

FILE
Superior Court of California
County of San Francisco



MAR 30 2022

CLERK OF THE COURT

BY: Clark Benzed
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 613**

VANESSA BUSTOS and all others similarly
situated,

Plaintiff,

v.

COFFEE MEETS BAGEL, INC.; ARUM
KANG; DAWOON KANG and DOES 1-60
inclusive,

Defendants.

Defendants

Case No. CGC-19-575734

**ORDER GRANTING UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND PAGA
SETTLEMENT**

Plaintiffs and Defendant have entered into the Joint Stipulation of Class Action Settlement ("Settlement Agreement")¹ attached as **Exhibit A** to the Supplemental Declaration of Carlos Jato in support of Motion for Preliminary Approval of Class Action Settlement and PAGA settlement (February 28, 2022), which if approved, would resolve the putative class action. Plaintiffs have filed a motion for preliminary approval of class settlement. After reviewing and considering the motion papers and supplemental documents submitted by the parties as requested by the Court, including the Settlement Agreement and all

¹ This Order hereby incorporates by reference the definitions of the Settlement Agreement as though fully set forth herein, and all terms used herein shall have the same meaning as set forth in the Settlement.

1 exhibits thereto, the Court orders as follows:

2 1. The Court has jurisdiction over this matter and venue is proper.

3 2. This action is provisionally certified as a class action, for settlement purposes only, pursuant
4 to California Code of Civil Procedure section 382 and California Rule of Court 3.763. The Settlement
5 Class is defined as follows:

6
7 All individuals who have worked for Defendant Coffee Meets Bagel, Inc. in the four years
8 from May 6, 2015 and who were classified as independent contractors at any time and all
9 individuals who have worked for Defendant Coffee Meets Bagel, Inc. in the four years
10 from May 6, 2015 and who were classified as salaried or exempt employees at any time
11 excluding officers, directors, individuals defendants, attorneys or advisors.

12 3. The Court conditionally approves the proposed settlement as within the range of
13 possible final approval.

14 4. The Court conditionally appoints Daniel Berko of Law Office of Daniel Berko and Carlos
15 Jato of Law Office of Carlos Jato as Class Counsel for the Settlement Class.

16 5. The Court preliminarily appoints named plaintiffs Vanessa Bustos and Rezelle Bustos as
17 Class Representatives for the Settlement Class.

18 6. The Court approves Phoenix Class Action Administrator ("Phoenix") as the Settlement
19 Administrator and directs Phoenix to carry out all duties and responsibilities of the Settlement
20 Administrator specified in the Settlement Agreement.

21 7. Pursuant to California Rules of Court rule 3.769(f), the Court approves the manner of class
22 notice set forth in the Settlement Agreement. The Court approves the form and content of the Notice,
23 attached hereto as **Exhibit A**. The Court finds that the Notice constitutes the best notice practicable under
24 the circumstances and is valid, due and sufficient notice to the Settlement Class of the pendency of the
25 action, preliminary certification of the Settlement Class, the terms of the Settlement, procedures for
26 objecting to and requesting exclusion from the settlement, and the time and place of the Final Approval
27 Hearing. The proposed manner of class notice satisfies the requirements of due process, and complies with
28 applicable law, including California Code of Civil Procedure Section 382 and California Rule of Court
3.769. Class Counsel shall proofread the Notice for typos and fill in all blanks, including all highlighted
dates, addresses and/or websites prior to the mailing of the Notice.

1 8. No later than **April 20, 2022 (21 calendar days after entry of this order)**, Defendant's
2 counsel shall provide the Settlement Administrator with a Class Data.

3 9. Before mailing the Notice the Settlement Administrator shall make a good-faith attempt to
4 obtain the most-current names and postal mail addresses for all potential Settlement Class members to
5 receive such postal mail, including reviewing the addresses with the National Change of Address
6 Database, and update the addresses contained on the Class List with the newly-found addresses, if any.
7 No later than **April 30, 2022 (31 calendar days after entry of this order)**, the Settlement Administrator
8 shall mail **Exhibit A** to the Settlement Class via first-class regular U.S. Mail, using the most current
9 mailing address information available, and make the website live. Any notices returned as undeliverable
10 will be re-mailed within **seven (7) calendar days**.

