

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

SYDNEY HOUSER, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

THE FISH HOUSE VERA CRUZ, INC., a
California Corporation; and DOES 1 to 100,

Defendants.

Case No.: 37-2023-00045659-CU-OE-NC
Honorable Cynthia A. Freeland, Dept. N-27

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: November 22, 2024

Time: 1:30 p.m.

Dept.: N-27

Action filed: October 20, 2023

Reservation No.: See order dated August 21,
2024

1 The above-referenced class and PAGA representative action ("Action") having come
2 before the Court on November 22, 2024 for a hearing and Final Order approving Class Action
3 and PAGA Settlement ("Final Order"), consistent with the Court's Preliminary Approval Order
4 ("Preliminary Approval Order"), filed and entered on August 21, 2024, and as set forth in the
5 Stipulation for Settlement ("Settlement Agreement") filed on July 1, 2024, as Exhibit 1 to
6 Declaration of Janelle Carney in support of preliminary approval. Due and adequate notice
7 having been given to the Class, and the Court having considered the Settlement Agreement, all
8 papers filed, and proceedings had herein, and all oral and written comments received regarding
9 the proposed settlement, and having reviewed the record in this litigation, and good cause
appearing.

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

11 1. For purposes of this Final Order, the Court incorporates by reference all defined
12 terms as set forth in the Settlement Agreement filed on July 1, 2024, and Preliminary Approval
13 of Class Action Settlement, granted on August 21, 2024.

14 2. Consistent with the definitions in the Settlement Agreement, the Classes are
15 defined as: All current and former non-exempt hourly individuals employed by Defendant The
16 Fish House Vera Cruz, Inc. ("Defendant") at any time from October 20, 2019 through May 31,
17 2024.

18 3. This Court has jurisdiction over the subject matter of this Action and over all
19 Parties to this Action, including all Class Members and Aggrieved Employees.

20 4. Distribution of the Notice directed to the Class Members and Aggrieved
21 Employees as set forth in the Settlement Agreement and the other matters set forth therein has
22 been completed in conformity with the Preliminary Approval Order, including individual notice
23 to all Class Members and Aggrieved Employees who could be identified through reasonable
24 effort, and the best notice practicable under the circumstances. The Notice provided due and
25 adequate notice of the proceedings and of the matters set forth therein, including the proposed
26 Settlement set forth in the Settlement Agreement, to all persons entitled to such Notice, and the
27 Notice fully satisfied the requirements of due process. All Class Members, Aggrieved
28 Employees, and all Released Claims and Released PAGA Claims are covered by and included
within the Settlement and this Final Order.

1 5. The Court hereby finds the Settlement was entered into in good faith pursuant to
2 and within the meaning of California Code of Civil Procedure section 877.6. The Court further
3 finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has satisfied the
4 standards and applicable requirements for final approval of this class action settlement under
5 California law, including the provisions of California Code of Civil Procedure section 382 and
6 Federal Rule of Civil Procedure 23, approved for use by the California state courts in *Vasquez v.*
7 *Superior Court* (1971) 4 Cal.3d 800, 821.

8 6. The Court hereby approves the Settlement set forth in the Settlement Agreement,
9 and finds that the Settlement, including the Gross Settlement Amount, which is One Hundred
10 Seventy-Two Thousand Dollars (\$172,000.00) is, in all respects, fair, adequate and reasonable,
11 and directs the Parties to effectuate the Settlement according to its terms. The Court finds that the
12 Settlement has been reached as a result of intensive, serious and non-collusive arms-length
13 negotiations. The Court further finds that the Parties have conducted extensive investigation and
14 research, and counsel for the Parties are able to reasonably evaluate their respective positions.
15 The Court also finds that Settlement at this time will avoid additional substantial costs, as well as
16 avoid the delay and risks that would be presented by the further prosecution of the Action. The
17 Court has reviewed the benefits that are being granted as part of the Settlement and recognizes
18 the significant value to the Class Members. The Court also finds that the Class is properly
19 certified as a class for settlement purposes.

20 7. Release by Settlement Class Members and Plaintiff.

21 Plaintiff and every member of the Settlement Class (except those who opt out pursuant to
22 the procedures detailed below) will release and discharge Defendant and its parents,
23 predecessors, successors, all affiliates, subsidiaries, officers, directors, agents, employees, and
24 stockholders (collectively, the “Released Parties”), as follows:

25 Release by Class Members:

26 Each Class Member who does not opt out of the settlement shall be deemed to release the
27 Released Parties from any and all claims, known or unknown, that: were asserted in any and/or
28 all of the complaints in the Action and/or any of Plaintiff’s letters to the LWDA (including any
subsequently amended complaints or letters); and/or any and all claims, that could have been
asserted based on the factual allegations in all of the complaints in the Action and/or any of

1 Plaintiff's letters to the LWDA (including any subsequently amended complaints or letters). This
2 includes but is not limited to claims for or related to: pay for all hours worked/compensation due
3 for services; calculation of the regular rate of pay; meal periods; rest periods; meal and/or rest
4 period premiums pay, including the calculation of premium pay; wage statements; failure to
5 reimburse for work related out-of-pocket expenses, payment of wages at termination; maintain
6 accurate and complete records; unfair competition related to any or all of the foregoing; any
7 unpaid wages or compensation related to any or all of the foregoing; restitution related to any or
8 all of the foregoing; and any penalties, including statutory or civil penalties, related to any or all
9 of the foregoing. This release includes, but is not limited to, any and all claims pursuant to:
10 California Labor Code §§ 200, 201, 202, 203, 204, 218, 226, 226.7, 510, 512, 558, 1194, 1194.2,
11 1197, 1197.1, 1198, and 2802, and 2698, et seq.; Business & Professions Code § 17200; and
12 Industrial Welfare Commission Wage Order 5-01. The release shall run through May 31, 2024.

