

FILED

Clerk of the Superior Court

MAY 02 2023

By

DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

(UNLIMITED JURISDICTION)

ANTHONY SIKES, on behalf of himself, all others similarly situated, the general public, and as an "aggrieved employee" on behalf of other "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

WING DHABA, INC., a California corporation; 2 SINGHS HAVE WINGS, INC., a California corporation; DAD'S SAPNA INC., a California corporation; PKA CORPORATION, a California corporation; WINGS FOR 2 SINGHS INC, a California corporation; BIKRAMJIT SINGH RANDHAWA, an individual; and DOES 1-50, inclusive,

Defendant(s).

Case No. FCS054490

~~PROPOSED~~ ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT

Hearing Date: 4/26/2023
Hearing Time: 9:30 a.m.
Hearing Dept.: 3, The Honorable Stephen Gizzi

Action filed: March 05, 2020
Trial Date: None Set

BY FAX



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1 The Motion of Plaintiff Anthony Sikes (hereafter referred to as "Plaintiff") for Preliminary
2 Approval of a Class Action Settlement (the "Motion") was considered by the Court, The
3 Honorable Stephen Gizzi presiding. The Court having considered the Motion, the Class Action
4 Settlement and Release of Claims executed on March 16, 2023 ("Settlement"), and supporting
5 papers, HEREBY ORDERS THE FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
8 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
9 has determined there is sufficient evidence to preliminarily determine that (a) the terms of the
10 Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the
11 Settlement falls within the range of reasonableness and appears to be presumptively valid, subject
12 only to any objections that may be raised at the final hearing and final approval by this Court. The
13 Court will make a determination at the hearing on the motion for final approval of class action
14 settlement (the "Final Approval Hearing") as to whether the Settlement is fair, adequate and
15 reasonable to the Settlement Class.

16 2. For purposes of this Preliminary Approval Order, the "Class" means all current
17 and former persons employed by Defendants in California and classified as hourly, non-exempt
18 who worked for Defendants at any time from March 5, 2016 through April 14, 2023. Defendants
19 estimate that as of the date of preliminary approval of this Settlement, there were 2,822 potential
20 Settlement Class Members. The "Effective Date" means the date by when both of the following
21 have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the
22 Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following
23 occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court
24 enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the
25 day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal
26 from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a
27 remittitur.

28 3. This action is provisionally certified pursuant to section 382 of the California Code
of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
purposes of settlement only with respect to the proposed Settlement Class.

4. The Court hereby preliminarily finds that the Settlement was the product of



1 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In making
2 this preliminary finding, the Court considered the nature of the claims set forth in the pleadings,
3 the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the allocation
4 of Settlement proceeds to the Settlement Class, and the fact that the Settlement represents a
5 compromise of the Parties' respective positions. The Court further preliminarily finds that the
6 terms of the Settlement have no obvious deficiencies and do not improperly grant preferential
7 treatment to any individual Class Member. Accordingly, the Court preliminarily finds that the
8 Settlement was entered into in good faith.

9 5. The Court finds that the dates set forth in the Settlement for mailing and
10 distribution of the Class Notice meet the requirements of due process and provide the best notice
11 practicable under the circumstances, and constitute due and sufficient notice to all persons entitled
12 thereto, and directs the mailing of the Class Notice by first class mail to the Settlement Class as
13 set forth in the Settlement. Accordingly, the Court orders the following implementation schedule
14 for further proceedings:

15 a. Not later than 15 days after the Court grants Preliminary Approval of the
16 Settlement, Defendants shall provide Phoenix Settlement Administrators, the
17 appointed Settlement Administrator, with: (a) An electronic database of all
18 Class Members' name, last-known mailing address, Social Security number,
19 and number of Class Pay Periods and PAGA Pay Periods ("Class Data"). The
20 number of Pay Periods shall be referred to as that Class Member's "Individual
21 Pay Periods." If any of the Class Data are unavailable to Defendants,
22 Defendants will so inform Class Counsel and the Parties will make their best
23 efforts to reconstruct or otherwise agree upon the Class Data prior to when it
24 must be submitted to the Settlement Administrator. Class Data will otherwise
25 remain confidential and will not be disclosed to anyone, except as necessary
26 to applicable taxing authorities, or pursuant to Defendants' express written
27 authorization or by order of the Court.