11 10. The deadline by which the Settlement Class must object or request to be excluded
12 shall be **45 calendar days** from the date of mailing of the initial Notice by the Settlement Administrator
13 (or **June 14, 2022**). All objection and opt-out procedures are set forth in the Settlement Agreement and
14 Notice, are summarized below.

15 11. **Requests for Exclusion/Opt-Out:** In order to be considered valid, Class Members'
16 written request for exclusion **must** (1) expressly and clearly indicate that the Class Member has received
17 this Notice of Class Action Settlement, decided not to participate in the settlement, and desires to be
18 excluded from the settlement; (2) include Class Member's name, signature, address, telephone number,
19 and last four digits of Class Member's Social Security Number; and (3) be signed, dated, and mailed,
20 emailed, or faxed by no later than **June 14, 2022**.

21 12. **Objections:** In order to object to the proposed Settlement, the Class Member **must** provide
22 a written objection with (1) their full name, signature, address, and telephone number; (2) a written
23 statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies
24 of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about
25 whether you intend to appear at the Fairness Hearing. The objection must be postmarked no later than
26 **June 14, 2022**.

27 13. **Dispute workweeks:** Class Members may also contact the settlement administrator via fax
28 or email if they believe their Workweek information is incorrect.

1 14. Settlement Class members will have **one hundred and twenty (120) calendar days** from
2 the date of issuance of their settlement checks to negotiate their check. If any portion of the Net Settlement
3 Amount is not successfully distributed to Settlement Class members (i.e. checks are not cashed/negotiated
4 or checks are returned as undeliverable), then after the Void Date of the check, the Settlement
5 Administrator shall void the check and hold the unclaimed amount, which shall be returned to the Net
6 Settlement Amount.

7 15. All papers filed in support of plaintiffs' motion for attorneys' fees and costs, and a service
8 award, shall be filed by **May 31, 2022**. This date is at least **fourteen (14) calendar days** prior to the
9 deadline for submitting objections. Class Counsel shall file their motion for final approval of the Class
10 Action Settlement and entry of a Final Approval Order and Judgment no later than **June 21, 2022**. This
11 date is at least **sixteen (16) court days** prior to the Final Approval Hearing.

12 16. A final approval hearing shall be held on **July 14, 2022, at 2:00 p.m.** in Department 613,
13 San Francisco Superior Court, 400 McAllister Street, San Francisco, CA 94102, at which the Court will
14 determine whether the settlement should be finally approved as fair, reasonable and adequate to the
15 Settlement Class; whether the Final Approval Order and Judgment should be entered; whether Class
16 Counsel's Application for Attorneys' Fees and Costs should be approved; and whether any request for a
17 service award should be approved.

18 17. The Court reserves the right to modify the date of the Final Approval Hearing and related
19 deadlines set forth herein. The Final Approval Hearing may be postponed, adjourned or continued by
20 Order of the Court without further notice to the Class Members.

21 18. If for any reason the Court does not approve the Settlement, it will be of no force or effect,
22 and the Parties shall be returned to their original respective positions.

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1 19. Pending the final determination of whether the settlement should be approved, all
2 proceedings in this Action, except as may be necessary to implement the settlement or comply with the
3 terms of the settlement, are hereby stayed.

4
5 IT IS SO ORDERED.

6
7 Dated: March 30, 2022



ANDREW Y.S. CHENG
Judge of the Superior Court

EXHIBIT A

Bustos, et al. v. Coffee Meets Bagel, Inc., et al., Case No. CGC-19-575734
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN FRANCISCO
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All persons who have worked for Defendant Coffee Meets Bagel, Inc. and who were classified as independent contractors at any time. From May 6, 2015 to [date of preliminary approval]; and

All persons who have worked for Defendant Coffee Meets Bagel, Inc. and who were classified as salaried or exempt employees at any time from May 6, 2015 to [date of preliminary approval].

