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Attorneys for Plaintiff Semira Trujillo

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

9/12/2024 10:52:21 AM

Clerk of the Superior Court
By A. Anzalone ,Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

SEMIRA TRUJILLO *et al.*

Plaintiff,

vs.

FFC SAN DIEGO, LLC *et al.*

Defendants.

Case No. 37-2022-00046517-CU-OE-CTL

Hon. Carolyn Caietti
Dept. 70

CLASS ACTION

**Notice of Entry of Order Granting Final
Approval and Entering Judgment**

Action Filed: November 17, 2022

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE
2 TAKE NOTICE THAT:

3 1. On September 9, 2024, at 10:30 a.m. in this Department, the Court entered the Order
4 and Judgment Granting Final Approval of Class Action Settlement and Attorneys' Fees and Costs and
5 Entering Judgment attached hereto as Exhibit 1.

6 2. The Judge confirmed the Court's Tentative Ruling attached hereto as Exhibit 2.

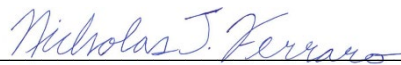
7 3. A conformed copy of this Notice will be submitted to the LWDA via its online
8 electronic portal in accordance with Labor Code § 2699(1)(3).

9 4. Notice of the Court's final ruling and entry of judgment is hereby provided.

10
11 Respectfully submitted,

12
13 Dated: September 12, 2024

Ferraro Vega Employment Lawyers, Inc.

14 

15 Nicholas J. Ferraro

16 Attorneys for Plaintiff Semira Trujillo
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Exhibit 1

FILED
San Diego Superior Court

SEP 05 2024

Clerk of the Superior Court
By: A. Shirley, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

SEMIRA TRUJILLO, *et al.*

Plaintiff,

vs.

FFC SAN DIEGO, LLC, *et al.*

Defendants.

Case No. 37-2022-00046517-CU-OE-CTL

Hon. Carolyn Caietti
Dept. 70

CLASS ACTION

**~~[Proposed]~~ Order Granting Final Approval of
Class Action Settlement and Attorneys' Fees
and Costs and Entering Judgment**

Motion for Final Approval/Attorneys' Fees:

Date: September 5, 2024

Time: 10:30 a.m.

[Filed concurrently with Notice of Motion and
Motion for Final Approval of Class Action
Settlement, Memorandum of Points and
Authorities, Declaration of Nicholas J. Ferraro,
Declaration of Settlement Administrator, and
Declaration of Semira Trujillo]

Action Filed: November 17, 2022

1 This matter came on for hearing on September 5, 2024, at 10:30 a.m., in Department 70 of the
2 above-captioned Court, the Honorable Carolyn Caietti presiding, on (1) Plaintiff's Motion for Final
3 Approval of Class Action Settlement and (2) Plaintiff's Motion for Attorneys' Fees and Costs.

4 Having received and considered the motions and supporting papers, including the Class Action
5 Settlement Agreement ("Settlement"), the evidence and documents received by the Court in connection
6 with the Motions for Final Approval and Attorneys' Fees and Costs, and the previously decided Motion
7 for Preliminary Approval, the Court GRANTS FINAL APPROVAL of the Settlement and ORDERS
8 AND MAKES THE FOLLOWING DETERMINATIONS:

9 1. Pursuant to the terms of the Settlement and the Order Granting Preliminary Approval,
10 and the Settlement, a notice was sent to each class member by first-class U.S. mail. The notice
11 informed the class of the terms of the Settlement, their right to receive a settlement payment without
12 any required action, their right to comment upon or object to the Settlement, and their right to appear
13 in person or by counsel at the Final Approval Hearing and to be heard regarding approval of the
14 Settlement. Adequate periods of time were provided for each of these procedures.

15 2. Zero class members returned a written objection to the proposed Settlement as part of
16 the notice process or stated an intention to appear at the Final Approval Hearing and there were no
17 dissenting appearances from class members at the hearing. One class member requested exclusion
18 from the Settlement: Jonathan Guiab. This "opt out" is affirmatively excluded from the class
19 settlement.

