

Electronically Received 10/31/2022 02:45 PM

Kevin Mahoney (SBN: 235367)
kmahoney@mahoney-law.net
Raleigh Dixon (SBN: 340483)
rdixon@mahoney-law.net
MAHONEY LAW GROUP, APC
249 E. Ocean Blvd., Ste. 814
Long Beach, CA 90802
Telephone: (562) 590-5550
Facsimile: (562) 590-8400

FILED
Superior Court of California
County of Los Angeles
12/19/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: R. Aspiras Deputy

Attorneys for Plaintiff SALVADOR PENA, as an individual and on behalf of all employees similarly situated,

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT
SPRING STREET COURTHOUSE**

SALVADOR PENA,

Plaintiff,

v.

DELATORRE RESTAURANT GROUP, LLC
AND ARMANDO DE LA TORRE JR.; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: BC646777

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Assigned for all purposes to:
Hon. William Highberger, Dept. 10

Date: ~~November 1, 2022~~
Time: 10:00 a.m.
Dept.: 10

Action Filed: January 12, 2017
Trial Date: None Yet Set

1 **~~PROPOSED~~ ORDER**

2 On November 1, 2022, Plaintiff SALVADOR PENA’s (“Plaintiff”) Motion for
3 Preliminary Approval of Class Action Settlement (“Motion”) came on for hearing in Department
4 11 of the Superior Court of California, County of Los Angeles. The Court, having fully reviewed
5 the motion for preliminary approval of class action settlement; points and authorities and
6 declarations filed in support; and Class Action Settlement Agreement (“Settlement”), including
7 the Notice of Class Action Settlement (“Notice”) attached hereto as Exhibit A; and in recognition
8 of the Court’s duty to make a preliminary determination as to the reasonableness of any proposed
9 class action settlement, and if preliminarily determined to be reasonable, to ensure proper notice
10 is provided to Class Members in accordance with due process requirements, and to set a Final
11 Fairness Hearing to consider the proposed Settlement as to the good faith, fairness, adequacy, and
12 reasonableness of any proposed settlement.

13 **IT IS HEREBY ORDERED:**

14 1. The Settlement Agreement entered into by and between Plaintiff individually and
15 on behalf of Class Members (defined below) as Defendant DELATORRE RESTAURANT
16 GROUP, LLC AND ARMANDO DE LA TORRE JR. (“Defendant”) is preliminarily approved,
17 as the terms of the settlement are found to be fair, adequate, and reasonable.

18 2. The following class is conditionally certified for settlement purposes only: all
19 individuals who worked for Delatorre Restaurant Group, LLC and ARMANDO DE LA TORRE
20 JR. as hourly and/or non-exempt employees in California at any time between **January 12, 2013**
21 **and June 22, 2022.**

22 3. Named Plaintiff Salvador Pena is appointed as Class Representative. Kevin
23 Mahoney and Raleigh Dixon of Mahoney Law Group, APC are appointed as Class Counsel.

24 4. The Parties’ proposed notice plan is hereby approved as the best notice practicable.
25 The proposed Settlement Class Notice attached hereto as Exhibit A is sufficient to inform the
26 Class Members of the terms of the Settlement Agreement, their rights to receive monetary
27 payments under the Settlement Agreement, their right to exclude themselves from the Settlement,
28 and their right to lodge objections to the Settlement. The Court finds the notice requirements of

1 Rules of Court, rules 3.766(d) and 3.769(f) are satisfied, and that the Class Notice adequately
2 advises Class Members of their rights under the Settlement. Counsel for the Parties are authorized
3 to correct any typographical errors that may be discovered in the Class Notice and make
4 clarification, to the extent some are found or needed, so long as the corrections do not materially
5 alter the substance of the Class Notice.

6 5. Phoenix Class Action Administration Solutions (“Phoenix”) is appointed to act as
7 the Settlement Administrator pursuant to the terms of the Settlement Agreement. The Court
8 orders Defendant to provide to Phoenix the class information necessary to facilitate the notice
9 mailing by November 16, 2022. Phoenix is ordered to carry out the Settlement according to the
10 terms of the Settlement Agreement and in conformity with this Order, including disseminating
11 the Notice according to the notice plan described in the Settlement Agreement in English and
12 Spanish. The mailing of the Notice shall be completed on November 30, 2022. Based upon the
13 cost estimate submitted by Phoenix, the Court preliminarily approves administration costs in the
14 amount of seven thousand dollars (\$7,000.00) to be deducted from the Gross Settlement Amount.

15 6. The deadline for Class Members to opt-out or object to the Settlement is January
16 29, 2023. The procedures and deadline for Class Member to request exclusion from or to object
17 to the Settlement is adopted as described in the Settlement Agreement and the attached Notice.
18 Any Class Member who intends to object to final approval of the Settlement Agreement must
19 submit a written objection to Phoenix by mail in accordance with the Settlement Agreement and
20 described in paragraph 7 of the Notice. Any opposition or reply to any objection or the motion
21 for final approval will be due according to Code of Civil Procedure section 1005.

22 7. The Parties are ordered to carry out the settlement according to the terms of the
23 Settlement Agreement.

