

FILED

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CLERK OF THE SUPERIOR COURT
BY:  DEPUTY

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

AMALIA NAVARRO CANTON,
CONCEPCION MORALES AZEVEDO, and
SONIA IMELDA NAVARRO CASTILLO,
individually, on behalf of all others similarly
situated, and on behalf of the State of California
and other aggrieved persons; JOSEFINA
MERCADO, and JESUS TORRES
RODRIGUEZ, individually, on behalf of all
others similarly situated,

Plaintiffs,

v.

JOHN B. SANFILIPPO & SON, INC., a
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 22CV-01145

CLASS ACTION

[Assigned for all purposes to: Hon. Brian L.
McCabe, Courtroom 8]

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

[Filed concurrently with: Notice of Motion
and Motion, Memorandum of Points and
Authorities; and the Declaration of Justin F.
Marquez]

PRELIMINARY APPROVAL HEARING

Date: November 17, 2023

Time: 8:30 a.m.

Courtroom: 8

The Court has before it Plaintiffs Amalia Navarro Canton, Concepcion Morales Azevedo, Sonia Imelda Navarro Castillo, Josefina Mercado and Jesus Torres Rodriguez (collectively, "Plaintiffs") Motion for Preliminary Approval of Class Action Settlement. Having reviewed the Motion for Preliminary Approval of Class Action Settlement, the Declaration of Justin F. Marquez, the Class Action and PAGA Settlement Agreement (which is referred to here as the "Settlement Agreement"), and good cause appearing, the Court hereby finds and orders as follows:

1. The Court finds on a preliminary basis that the Settlement Agreement appears to be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement Agreement between Plaintiffs Canton, Azevedo, Castillo, Mercado, and Rodriguez and Defendant John B. Sanfilippo & Son, Inc. ("Defendant"), attached to the Declaration of Justin F. Marquez in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement as Exhibit 2.

2. The Settlement falls within the range of reasonableness of a settlement which could ultimately be given final approval by this Court, and appears to be presumptively valid, subject only to any objections that may be raised at the Final Approval Hearing and final approval by this Court. The Court notes that Defendant has agreed to create a common fund of \$487,500.00 to cover (a) settlement payments to class members who do not validly opt out; (b) a \$10,000.00 payment to the State of California, Labor & Workforce Development Agency for its share of the settlement of claims for penalties under the Private Attorneys General Act, with 75% of which (\$7,500.00) will be paid to the LWDA and 25% (\$2,500.00) will be paid to eligible Aggrieved Employees; (c) Enhancement Payment of up to \$7,500.00 for each Plaintiff; (d) Class Counsel's attorneys' fees, not to exceed 33 1/3% of the Gross Settlement Amount (\$162,500.00) and up to \$25,000.00 in costs for actual litigation expenses incurred by Class Counsel; and (e) Settlement Administration Costs of up to \$7,625.00.

3. The Court preliminarily finds that the terms of the Settlement appear to be within the range of possible approval, pursuant to California Code of Civil Procedure § 382 and

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

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

5. The Court provisionally certifies for settlement purposes only the following class (the "Settlement Class"): "all current or former hourly-paid, non-exempt employees of Defendant in California employed during the Class Period."

6. "Class Period" means the time period from April 27, 2018 to March 19, 2023.

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

8. The Court appoints as Class Representatives, for settlement purposes only, Plaintiffs Canton, Azevedo, Castillo, Mercado, and Rodriguez. The Court further preliminarily approves Plaintiffs' ability to request an incentive award up to \$7,500.00 each.

9. The Court appoints, for settlement purposes only, Justin F. Marquez, Benjamin H. Haber, and Arrash T. Fattahi of Wilshire Law Firm, PLC as Class Counsel. The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of up to one-third of the Total Settlement Amount (\$162,500.00), and costs not to exceed \$25,000.00.

10. The Court appoints Apex Class Action LLC as the Settlement Administrator with reasonable administration costs estimated not to exceed \$7,625.00.

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

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

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

14. The Court orders the following Implementation Schedule:

Defendant to provide Class List to the Settlement Administrator	[21 days after the Court grants preliminary approval of the settlement]
Settlement Administrator to mail the Notice Packets	[14 days after receiving the Class List]
Response Deadline	[60 days after notice is mailed]
Deadline to file Motion for Final Approval, Request for Attorney's Fees and Costs, and	[16 court days prior to the Final Approval Hearing]

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Service Award to Plaintiff	
Final Approval Hearing	[no earlier than 30 days after the Response Deadline] The Final Approval Hearing is set for <u>March 15, 2024</u> at <u>8:15 am</u> in Courtroom 8.

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: **NOV 17 2023**


 Hon. Brian L. McCabe
 Merced County Superior Court

Amalia Navarro Canton, et al. v. John B. Sanfilippo & Son, Inc., et al.

22CV-01145

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

I, Sandy S. Sespene, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is ssespene@wilshirelawfirm.com.

On October 20, 2023, I served the foregoing ~~PROCESS~~ **ORDER GRANTING PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Scott K. Dauscher (SBN 204105)
sdauscher@aallr.com
ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 12800 Center Court' Drive, Suite 300
 Cerritos, California 90703
 Telephone: (562) 653-3200
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Jeffrey A. Risch (*pro hac vice*)
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SMITHAMUNDSEN LLC
 3815 E. Main Street, Suite A-1
 St. Charles, IL 60174
 Telephone: (630) 587-7922
 Facsimile: (630) 587-7960

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

(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **October 20, 2023**, at Los Angeles, California.


Sandy S. Sespene