13 Release by PAGA Representative Action Members:

14 Each PAGA Representative Action Member, irrespective of whether he or she opts out of
15 the settlement as a Non-Participating Class Member, shall be deemed to release the Released
16 Parties from any and all claims, known or unknown, for civil penalties under Labor Code section
17 2698 et seq. (PAGA) that: were asserted in any and/or all of the complaints in the Action and/or
18 any of Plaintiffs' letter to the LWDA (including any subsequently amended complaints or
19 letters); and/or any and all claims, that could have been asserted based on any or all the factual
20 allegations in any and/or all of the complaints in the Action and/or any of Plaintiff's letters to the
21 LWDA (including any subsequently amended complaints or letters). This release includes, but is
22 not limited to, claims for, or related to, PAGA civil penalties premised on: Labor Code §§ 200,
23 201, 202, 203, 204, 218, 226, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 2698,
24 2699, and 2802; failure to pay overtime; failure to pay for all hours worked/compensation due
25 for services; calculation of the regular rate of pay, including failure to include all remuneration
26 into the regular rate for overtime, rest period premiums and meal period premiums; failure to
27 provide meal periods and rest periods; failure to pay meal period and rest period premiums,
28 including the calculation of the premium pay; failure to reimburse for work related out-of-pocket
expenses, failure to provide accurate itemized wage statements; inaccurate wage statements; and
failure to timely pay wages at termination; The release shall run through May 31, 2024

1 It is understood and acknowledged that Settlement Class members who were employed by
2 Defendant at any point between September 27, 2019 and April 30, 2024 (the “PAGA
3 Representative Action Member”) will be issued a check for their share of the PAGA Amount, as
4 defined below, regardless of whether they submit a timely Request for Exclusion from the
5 Settlement. PAGA Aggrieved Employees shall be deemed to have released all claims for civil
6 penalties under the PAGA with respect to the underlying wage and hour claims pleaded or which
7 could have been pleaded in the First Amended Complaint. This release shall run from October
8 20, 2022, through May 31, 2024.

9 The Court hereby enters the concurrently filed Judgment in the entire Action as of the
10 filing date of this Final Order, pursuant to the terms set forth in the Settlement Agreement.
11 Without affecting the finality of this Final Order in any way, the Court hereby retains continuing
12 jurisdiction over the interpretation, implementation and enforcement of the Settlement and all
13 orders entered in connection therewith pursuant to California Code of Civil Procedure section
14 664.6.

15 8. The Court finds the settlement payments provided for under the Settlement to be
16 fair and reasonable in light of all of the circumstances. The Court orders the calculations and the
17 payments to be made and administered in accordance with the terms of the Settlement
18 Agreement.

19 9. The Court hereby confirms Janelle Carney of Janelle Carney - Attorney at Law,
20 APC, and Manny Starr and Adam Rose of Frontier Law Center, as Class Counsel in the Action.

21 10. Pursuant to the terms of the Settlement, and the authorities, evidence and
22 argument submitted by Class Counsel, the Court hereby awards Class Counsel Fees in the
23 amount of Sixty Thousand Two Hundred Dollars (\$60,200.00), and Class Counsel Expenses up
24 to Ten Thousand Dollars (\$10,000.00) from the Gross Settlement Amount as final payment for
25 and complete satisfaction of any and all attorneys’ fees and costs incurred by and/or owed to
26 Class Counsel and any other person or entity related to the Action. The Court further orders that
27 the award of attorneys’ fees and costs set forth in this Paragraph shall be administered pursuant
28 to the terms of the Settlement Agreement and transferred and/or made payable to Class Counsel
in the Action.

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1 The Court also hereby approves and orders a Class Representatives Enhancement
2 Award in the amount of Five Thousand Dollars (\$5,000.00), to Plaintiff Sydney Houser.

3 11. The Court also hereby approves and orders payment from the Gross Settlement
4 Fund for actual settlement administration expenses incurred by the Settlement Administrator,
5 ILYM Group, Inc. in the amount of \$6,950.00.

6 12. The Court also hereby approves PAGA civil penalties to be paid from the Gross
7 Settlement Amount, allocated 25% to the Aggrieved Employees (\$1,875.00) and the 75% to
8 LWDA (\$5,625.00) in settlement of PAGA.

9 13. The Court also hereby approves and orders that all amounts from uncashed
10 Settlement Award checks after the expiration date (180 days after mailing) will be distributed to
11 the Controller of the State of California to be held pursuant to the Unclaimed Property Law,
12 California Civil Code Section 1500 et seq. for the benefits of those Settlement Class Members
13 who did not cash their checks until such time they claim their property. The parties agree that
14 this disposition results in no "unpaid residue" under California Civil Procedure Code Section
15 384, as the entire Net Settlement Proceeds will be paid out to Class Members and PAGA
16 Representative Action Members, whether or not they all cash their settlement checks.

17 14. The Court also hereby finds and orders that the Settlement Agreement is and
18 constitutes a fair, adequate, and reasonable compromise of the Released Claims against
19 Defendants and the Released Parties.

20 15. The Settlement becomes effective under the terms of the Settlement Agreement
21 with the signing of this order.

22 16. The Court also hereby finds that there were no objections to the Settlement raised
23 by any person on the record at the hearing on the Final Approval.

24 IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.

25 Dated: _____

26 HONORABLE CYNTHIA A. FREELAND
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