20 3. The Court finds and determines the notice procedure afforded adequate protections to
21 the class and provides the basis for the Court's informed decision regarding approval of the Settlement
22 based on the response. The Court finds and determines the notice provided was the best notice
23 practicable, satisfying the requirements of law and due process.

24 4. For purposes of approving this Settlement only, this Court finds and concludes: (a) the
25 proposed class is ascertainable and so numerous that joinder of all members of the class is
26 impracticable; (b) there are questions of law or fact common to the proposed class, and there is a well-
27 defined community of interest among members of the class with respect to the subject matter of the
28 claims; (c) the claims of the representative are typical of the claims of the class; (d) the class

1 representative has and will fairly and adequately protect the interests of the class; (e) a class action is
2 superior to other available methods for an efficient adjudication of this controversy in the context of
3 settlement; and (f) the law firm of Ferraro Vega Employment Lawyers, Inc. is qualified and adequate
4 to serve as Class Counsel in this action.

5 5. The Court confirms certification, for settlement purposes only, of the class as defined in
6 the Settlement and approved at the preliminary approval stage.

7 6. The Court finds and determines the terms set forth in the Settlement are fair, reasonable,
8 and adequate and, having found the Settlement was reached as a result of informed and non-collusive
9 arms'-length negotiations facilitated by a neutral and experienced mediator, directs the Parties to
10 effectuate the Settlement according to its terms. The Court further finds the Parties conducted
11 extensive investigation, research, and informal discovery, and that their attorneys were able to
12 reasonably evaluate their respective positions. The Court also finds that Settlement will enable the
13 Parties to avoid additional and potentially substantial litigation costs, as well as delay and risks if the
14 Parties were to continue to litigate the case. The Court has reviewed the monetary recovery and
15 recognizes the significant value provided to the Class. Therefore, the Court approves the Settlement
16 and incorporates the terms of the Settlement in full into this Final Approval Order as though fully set
17 forth herein.

18 7. The Court finds and determines the fees and expenses in administering the Settlement
19 incurred by the Settlement Administrator of \$10,000 are fair and reasonable. The Court orders these
20 administration costs be paid in accordance with the terms of the Settlement.

21 8. The Court finds and determines the Service Award of \$10,000 to Plaintiff Trujillo as
22 fair and reasonable. The Court orders the service awards be paid in accordance with the terms of the
23 Settlement.

24 9. The Court finds and determines payment to the California Labor and Workforce
25 Development Agency of \$7,500, as its 75% share of the civil penalties under the Private Attorneys
26 General Act is fair, reasonable, and appropriate. The Court orders that amount be paid in accordance
27 with the terms of the Settlement and approves the settlement of claims under the Private Attorneys
28 General Act pursuant to Labor Code § 2699(1)(2).

1 10. Pursuant to the terms of the Settlement and the statutory provisions authorizing
2 attorneys' fees under the California Labor Code and Code of Civil Procedure, as set forth in the Motion
3 for Attorneys' Fees, the Court awards Class Counsel attorneys' fees of \$108,322.50 and litigation costs
4 of \$11,720.26. Class Counsel has sufficiently explained the basis for the fee award based on a
5 percentage of the fund. The Court finds such amounts to be fair and reasonable. The Court orders the
6 Settlement Administrator to make these payments in accordance with the Settlement.

7 11. Without affecting the finality of this Order or the entry of judgment in any way, the
8 Court retains jurisdiction of all matters relating to the interpretation, administration, implementation,
9 and enforcement of this Order and the Settlement.

10 12. Nothing in this Order shall preclude any action to enforce the Parties' obligations under
11 the Settlement or under this Order, including the requirement that Defendant make payments to Class
12 Members in accordance with the Settlement.

13 13. The Court hereby ENTERS FINAL JUDGMENT in accordance with the terms of the
14 Settlement, in accordance with this Final Approval Order and Judgment.

15 14. The Parties shall comply with Cal. Rules of Court Rule 3.771(b), by filing a Notice of
16 Entry of Judgment with the Court.