On [date of preliminary approval], the Honorable Andrew Y.S. Cheng of the Superior Court of California, County of San Francisco granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants' records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [] a.m./p.m. on [] 2022 in Department 613 of the Superior Court of California, County of San Francisco located at 400 McAllister Street, San Francisco, California 94102. You are not required to attend the hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiff Vanessa Bustos and Rezelle Bustos, on their behalf and on behalf of other current and former allegedly misclassified individuals, allege that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay overtime wages to individuals for all hours worked; (2) provide individuals with meal and rest breaks; (3) timely pay all wages owed to individuals during each pay period and upon termination; and (4) provide individuals with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On April 19, 2021, the parties participated in a mediation with Michael Loeb, Esq., an experienced and well-respected class action mediator. With Mr. Loeb's guidance, the parties were able to negotiate a complete settlement of Plaintiffs' claims.

Counsel for Plaintiff, and the attorneys preliminarily appointed by the Court to represent the class, Daniel Berko of Law Office of Daniel Berko and Carlos Jato of Law Office of Carlos Jato ("Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class

Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiff's claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiff.

Summary of The Proposed Settlement Terms

Plaintiffs and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$230,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members (individuals who do not submit timely requests to be excluded from this settlement); (2) a Class Representative Enhancement Payment of \$2,500 to Plaintiff Vanessa Bustos and \$1,000 to Plaintiff Rezelle Bustos, which is to compensate them in recognition for their effort and work in prosecuting this action on behalf of the class against the defendants¹; (3) \$76,666.67 in attorneys' fees and costs and expenses; (4) a \$22,500 payment to the California Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and (5) reasonable Settlement Administrator's (Phoenix Class Action Settlement Solutions – contact information below) fees and expenses currently estimated at \$5,500. After deducting the Class Representative Enhancement Payment, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$122,333.33 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount").

Each Class Member's settlement payment will be based on the number of Workweeks each Class Member worked as allegedly misclassified during the period from May 6, 2015 to [the date of Preliminary Approval] ("Class Period"). The formula for calculating settlement payments is as follows:

- (a) Defendants will calculate the total aggregate number of Workweeks that all Class Members worked during the applicable Class Period ("Total Workweeks").
- (b) The value of each individual Workweek shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Workweeks amount, resulting in the "Workweek Value" or "WV".
- (c) An "Individual Settlement Payment" amount for each Class Member will then be determined by multiplying the individual Class Member's number of Workweeks by the Workweek Value and the Class Member's multiplier based on his/her job while providing services for Defendants. For instance, Customer Support employees will have a WV value of 100%, Office Managers and Human Resources WV value will be 100%; Engineers and Data Scientists WV will be 25%; Marketing will have a WV value of 50%; recruiters 25%; Writers 25%; event producers 25% Designers 25%. (specifically, by this adjustment of the WV value, the Net Settlement will be entirely distributed between class members).

¹ The enhancement payments are not tethered to plaintiffs' general releases.

- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion, which is a timely request to be excluded from this settlement.

Why are you receiving this letter?

According to Defendants' records, you worked during the Class Period for a total of [] Workweeks. Accordingly, your estimated payment is approximately \$ [] as a [insert job classification here].

Disputing Workweek Information and Updating Your Contact Information:

If you believe the above Workweek information is incorrect, please contact the Settlement Administrator, Phoenix Class Action Settlement Solutions, by phone at 1-800-523-5773; by fax at [insert number], or by email at [insert].

You may also contact the Settlement Administrator to update your contact information. This is important because the Settlement Administrator will be able to provide you with future communications about this matter.

