintiff's discovery of them. (Settlement Agreement, ¶ 5.1.1.)

19 2) Plaintiff's Waiver of Rights under California Civil Code § 1542.
20 For purposes of Plaintiff's Release, Plaintiff expressly waives and
21 relinquishes the provisions, rights, and benefits, if any, of Section 1542 of
22 the California Civil Code, which reads: A general release does not extend
23 to claims that the creditor or releasing party does not know or suspect to
24 exist in his or her favor at the time of executing the release, and that if
25 known by him or her would have materially affected his or her settlement
26 with the debtor or Released Party. (Settlement Agreement, ¶ 5.1.2.)

27 d. Release by Participating Class Members. All Participating Class Members, on
28 behalf of themselves and their respective former and present spouses, family members,

1 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release
2 Released Parties from (i) all claims that were alleged, or reasonably could have been
3 alleged, based on the Class Period facts stated in the Operative Complaint, including,
4 e.g., any and all claims arising under California Labor Code sections 201, 202, 203, 204,
5 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the
6 applicable Industrial Welfare Commission Wage Orders based on any alleged failure to
7 pay minimum wage; failure to pay overtime compensation; failure to pay paid time off
8 wages; failure to provide meal periods; failure to authorize and permit rest periods;
9 failure to indemnify necessary business expenses; failure to timely pay final wages;
10 failure to timely pay wages during employment; failure to provide accurate wage
11 statements; failure to keep adequate records; and unfair business practices arising under
12 California Business and Professions Code section 17200 et seq. Excluded from this
13 portion of the release are claims for PAGA penalties that were alleged, or reasonably
14 could have been alleged, based on the PAGA Period facts stated in the Operative
15 Complaint and the Plaintiff's PAGA Notice. Except as set forth in Section 5.3 of this
16 Agreement, Participating Class Members do not release any other claims, including
17 claims for vested benefits, wrongful termination, violation of the Fair Employment and
18 Housing Act, unemployment insurance, disability, social security, workers'
19 compensation, or claims based on facts occurring outside the Class Period. (Settlement
20 Agreement, ¶ 5.2.)

21 e. Release by Non-Participating Class Members Who Are Aggrieved Employees.

22 All Class Members who are Aggrieved Employees are deemed to release, on behalf of
23 themselves and their respective former and present spouses, family members,
24 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the
25 Released Parties from all claims for PAGA penalties that were alleged, or reasonably
26 could have been alleged, based on the PAGA Period facts stated in the Operative
27 Complaint and/or the Plaintiff's PAGA Notice, including any claim for PAGA penalties
28 based on alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5,

218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; and/or failure to keep adequate records. (Settlement Agreement, ¶ 5.3.)

10. The Parties shall bear their own respective attorneys' fees and costs, except as otherwise provided for in the Settlement Agreement and approved by the Court.

11. The Court finds that the Gross Settlement Amount, the Net Settlement Amount, and the methodology used to calculate Individual Class and PAGA Payments to Participating Class Members and Aggrieved Employees are fair and reasonable. The Court authorizes the Administrator to pay settlement allocations in accordance with the terms of the Settlement Agreement. Defendant shall pay into a common fund a total of \$1,500,000.00 (the "Gross Settlement Amount") to resolve the Action. Within 14 calendar days of the Effective Date, as that term is defined in the Settlement Agreement, the Administrator shall distribute payments to Participating Class Members, Aggrieved Employees, the LWDA, Plaintiff, and Class Counsel in accordance with the terms of the Settlement Agreement.¹

12. A total amount of \$100,000.00 shall be allocated as PAGA Penalties in exchange for the Released PAGA Claims under the Private Attorneys General Act of 2004 ("PAGA"), and distributed as follows: 25% (\$25,000.00) to the Aggrieved Employees and 75% (\$75,000.00) to the LWDA. The LWDA's claims for the Released PAGA Claims are hereby extinguished.

13. The Court confirms the appointment of Plaintiff as the Class Representative. In addition to any recovery Plaintiff is eligible to receive as a Class Member, the Court approves and

¹ Under the Settlement Agreement, Defendant was to fund the Gross Settlement Amount and the amounts necessary to pay the employer's share of payroll taxes on the wage portion of Individual Class Payments, as calculated by the Settlement Administrator, no later than 30 days after the Preliminary Approval Order was signed, which would be held in trust by the Settlement Administrator until after the Effective Date. (Settlement Agreement ¶ 4.3.) On May 25, 2023, the Settlement Administrator reported that it was in receipt of the settlement funds.

1 orders a Service Payment in the amount of \$7,500.00 from the Gross Settlement Amount to Plaintiff
2 for his role and service as the Class Representative, for the risks and work attendant to that role, and
3 for his general release of claims, both known and unknown, and waiver of Section 1542 rights.

