

7/7/2021

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

AUG 27 2021

S. Salazar

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5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

6 **FOR THE COUNTY OF RIVERSIDE**

8 CAITLYN MASSEY, as an individual and on
behalf of all others similarly situated,

9 Plaintiff,

10 vs.

11 LOUIDAR, L.L.C., an Arizona corporation; and
12 DOES 1 through 100,

13 Defendants.

Case No. RIC1905130

[Assigned for all purposes to the Hon.
Sunshine Sykes, Dept. 06]

**[PROPOSED] FINAL ORDER
OF APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL
JUDGMENT**

Date: July 30, 2021
Time: 8:30 a.m.
Dept.: 06

Complaint Filed: October 10, 2019
Trial Date: None Set

1 This matter came on regularly for hearing before this Court on July 30, 2021, at 8:30 a.m.
2 pursuant to California Rule of Court 3.769 and this Court's March 26, 2021 Order Granting
3 Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval Order").
4 Having considered the Parties' Stipulation of Settlement (the "Settlement" or "Settlement
5 Agreement") attached as Exhibit A to the Supplemental Declaration of Daniel J. Brown In
6 Support of Plaintiff's Motion for Preliminary Approval of Settlement, filed on March 17, 2021
7 and the submissions of counsel, and recognizing the sharply disputed factual and legal issues
8 involved in this case, the risks of further prosecution and the benefits to be received by the Class
9 pursuant to the Settlement, the Court hereby makes a final ruling that the proposed Settlement is
10 fair, reasonable, and adequate, and is the product of good faith, arm's-length negotiations between
11 the Parties.

12 Unless otherwise indicated, all terms used in this Order shall have the same meaning as
13 that assigned to them in the Settlement.

14 Good cause appearing thereof, the Court hereby GRANTS Plaintiff's Motion for Final
15 Approval of Class Action Settlement and ORDERS as follows:

16 1. The conditional class certification contained in the Preliminary Approval Order is
17 hereby made final, and the Court thus certifies, for purposes of the Settlement only, a Settlement
18 Class consisting of:

19 All former hourly employees of Louidar who worked in California in Louidar's kitchen
20 or bistro at any time during the period of October 10, 2015 through June 28, 2019.

21 2. Plaintiff Caitlyn Massey is hereby confirmed as Class Representative, and Daniel
22 J. Brown of Stansbury Brown Law is hereby confirmed as Class Counsel.

23 3. Notice was provided to the Settlement Class as set forth in the Settlement, which
24 was preliminarily approved by the Court on March 26, 2021, and the notice process has been
25 completed in conformity with the Court's Order. The Court finds that said notice was the best
26 notice practicable under the circumstances. The Class Notice provided due and adequate notice
27 of the proceedings and matters set forth herein, informed Class Members of their rights, and fully
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1 satisfied the requirements of California Code of Civil Procedure § 1781(e), California Rule of
2 Court 3,769, and due process.

3 4. The Court finds that no Class Member objected to the Settlement, that one (1)
4 Settlement Class member has opted-out of the Settlement, and that the 99.18% participation rate
5 in the Settlement supports final approval. The one (1) individual who opted out is: Dante Ciotti.

6 5. The Court hereby approves the settlement as set forth in the Settlement as fair,
7 reasonable, and adequate, and directs the Parties to effectuate the Settlement according to its
8 terms.

9 6. For purposes of settlement only, the Court finds that (a) the members of the
10 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
11 (b) there are questions of law or fact common to the Settlement Class, and there is a well-defined
12 community of interest among members of the Settlement Class with respect to the subject matter
13 of the litigation; (c) the claims of the Class Representative are typical of the claims of the members
14 of the Settlement Class; (d) the Class Representative has fairly and adequately protected the
15 interests of the Class Members; (e) a class action is superior to other available methods for an
16 efficient adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel
17 for the Class Representative and the Settlement Class.

18 7. The Court finds that given the absence of objections, and objections being a
19 prerequisite to appeal, that this Order and Judgment shall be considered final as of the date of
20 notice of entry.

21 8. The Court orders that the Maximum Settlement Amount of One Hundred
22 Thousand Dollars and Zero Cents (\$100,000.00) shall be deposited with the Settlement
23 Administrator, ILYM Group, Inc. (“ILYM”), as provided in the Settlement.

24 9. Any Settlement funds that remain uncashed after 180 days after they are mailed
25 shall be delivered to Olive Crest the designated *cy pres* recipient. Olive Crest’s Riverside office
26 is located at 555 Technology Ct., Riverside, CA 92507.

27 10. The Court finds that the Settlement Awards, as provided for in the Settlement, are
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1 fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the Individual
2 Settlement Awards in conformity with the terms of the Settlement. The Court further orders that
3 any envelope transmitting a Settlement Award to a Settlement Class Member shall bear the
4 notation, "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." The Court
5 further orders that the Settlement Administrator shall mail a reminder postcard to any Settlement
6 Class Member whose Settlement Award check has not been negotiated within sixty (60) days
7 after the initial date of mailing. The Court further orders that if any of the Settlement Class
8 Members are Defendants' current employees and the Settlement Award mailed to those current
9 employees is returned to the Settlement Administrator as being undeliverable, and the Settlement
10 Administrator is unable to locate a valid mailing address, the Settlement Administrator shall
11 arrange with Defendant to have those Settlement Awards delivered to the employees at their place
12 of employment.

