

FILED
San Diego Superior Court

JUL 31 2024

Clerk of the Superior Court
By: H. Chavarin, Deputy

ELECTRONICALLY RECEIVED
Superior Court of California,
County of San Diego

06/20/2024 at 12:35:10 PM

Clerk of the Superior Court
By: Andrea Naranjo, Deputy Clerk

Raul Perez (SBN 174687)
Raul.Perez@capstonelawyers.com
Bevin Allen Pike (SBN 221936)
Bevin.Pike@capstonelawyers.com
Daniel Jonathan (SBN 262209)
Daniel.Jonathan@capstonelawyers.com
Trisha K. Monesi (SBN 303512)
Trisha.Monesi@capstonelawyers.com
CAPSTONE LAW APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Mark Yablonovich (SBN 186670)
Mark@yablonovichlaw.com
Monica Balderrama (SBN 196424)
Monica@yablonovichlaw.com
LAW OFFICES OF MARK YABLONOVICH
9595 Wilshire Boulevard, Suite 900
Beverly Hills, California 90212-2511
Telephone: (310) 286-0246
Facsimile: (310) 407-5391

Attorneys for Plaintiffs Lilian Moreno and Robin Cathey

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

LILIAN MORENO, a proxy for the State of
California as an aggrieved employee pursuant to
the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

FAROOQI FOOD MANAGEMENT, INC., et
al.,

Defendants.

ROBIN CATHEY, individually, and on behalf
of other members of the general public similarly
situated,

Plaintiff,

vs.

FAROOQI FOOD MANAGEMENT, INC., et
al.,

Defendants.

Case Nos. 37-2022-00033791-CU-OE-CTL
(Lead)
37-2022-00035056-CU-OE-CTL
37-2022-00035677-CU-OE-CTL

Assigned to the Hon. Michael T. Smyth

**~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENTS**

Date: July 19, 2024
Time: 9:00 a.m.
Place: Department C-67

Complaint Filed: August 22, 2022
Trial Date: None Set

1 LILIAN MORENO, on behalf of herself, all
2 others similarly situated, and on behalf of the
general public,

3 Plaintiff,

4 vs.

5 FAROOQI FOOD MANAGEMENT, INC., et
6 al.,

7 Defendants.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER AND JUDGMENT

This matter came before the Court for a hearing on the Motion for Final Approval of the Class Action and PAGA Settlement and Motion for Attorneys' Fees, Costs, and Class Representative Enhancement Payments (collectively, the "Motions"). Due and adequate notice having been given to Class Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

2. This Order hereby adopts and incorporates by reference the terms and conditions of the Joint Stipulation of Class Action and PAGA Settlement and Release ("Settlement Agreement" or "Settlement"), together with the definitions and terms used and contained therein.

3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.

4. The Class Notice fully and accurately informed Class Members of all material elements of the Settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.

5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.

6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiffs' Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other Released
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
21 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, waiver of defenses, or liability
24 whatsoever by or against Defendant or any of the other Released Parties.

25 10. Final approval shall be with respect to: All persons who worked for Defendant as non-
26 exempt, hourly paid employees in the State of California at any time from August 30, 2018 through
27 October 15, 2023.

28 11. Plaintiffs Lilian Moreno and Robin Cathey are adequate and suitable representatives and

1 are hereby appointed the Class Representatives for the Settlement Class. The Court finds that Plaintiffs'
2 investment and commitment to the litigation and its outcome ensured adequate and zealous advocacy for
3 the Settlement Class, and that their interests are aligned with those of the Settlement Class.

4 12. The Court hereby awards Plaintiffs Class Representative Enhancement Payments of
5 \$10,000, each, for their service on behalf of the Settlement Class, and for agreeing to general releases of
6 all claims arising out of their employment with Defendant.

7 13. The Court finds that the attorneys at Capstone Law APC and the Law Offices of Mark
8 Yablonovich have the requisite qualifications, experience, and skill to protect and advance the interests
9 of the Settlement Class. The Court therefore finds that counsel satisfy the professional and ethical
10 obligations attendant to the position of Class Counsel, and hereby appoints Capstone Law APC and the
11 Law Offices of Mark Yablonovich as counsel for the Settlement Class.