4 14. The Court confirms the appointment of Moon Law Group, PC as Class Counsel, as
5 they are experienced in wage and hour class action litigation, have no apparent conflicts of interest
6 with Plaintiff or other Class Members, and have adequately represented Class interests. The Court
7 approves and orders a Class Counsel Fees Payment for reasonable attorneys' fees not to exceed thirty-
8 three and one third percent (33 1/3%) of the Gross Settlement Amount (\$500,000.00), as well as a
9 Class Counsel Litigation Expenses Payment \$21,279.19 for reimbursement of litigation costs
10 actually incurred. These payments are to be made from the Gross Settlement Amount. The Court
11 finds that the fees and costs amounts are reasonable in light of the benefits provided to the Class.

12 15. The Court confirms the appointment of ILYM Group, Inc. as the Administrator, who
13 has fulfilled its initial notice and reporting duties owed under the Settlement Agreement. The Court
14 approves and orders the payment of \$7,500.00 from the Gross Settlement Amount to the
15 Administrator for the costs and services of settlement administration.

16 16. In accordance with California Rule of Court 3.771(b), notice of this Final Order and
17 Judgment will be given to the Class by the Administrator, who will post the Final Order and
18 Judgment online for a period of not less than 90 calendar days after entry.

19 17. This Final Order and Judgment is intended to be a final disposition of the Action in
20 its entirety and is intended to be immediately appealable.

21 18. The obligations set forth in the Settlement Agreement are deemed part of this Final
22 Order and Judgment, and the Parties are ordered to carry out the Settlement Agreement according to
23 its terms and provisions.

24 19. Following entry of this Final Order and Judgment, and without affecting the finality
25 thereof, the Court shall retain jurisdiction over the Parties, the Action, and the Settlement solely for
26 purposes of (i) enforcing the Settlement Agreement and/or Judgment, (ii) addressing settlement
27 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

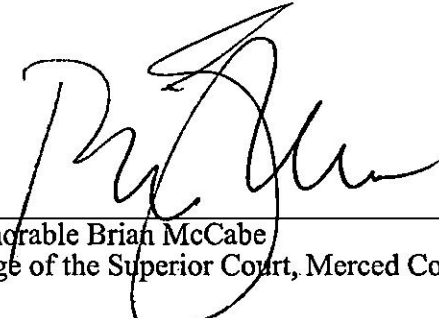
28 20. The Settlement Agreement is finally approved but is not an admission by Defendant

1 of the validity of any claims in this Action, or of any wrongdoing by Defendant or of any violation
2 of law. Neither the Settlement Agreement nor any related document shall be offered or received in
3 evidence in any civil, criminal, or administrative action or proceeding other than such proceedings
4 as may be necessary to consummate or enforce the Settlement.

5 21. The Court sets a Non-Appearance Hearing (Case Review) re: Distribution on
6 June 8, 2024 at 8:15 a.m./p.m. in Department 8. Class Counsel are
7 ordered to file a final report and declaration by the Administrator regarding settlement distribution
8 no later than June 24, 2024. No appearance is required at the Case Review if
9 the Administrator's declaration filed prior to the hearing reports that all the distributions under the
10 Settlement Agreement are complete.

11 **IT IS SO ORDERED.**

12
13 DATE: **SEP 25 2023**

14 
Honorable Brian McCabe
Judge of the Superior Court, Merced County

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 1055 West Seventh Street, Suite
7 1880, Los Angeles, California 90017. On September 8, 2023, I served the foregoing document
8 described as:

9 **~~PROPOSED~~ FINAL ORDER GRANTING PLAINTIFF'S MOTION FOR FINAL**
10 **APPROVAL OF CLASS ACTION SETTLEMENT AND JUDGMENT**

11 X by placing the original X a true copy thereof enclosed in sealed envelope(s)
12 addressed as follows:

13 **McCormick, Barstow, Sheppard, Wayte Carruth LLP**
14 Christina C. Tillman
15 Christina.tillman@mccormickbarstow.com
16 Jessica Dominguez Jessica.Dominguez@mccormickbarstow.com
17 Melissa Cerro Melissa.Cerro@mccormickbarstow.com
18 7647 North Fresno Street Fresno, California 93720
19 Telephone: (559) 433-1300
20 Facsimile: (559) 433-2300

21 *Attorneys for defendants THE ROMAN CATHOLIC BISHOP OF FRESNO dba SACRED*
22 *HEART CHURCH*

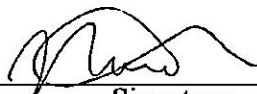
23 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles,
24 California, by e-mail delivery on the parties listed herein at their most recent known e-
25 mail address or e-mail of record in this action.

26 X (State) I declare under penalty of perjury under the laws of the State of California
27 that the above is true and correct.

28 Executed on September 8, 2023, at Los Angeles, California.

Noelia Alonso Esteban

Name



Signature