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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SAN DIEGO**

16 TANEA MALDONADO, on behalf of herself and
17 all others similarly situated,
18 Plaintiffs,

19 vs.

20 FIRST MAINSAIL, INC. dba PRIMAVERA
21 RISTORANTE, a California Corporation;
22 JEANNETTE STAVROS; and DOES 1 through 10,
23 inclusive,

24 Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
02/03/2022 at 08:13:00 AM
Clerk of the Superior Court
By Richard Day, Deputy Clerk

CASE NO. 37-2020-00023369-CU-OE-CTL

CLASS ACTION

~~PROPOSED~~ **ORDER GRANTING
PLAINTIFF'S MOTION FOR UNOPPOSED
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
PROVISIONAL CLASS CERTIFICATION**

[Assigned for All Purposes to the Hon. Ronald Frazier]

Date: January 14, 2022

Time: 8:30 a.m.

Dept: C-65

Judge: Ronald Frazier

Action Filed: July 7, 2020

1 On January 14, 2022, a hearing was held on Plaintiffs' Motion for Unopposed
2 Preliminary Approval of Class Action Settlement and Provisional Class Certification.
3 Thomas A. Rist of Rist Law Office appeared for Plaintiffs, and Janelle Thornton of Schor
4 Vogelzang & Chung appeared for Defendant.

5 The Court, having read and considered the motion, the memorandum of points and
6 authorities, supporting declarations, and all other filed documents and exhibits, and having
7 heard argument of counsel, preliminarily finds that:

8 1. It is impracticable to bring all members of the settlement class before the
9 Court;

10 2. The class is ascertainable and is sufficiently numerous to warrant class
11 treatment;

12 3. The questions of law or fact common to the class are substantially similar and
13 predominate over the questions affecting the individual members;

14 4. The claims or defenses of the representative plaintiff are typical of the claims
15 or defenses of the class;

16 5. The representative plaintiff will fairly and adequately protect the interests of
17 the class;

18 6. A class action is the superior means for settling the claims in the litigation;

19 7. The proposed settlement of this action as set forth in the Parties' Stipulation of
20 Settlement and Release, filed with the Court as Exhibit 1 to the Declaration of Thomas A.
21 Rist ("Settlement"), falls within the range of possible approval;

22 8. The proposed notice of the settlement to members of the settlement class
23 complies with applicable standards and should be distributed;

24 9. Upon notice being mailed to Class Members and expiration of any opt-out and
25 objection periods, a final approval hearing ("Fairness Hearing") shall be held to determine
26 whether the settlement should be finally approved and if a Final Approval Order and Final
27 Judgment should be entered in this action based upon the Settlement.

28 **IT IS THEREFORE ORDERED:**

1 10. The proposed class satisfies the requirements of a settlement class because the
2 Class Members are readily ascertainable and a well-defined community of interest exists in
3 the questions of law and fact affecting the parties.

4 11. The Settlement is granted preliminary approval as it meets the criteria for
5 preliminary settlement approval. The Settlement falls within the range of possible outcomes
6 if the case proceeded to trial and appears to be fair, adequate and reasonable. Additionally,
7 the Settlement appears to be the product of arm's-length and informed negotiations and treats
8 all Class Members fairly. The Court however, reserves the right to review Plaintiffs'
9 application for attorneys' fees and costs and incentive award on final approval.

10 12. The Court approves, as to form and content, the class notice and class
11 information sheet filed with the Court as Exhibits 1, 2, and 3 to the Stipulation of Settlement
12 and Release filed as Exhibit 1 to the Declaration of Thomas A. Rist. The notice meets the
13 requirements of § 382 of the Code of Civil Procedure, Rules 3.766 and 3.769 of the California
14 Rules of Court, and due process.

15 13. The following persons are certified as Class Members solely for the purpose
16 of entering a settlement in this matter:

17 a. Plaintiff Class: All former California hourly nonexempt employees of First
18 Mainsail, Inc. dba Primavera Ristorante who worked at least one (1) pay period from
19 July 7, 2016 to March 16, 2020.