28 b. **Mailing of Class Notice.** Approximately fourteen (14) days after receiving the
Class Data, or as soon thereafter as it can do so, the Administrator will mail
the Class Notice to all identified Class Members via first-class U.S. mail using
the mailing address information provided by Defendants, unless modified by



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any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect address, the Settlement Administrator will promptly, and not later than three (3) business days from receipt of the returned Class Notice, search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the Class Data and otherwise work with Defendants' Counsel and Class Counsel to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, to trace the mailing address of any Class Member for whom a Class Notice is returned as undeliverable by the U.S. Postal Service. These reasonable steps shall include the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendants' Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.

d. **Declaration of Settlement Administrator.** Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under the Settlement. Prior to the Final Approval Hearing, the Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

e. **Requests for Exclusion from Settlement; and Objections to Settlement.** Class Members may submit requests to be excluded from the effect of the Settlement, or objections to the Settlement, pursuant to the following procedures:

i. **Request for Exclusion from Settlement.** A Class Member may



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1 request to be excluded from the effect of the Settlement, and any
2 payment of amounts under the Settlement, by timely mailing a letter to
3 the Settlement Administrator stating that the Class Member wants to
4 be excluded from this Action. This letter must include the Class
5 Member's name, address, email address, telephone number, and
6 signature. To be valid and timely, the request to be excluded must be
7 postmarked by the date specified in the Class Notice (60 days from the
8 initial mailing of the Class Notice by the Administrator). A Class
9 Member who properly submits a valid and timely request to be
10 excluded from the Action shall not receive any payment of any kind in
11 connection with the Settlement or this Action, shall not be bound by or
12 receive any benefit of the Settlement, and shall have no standing to
13 object to the Settlement. A request for exclusion must be mailed to the
14 Settlement Administrator at the address provided on the Class Notice.
15 The Settlement Administrator shall transmit the request for exclusion
16 to counsel for the Parties as follows:

16 *To Class Counsel:*

17 David G. Spivak
18 The Spivak Law Firm
19 8605 Santa Monica Bl
20 PMB 42554
21 West Hollywood, CA 90069

To Defense Counsel:

Steven H. Bovarnick
Leland, Parachini, Steinberg, Matzger &
Melnick LLP
199 Fremont Street
21st Floor
San Francisco, CA 94105

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- ii. **Objections to Settlement.** The Class Notice will provide that any Class Member who does not request exclusion from the Action and who wishes to object to the Settlement should submit an objection in writing to the Settlement Administrator by 60 days after the Settlement Administrator mails the Class Notice, a written objection to the Settlement which sets forth the grounds for the objection and the other information required by this paragraph. The objection should be mailed to the Settlement Administrator at the address provided on the Class



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1 Notice. The Settlement Administrator shall transmit the objections to
2 counsel for the Parties as follows:

3 *To Class Counsel:*

4 David G. Spivak
5 The Spivak Law Firm
6 8605 Santa Monica Bl
7 PMB 42554
8 West Hollywood, CA 90069

To Defense Counsel:

Steven H. Bovarnick
Leland, Parachini, Steinberg, Matzger &
Melnick LLP
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21st Floor
San Francisco, CA 94105

9 The written objection should state the objecting Class Member's full
10 name, address, and the approximate dates of his or her employment
11 with Defendants. The written objection should state the basis for each
12 specific objection and any legal support in clear and concise terms. The
13 written objection also should state whether the Class Member intends
14 to formally intervene and become a party of record in the action, and
15 upon formally intervening, appear and argue at the Final Approval
16 Hearing. However, the objectors will be provided with the opportunity
17 to speak at the final approval hearing regardless of whether they have
18 filed an appearance or submitted a written opposition beforehand.