24 **RELEVANT DATES AND DEADLINES**

25 8. On November 16, 2022, Defendant shall provide Phoenix with the following
26 information that is within Defendant’s possession for each Participating Class Member: (1) each
27 Settlement Class Member’s full name; (2) last known address; (3) last known home telephone
28 number; (4) social security number; (5) start and end dates of employment during the Class

1 Period; and (6) total number of weeks each Settlement Class Member worked during the Class
2 Period. This information shall be based on Defendant's payroll and other business records and in
3 a format readily accessible to Defendant. The data contained in the Database shall remain
4 confidential and shall not be disclosed to anyone, except to applicable taxing authorities and as
5 needed by Phoenix to carry out the reasonable efforts required by the Settlement, or pursuant to
6 express written authorization by Defendant or by order of the Court. Phoenix shall be authorized
7 to use any reasonable practices to locate Class Members in order to provide them with the Notice
8 and/or Settlement Payments. Neither Class Counsel nor Phoenix may use the Database for any
9 purpose other than to administer the Settlement as provided in the Settlement.

10 9. On November 30, 2022, Phoenix will mail a copy of the Class Notice to all Class
11 Members by first class regular U.S. mail. Phoenix will engage in address searches consistent with
12 their normal practices in settlements of wage claims, including skip tracing. Any returned
13 envelopes from this mailing with forwarding address will be utilized by Phoenix to forward the
14 Notice to the Class Members.

15 10. Each Notice will list the total workweeks worked by the Class Members during
16 the Class Period. To the extent a Class Member disputes the information listed on his or her
17 Notice, the Class Member may produce evidence to Phoenix showing the number of weeks the
18 Class Member contends to have worked during the Class Period. If there is a dispute, Phoenix
19 will consult with the Parties to determine whether an adjustment is warranted. Phoenix shall
20 determine the eligibility for, and the amounts of, any Individual Settlement Payments under the
21 terms of this Agreement. Phoenix's determination of the eligibility for and amount of any
22 Individual Settlement Payment shall be binding upon the Class Members and the Parties.

23 11. All requests for exclusions must be post-marked by January 29, 2023.

24 12. All written objections must be mailed to Phoenix and be postmarked by January
25 29, 2023. Any Objection must be signed by the Settlement Class Member and state: (1) the full
26 name of the Settlement Class Member; (2) the last four digits of the Settlement Class Member's
27 Social Security number and/or the Employee ID number; and (3) the basis for the objection.

1 13. The Court will conduct a Final Fairness Hearing on ~~April 1, 2023~~ or
2 ~~Tuesday, April 4, 2023~~ to determine: (1) whether the proposed Settlement is fair,
3 reasonable, and adequate and should be finally approved by the Court; (2) the amount of
4 attorneys' fees and costs to award to Class Counsel; and (3) the amount of Enhancement Payments
5 to the Class Representative. If the settlement is finally approved by the Court, Defendant will
6 receive a release of claims as set forth in the Settlement Agreement.

7 14. Briefs/Motion in Support of Final Approval of the Settlement shall be filed by per
8 code based on the hearing date. Phoenix's report regarding the mailing of the Notice and
9 settlement administration shall be filed no later than fourteen (14) days before the date by which
10 Plaintiff is required to file the Motion for Final Approval of the Settlement.

11 15. The Court reserves the right to continue the date of the Final Fairness Hearing
12 without further notice to Settlement Class Members. The Court retains jurisdiction to consider all
13 further applications arising out of or in connection with the Settlement.

14 In the event the Settlement is not finally approved, or otherwise does not become effective
15 in accordance within the terms of the Settlement, this Order shall be rendered null and void and
16 shall be vacated, and the Parties shall revert to their respective positions as of before entering into
17 the settlement.

18 Dated: 12/19/2022



HON. WILLIAM HIGHBERGER
JUDGE OF THE SUPERIOR COURT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

Code of Civ. Proc. § 1013a, subd. (3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 249 East Ocean Boulevard, Suite 814, Long Beach, California, 90802.

On **October 31, 2022**, I served true copies of the following document described as: **[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**. The document was served on the interested parties in this action, addressed as follows:

Scott W. Williams, Esq. The Small Business Law Firm, PC 299 West Hillcrest Drive, Suite 214 Thousand Oaks, CA 91360	Attorney for Defendant DELATORRE RESTAURANT GROUP, LLC Telephone: (805) 778-0206 (805) 231-4965 Fax: (805) 778-9299 Email: swilliams@smallbusinesslaw.org bwells@smallbusinesslaw.org
Sakis Sirmabekian, Esq. SIRMABEKIAN LAW FIRM P.C. 3435 Wilshire Blvd., Suite 1710 Los Angeles, CA 90010	Attorney for Plaintiff ANGEL MARTINEZ Telephone: (818) 473-5003 Facsimile: (818) 476-5619 Email: contact@slawla.com

By electronic service: Based on a court order, I caused the document(s) to be sent to the persons at the electronic service addresses listed above by transmission through CASE ANYWHERE.

(State): I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 31, 2022** at Long Beach, California.



Alicia Chavez