20 14. Plaintiff Tanea Maldonado is designated as the Class Representative for the
21 Settlement Class. Thomas A. Rist of Rist Law Office, LC and Brad Nakase of Nakase Law
22 Firm, Inc. are appointed Class Counsel.

23 15. ILYM Group, Inc. is appointed to act as the Settlement Administrator,
24 pursuant to the terms set forth in the Settlement Agreement.

25 16. Notice shall be disseminated according to the notice plan described in the
26 Settlement Agreement and substantially in the form submitted by the parties. Proof of
27 distribution of notice shall be filed by Plaintiffs' counsel at or prior to the final approval
28 hearing.

1 17. Defendant is directed to provide the Settlement Administrator not later than
2 14 days after the date of this Order the class data as specified by the Settlement Agreement.

3 18. The Settlement Administrator is directed to mail the approved Class Notice by
4 first-class mail to the Class Members not later than 10 days after receipt of the class data.

5 19. Any Class Member who has not elected to opt-out of the Settlement and who
6 objects to approval of the Settlement, including the allocation and distribution plans and any
7 application for attorneys' fees and expenses, may object in writing or orally at the Fairness
8 Hearing in person or through counsel to show cause as to why the Court should not grant
9 final approval of the Settlement.

10 20. All requests of Class Members to opt-out of the Settlement, to object to the
11 Settlement, and/or to appear at the Fairness Hearing shall be mailed to the Settlement
12 Administrator 60 days after the mailing of the Class Notice at the following address:

13 ILYM GROUP, Inc.
14 PO Box 130
15 Tustin, CA 92781

16 21. For any comments or objections to be considered at the hearing, the Class
17 Member must send comments or objections to the Claims Administrator as set forth in the
18 Notice. Counsel for the Plaintiff shall bundle together all materials submitted by Class
19 Members and shall file these as a group at the time of briefing for the Final Fairness Hearing.

20 22. Any Class Member who does not make an objection to the Settlement and/or
21 appear at the Fairness Hearing in the manner provided herein shall be deemed to have waived
22 the right to object by appeal, collateral attack, or otherwise.

23 23. Plaintiffs' counsel shall process for delivery to the Court all timely copies of
24 opt-outs or objections received from class members and shall file these received forms, along
25 with any valid and timely papers or briefs in support of objections from class members, with
26 the Court at least 20 days before the Fairness Hearing.

27 24. Plaintiffs' briefs and supporting papers in support of final approval of the
28 Settlement, and application for an award of incentive payments, fees, costs, and expenses to

1 counsel as well as supporting papers in response to objections shall be filed with the Court
2 per Code.


3 25. A Fairness Hearing has been scheduled for **July 1, 2022 at 8:30 a.m.** in
4 Department C-65. The Court will hear all evidence and argument necessary to evaluate the
5 Settlement, and will consider Plaintiffs' request for class representative payments and class
6 counsel's request for payment of attorney's fees and litigation costs. Class Members and
7 their counsel may support or oppose the Settlement and the motion for awards of the class
8 representative payment and attorney's fees and litigation costs payments, if they so desire,
9 as set forth in the Class Notice.

10 26. The Fairness Hearing may be postponed, adjourned or continued by order of
11 the Court without further notice to the Plaintiff Class. After the Fairness Hearing, the Court
12 may enter a Settlement Approval Order and Final Judgment in accordance with the
13 Settlement Agreement that will adjudicate the rights of all class members.

14 27. In the event the Settlement is not approved by the Court, or for any reason the
15 parties fail to obtain a Settlement Approval Order and Final Judgment as contemplated in the
16 Settlement Agreement, or the Settlement Agreement is terminated pursuant to its terms, all
17 orders entered in connection therewith with the terminated Settlement Agreement shall
18 become null and void and of no further force and effect, and shall not be used or referred to
19 for any purpose whatsoever. In such event, such terminated Settlement, and all negotiations
20 and proceedings relating thereto, shall be withdrawn without prejudice as to the rights of any
21 and all parties thereto.

22 IT IS SO ORDERED.

23 DATED: _____, 2022



24 _____
25 Hon. Ronald F. Frazier
26 Judge of the Superior Court
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