It is important that if you dispute the number of Workweeks or the type of services you provided for Defendants, you must provide records in support of your dispute to the administrator because Defendants' records will control unless you are able to provide documentation that establishes otherwise. This is important because it could impact your share of the settlement. For example, you may submit wage statements, tax returns, agreements, correspondence, or any other documentation showing the number of Workweeks you worked and/or the type of services you provided.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims ("Released Claims): all claims, rights, demands, liabilities, and causes of action, arising from, or related to, the same set of operative facts as those set forth in the operative complaint, including: (i) all claims for unpaid overtime; (ii) all claims for meal and rest break

Questions? Contact Phoenix Class Action Settlement Solutions toll free at 1-800-523-5773

Email: [insert]

Website: [insert]

violations; (iii) all claims for unpaid minimum wages; (iv) all claims for the failure to timely pay wages upon termination based on the preceding claims; (v) all claims for the failure to timely pay wages during employment based on the preceding claims; (vi) all claims for wage statement violations based on the preceding claims; (vii) all claims for unpaid sick leave based on the preceding claims; (viii) all claims asserted through California Business & Professions Code §§ 17200 *et seq.*, and California Labor Code §§ 2698 *et seq.* based on the preceding claims; and (ix) all claims asserted through California Labor Code § 558.1 based on the preceding claims.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Phoenix Class Action Settlement Solutions

c/o [insert] include fax and email address [insert]

The written request to be excluded must be postmarked, faxed or emailed not later than [insert date – **bold**]. If you submit a request for exclusion which is not postmarked, faxed or emailed by [insert date – **bold**], your request for exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

PLEASE NOTE: While you may elect to opt-out from the class settlement and the class claims, you may not opt-out of the settlement of the PAGA claims. In other words, even if you opt-out of the class settlement you cannot do so from the PAGA claim and you will still receive your share of the settlement PAGA settlement payment and will release your claims under PAGA.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [Phoenix Class Action's address].

All objections must be postmarked by not later than [insert], 2022. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude

Questions? Contact Phoenix Class Action Settlement Solutions toll free at 1-800-523-5773

Email: [insert]

Website: [insert]

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yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of San Francisco and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Go to the Hearing:

Regardless of the options you select from above, you can also appear in person at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Department 613 of the Superior Court of the State of California, for the County of San Francisco. You may also retain an attorney at your own expense to appear for you at the hearing.

Additional Information

Uncashed Checks

Any settlement checks returned as undeliverable and remaining un-cashed for more than one hundred and twenty (120) calendar days after issuance will be redistributed to the class members who did cash their checks on the 125th day after the initial mailing. In the event that there are any leftover funds not distributed to class members 120 days after the second re-distribution, then any amounts of uncashed checks will be tendered to the *cy pres* beneficiary, San Francisco Legal Aid at Work 180 Montgomery Street, Suite 600 San Francisco, CA 94104 Tel: 415-864-8848. No money will revert back to the Defendants

Additional Information About the Lawsuit

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case which are available at [administrator website].

You may obtain such information from the Court's website at <https://www.sfsuperiorcourt.org>, which provides access to the full docket in this case free of charge. On the homepage, click on "Online Services" and then "Case Query." When prompted, you may "Search by Case Number" and enter case number CGC-19-575734.

All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Daniel Berko Law Office of Daniel Berko	Carlos Jato Law Office of Carlos Jato
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Questions? Contact Phoenix Class Action Settlement Solutions toll free at 1-800-523-5773

Email: [insert]

Website: [insert]

819 Eddy Street San Francisco, California 94109 Phone: (415) 771-6174	819 Eddy Street San Francisco, California 94109 Phone: (415) 771-6174
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.

The settlement website [web address here] contains the following documents:

operative complaint,

notice, settlement agreement,

order of preliminary approval.

tentative rulings dated _____

[list any subsequent documents here]

4835-0591-9206, v. 1

Questions? Contact Phoenix Class Action Settlement Solutions toll free at 1-800-523-5773

Email: [insert]

Website: [insert]

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CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, CLARK BANAYAD, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On March 30, 2022, I electronically served the ATTACHED DOCUMENT(S) via File&ServeXpress on the recipients designated on the Transaction Receipt located on the File&ServeXpress website.

Dated: March 30, 2022

T. Michael Yuen, Clerk

By: 
CLARK BANAYAD, Deputy Clerk