13 11. The Court finds that an Enhancement Payment in the amount of \$5,000.00 for
14 Plaintiff Caitlyn Massey is appropriate for her risks undertaken and service to the Settlement
15 Class. The Court finds that this payment is fair, reasonable, and adequate, and orders that the
16 Settlement Administrator make this payment in conformity with the terms of the Settlement.

17 12. The Court finds that attorneys' fees in the amount of \$33,333.00, and actual
18 litigation costs of \$9,813.26 for Class Counsel, are fair, reasonable, and adequate, and orders that
19 the Settlement Administrator distribute these payments to Class Counsel in conformity with the
20 terms of the Settlement.

21 13. The Court finds that a payment to the Labor & Workforce Development Agency
22 ("LWDA") in the amount of \$3,750.00 for the LWDA's share of civil penalties under the Labor
23 Code Private Attorneys General Act is fair, reasonable, and adequate, and orders that the
24 Settlement Administrator make this payment in conformity with the terms of the Settlement.

25 14. The Court orders that the Settlement Administrator shall be paid \$3,978.88 from
26 the Maximum Settlement Amount for all of its work done and to be done until the completion of
27 this matter, and finds that sum appropriate.

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1 15. Pursuant to the terms of Settlement, the employer's share of payroll taxes for the
2 portion of the Net Settlement Amount allocated to wages shall be paid by Defendant separately,
3 and in addition to, the Maximum Settlement Amount.

4 16. The Court finds and determines that upon satisfaction of all obligations under the
5 Settlement and this Order, all Settlement Class Members (except for Dante Ciotti, who timely
6 submitted a Request for Exclusion), will be bound by the Settlement and will have released the
7 Released Claims as set forth in the Settlement.

8 17. Settlement is not an admission by Defendant, nor is this Order and Final Judgment
9 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order
10 and Final Judgment, the Settlement, nor any document referred to herein, nor any action taken to
11 carry out the Settlement, shall be construed or deemed an admission of liability, culpability, or
12 wrongdoing on the part of Defendant.

13 18. As of the date of this Order and Final Judgment, Plaintiff and every member of
14 the Settlement Class (except for Dante Ciotti, who timely submitted a Request for Exclusion),
15 shall be deemed to have released and discharged Defendant, and all of its past and present
16 officers, directors, employees, and agents, (collectively the "Released Parties") for all claims that
17 were pled or could have been pled based on the factual allegations in the SAC, including: (a)
18 failure to pay all overtime wages; (b) failure to pay all split shift premium wages; (c) meal period
19 violations; (d) rest period violations; (e) waiting time penalties; and (f) all claims arising out of
20 unfair business practices under Business & Professions Code § 17200, et seq. that could have
21 been premised on the claims that were pled or could have been pled based on the factual
22 allegations in the SAC (collectively, the "Released Claims"). The period of the Release shall
23 extend to the limits of the Class Period.

24 Plaintiff and all Settlement Class Members who were employed by Defendant in
25 California at any time from October 10, 2018 through June 28, 2019, will not have the
26 opportunity to opt out or object to the PAGA Amount, as described in section 2(B) of the
27 Settlement, and/or release of PAGA claims set forth in the Settlement although the release of
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1 PAGA claims will be subject to Court approval.

2 Notwithstanding the paragraphs above nor anything else in the Settlement, Plaintiff's
3 waiver and release in the Settlement does not apply to (i) those rights that as a matter of law
4 cannot be waived, including, but not limited to, workers' compensation claims, pending or
5 otherwise; and (ii) rights or claims arising out of this Settlement.

6 19. The releases identified herein shall be null and void should the Settlement not be
7 fully funded.

8 20. This document shall constitute a final judgment pursuant to California Rule of
9 Court 3.769(h) which provides, "If the court approves the settlement agreement after the final
10 approval hearing, the court must make and enter judgment. The judgment must include a
11 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
12 judgment. The court may not enter an order dismissing the action at the same time as, or after,
13 entry of judgment." Pursuant to section 664.6 of the California Code of Civil Procedure, the
14 Court will retain jurisdiction to enforce the Settlement, this Final Order and Judgment.

15 21. The Settlement Class Members will be provided notice with their Individual
16 Settlement Awards that the Final Order and Judgment is posted on the landing page of the
17 Settlement Administrator's website. A copy of the Final Order and Judgment entered by the Court
18 shall be posted by the Settlement Administrator on the Settlement Administrator's website on the
19 landing page at (<https://ilymgroup.com/>).

20 22. The Settlement Administrator shall file a declaration regarding the disbursement
21 of Settlement funds on or before March 25, 2022, and the date for the Final Report
22 (Nonappearance) Hearing shall be set for April 1, 2022. The declaration shall state the date the
23 checks were mailed, the total number of checks mailed to Settlement Class Members, the average
24 amount of those checks, the number of checks that remain uncashed, the total value of those
25 uncashed checks, the average amount of the uncashed checks, and the nature and date of the
26 disposition of those unclaimed funds.

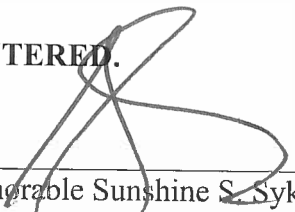
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IT IS SO ORDERED. JUDGMENT IS HEREBY ENTERED.

Dated: 8/27, 2021



Honorable Sunshine S. Sykes
Judge of the Superior Court