17 15. Status Conference Hearing set for 12/20/24 at 9:15am

18 **IT IS SO ORDERED.**

19
20 Date: _____

9/5/24



The Honorable Carolyn Caietti
Judge of the Superior Court

Exhibit 2

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL COURTHOUSE

TENTATIVE RULINGS - September 04, 2024

HEARING DATE: 09/05/24 HEARING TIME: 10:30 AM DEPT.: C-70

JUDICIAL OFFICER: CAROLYN M. CAIETTI

CASE NO.:37-2022-00046517-CU-OE-CTL

CASE TITLE: Trujillo vs FFC San Diego LLC [EFILE]

CASE TYPE: (U)Other Employment

HEARING TYPE:

Plaintiff Semira Trujillo's unopposed Motion for Final Approval of Class Action Settlement and Motion for Attorney Fees and Costs are **GRANTED**.

This motion seeks final approval of the parties' proposed \$325,000 wage and hour class action and PAGA settlement on behalf of all individuals currently or formerly employed by FFC San Diego, LLC in California as hourly, non-exempt employees during the class period [November 17, 2018 through October 15, 2023]. The proposed PAGA members are defined as class members who worked during the PAGA period. (See, ROA 43 – Declaration of Nicholas Ferraro, at Ex. 1, §§ 1.4, 1.10, 1.29, 1.30.)

After review of Defendants' records, production of information, review by an expert economist and mediation, the parties reached a settlement. The Court granted preliminary approval of the settlement. (ROA 39 - Order filed April 9, 2024; ROA 37 – Minute Order.) There is no opposition to this motion.

The settlement class is certified for purposes of settlement. The class action settlement is fair, adequate and reasonable, including the Gross Settlement Amount of \$325,000.

Class counsel is awarded \$108,322.50 in attorney fees and \$11,720.26 in litigation costs. Plaintiff's service award of \$10,000 and the PAGA award of \$10,000 (75% to LWDA (\$7,500) and 25% to the aggrieved employees (\$2,500)) are approved. The Court also approves \$10,000 in settlement administration expenses to CPT Group, Inc.

The class consists of 180 class members. Of the 180 notices sent, four remain undeliverable. There were zero objections, zero work week disputes, one request for exclusion and one request for inclusion, which was accepted. The Court finds the settlement to be fair, adequate and reasonable. (See, e.g., *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800-01; Cal. Rules of Ct. rule 3.769(g).) The reasonableness of the settlement is further demonstrated by the fact that there is no opposition or objections and only one request to be excluded.

Plaintiff requests \$108,322.50 in attorney fees, which is 33.33% of the gross settlement amount. A percentage method may be used to calculate a reasonable fee in a common fund case such as this. (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503.) This is more than the lodestar, but class counsel obtained a good result on behalf of 180 class members. Counsel bore the entire risk and cost of litigation on a contingency basis. Plaintiff's request for attorney fees is approved.

Plaintiff's request for litigation costs of \$11,720.26 is less than was what agreed to and anticipated and is approved.

The \$10,000 in settlement administration costs for services provided by CPT Group, Inc. is supported by the Declaration of Emilio Cofinco and is reasonable and approved. (ROA 44.)

Incentive payments to class representatives "must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit." (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1395.) The court must also consider the "risk to the class representative in commencing suit" and any "notoriety and personal difficulties" he or she encounters as a result of the litigation. (*Id.*, at p. 1394.)

Plaintiff invested "many" hours and effort assisting with the prosecution of the action and considerable time during her personal and family time. The incentive payment is reasonable, uncontested and appropriate to compensate Plaintiff for their efforts. (ROA 45 – Declaration of Semira Trujillo.)

The Court assessed *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538 and finds the released claims appear to be appropriately tethered to the operative complaint's factual allegations and do not extend beyond the scope of its allegations. (*Amaro*, *supra*.)

The PAGA portion of the settlement also appears fair, reasonable and adequate in terms of PAGA's purposes to remediate present labor law violations, deter future ones and to maximize enforcement of state labor laws. (*Muniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.) Plaintiff provided the LWDA with notice of this case and the proposed settlement. (ROA 43 – Ferraro Decl., at ¶ 5.)

For these reasons, the motion is **GRANTED**.

Concluding Orders

The Court sets a status conference on December 20, 2024, at 9:15 a.m. in Department 70 to confirm the completion of the settlement process.

The Court will: (1) modify the proposed order (ROA 48) to reflect the status conference; and (ii) sign the proposed order.