12 14. The settlement of civil penalties under PAGA in the amount of \$30,000 is hereby
13 approved. Seventy-Five Percent (75%), i.e., \$22,500, shall be paid to the California Labor and
14 Workforce Development Agency. The remaining Twenty-Five Percent (25%), i.e., \$7,500, will be paid
15 to PAGA Members.

16 15. The Court hereby awards \$211,017 in attorneys' fees and \$22,829.01 in costs and
17 expenses to Class Counsel. The Court finds that the requested award of attorneys' fees is reasonable for a
18 contingency fee in a class action such as this; i.e., one-third of the common fund created by the
19 settlement. Counsel have also established the reasonableness of the requested award of attorneys' fees
20 via their lodestar crosscheck, and the Court finds that the attorney staffing, hours billed, and hourly rates
21 are reasonable, and the multiplier is warranted under the circumstances. The award of attorneys' fees and
22 costs will be divided as follows: (a) \$105,508.50 in attorneys' fees and \$6,582.78 in litigation costs to
23 Capstone Law APC; and (b) \$105,508.50 in attorneys' fees and \$16,246.23 in litigation costs to the Law
24 Offices of Mark Yablonovich.

25 16. The Court approves settlement administration costs and expenses in the amount of
26 \$7,500 to Phoenix Class Action Settlement Administration.

27 17. All Class Members were given a full and fair opportunity to participate in the Approval
28 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the

1 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
2 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
3 and Judgment shall be forever binding on all Participating Class Members. These Participating Class
4 Members have released and forever discharged the Released Parties for any and all Released Class
5 Claims during the Class Period:

6 All causes of action and state and federal wage and hour claims that were alleged
7 in the Actions, or reasonably could have been alleged by reason of or in connection
8 with any matter or fact set forth or referred to in the operative Complaint, including
9 all of the following claims for relief: (a) failure to pay all regular rate wages,
10 minimum wages, and overtime wages due; (b) failure to pay all reporting time
11 wages; (c) failure to provide compliant meal periods; (d) failure to provide
compliant rest breaks; (e) failure to timely pay wages during employment; (f)
failure to provide complete, accurate wage statements; (g) failure to pay wages
timely at time of termination or resignation; (h) failure to reimburse or indemnify
necessary business expenses; and (i) unfair business practices that could have been
premised on the preceding claims.

12 18. Additionally, all PAGA Members and the LWDA are deemed to have released and
13 forever discharged the Released Parties for any and all Released PAGA Claims during the PAGA
14 Period:

15 All causes of action and claims for civil penalties under the California Labor Code
16 Private Attorneys General Act of 2004 that were alleged in the Actions and
underlying LWDA Exhaustion Letters, or reasonably could have been alleged by
17 reason of or in connection with any matter or fact set forth or referred to in the
operative Complaint, including claims for civil penalties based on the following:
18 (a) failure to pay all regular rate wages, minimum wages, and overtime wages due;
(b) failure to pay all reporting time wages; (c) failure to provide compliant meal
19 periods; (d) failure to provide compliant rest breaks; (e) failure to timely pay wages
during employment; (f) failure to provide complete, accurate wage statements; (g)
20 failure to pay wages timely at time of termination or resignation; and (h) failure to
reimburse or indemnify necessary business expenses.

21 19. Judgment in this matter is entered in accordance with the above findings.

22 20. Without affecting the finality of the Judgment, the Court shall retain exclusive and
23 continuing jurisdiction over the above-captioned action and the parties under California Code of Civil
24 Procedure section 664.6, including all Participating Settlement Members and PAGA Members, for
25 purposes of enforcing the terms of the Judgment entered herein.

26 21. This document shall constitute a judgment (and separate document constituting said
27 judgment) for purposes of California Rules of Court, Rule 3.769(h).

28 22. Plaintiffs shall give notice of this Order and Judgment to Class Members, pursuant to

1 rule 3.771 of the California Rules of Court, by posting an electronic copy of this Order and Judgment on
2 the Settlement Administrator's website.

3 23. Plaintiffs shall file a declaration from the Settlement Administrator regarding the
4 completion of settlement administration activities no later than May 16, 2025, as well as an amended
5 judgment regarding the distribution of unclaimed residuals to the Justice Gap Fund maintained by The
6 State Bar of California.

7
8 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

9
10 Dated: July 31, 2024

11 Michael T. Smyth
12 Hon. Michael T. Smyth
13 San Diego County Superior Court Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28