19 If the objecting Class Member does not formally intervene in the action
20 and/or the Court rejects the Class Member's objection, the Class
21 Member may still be bound by the terms of the Settlement.

- 22 f. **Report.** Not later than 14 days before the date by which Plaintiff is required
23 to file the Motion for Final Approval of the Settlement, the Administrator will
24 provide to Class Counsel and Defense Counsel, a signed declaration suitable
25 for filing in Court attesting to its due diligence and compliance with all of its
26 obligations under this Agreement, including, but not limited to, its mailing of
27 Class Notice, the Class Notices returned as undelivered, the re-mailing of Class
28 Notices, attempts to locate Class Members, the total number of Requests for
Exclusion from Settlement it received (both valid or invalid), the number of
written objections and attach the Exclusion List.



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1 g. If the number of valid Requests for Exclusion identified in the Exclusion List
2 that have been timely and validly filed to opt out of the Settlement exceeds
3 5.00% of the total of all Class Members prior to the date the Court enters final
4 approval of the Settlement or if the Court fails to approve material terms of the
5 settlement, including the scope of the release, Defendants have the right in their
6 sole and exclusive discretion to terminate and withdraw from the Settlement.
7 The Parties agree that, if Defendants terminate and withdraw from the
8 Settlement, the Settlement shall be void ab initio, have no force or effect
9 whatsoever, and that neither Party will have any further obligation to perform
10 under this Agreement; provided, however, Defendants will remain responsible
11 for paying all Settlement Administration Expenses incurred to that point.
12 Defendants must notify Class Counsel and the Court of its election to withdraw
13 not later than 10 business days after the Administrator has notified Defendants
14 of a 5% or greater opt-out rate or the Court's denial of the settlement with
15 prejudice.

16 6. The Court approves, as to form and content, the Class Notice in substantially the
17 form attached as Exhibit 1 to the Settlement.

18 7. The Court approves, for settlement purposes only, David Spivak of The Spivak
19 Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

20 8. The Court approves, for settlement purposes only, Anthony Sikes as the Class
21 Representative.

22 9. The Court approves Phoenix Settlement Administrators as the Settlement
23 Administrator.

24 10. The Court preliminarily approves Class Counsel's request for attorneys' fees and
25 costs subject to final review by the Court. *subject to Reduction at Final Hearing*

26 11. The Court preliminarily approves the estimated Administrator costs payable to the
27 Settlement Administrator subject to final review by the Court. *subject to Reduction at Final Hearing*

28 12. The Court preliminarily approves Plaintiff's Class Representative Service
Payment subject to final review by the Court.

13. A Final Approval Hearing shall be held on 9/29/23 at 9:00 a.m. in the
Superior Court for the State of California, County of Solano, located at Old Solano Courthouse,



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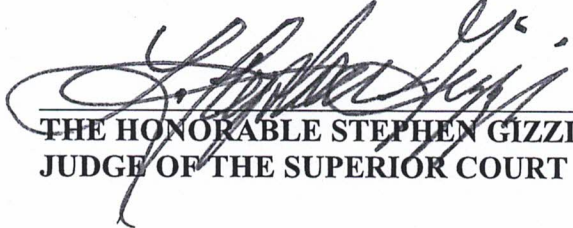
1 580 Texas St., Fairfield, CA 94533 to consider the fairness, adequacy and reasonableness of the
2 proposed Settlement preliminarily approved by this Preliminary Approval Order, and to consider
3 the application of Class Counsel for attorneys' fees and costs and the Class Representative
4 Payment to the Class Representative. The notice of motion and all briefs and materials in support
5 of the motion for final approval of class action settlement and motion for attorneys' fees and
6 litigation costs shall be served and filed with this Court on or before sixteen (16) Court days
before the Final Approval Hearing.

7 14. If for any reason the Court does not execute and file a final approval order and
8 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
9 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
10 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
11 litigation, as more specifically set forth in the Settlement.

12 15. The Court expressly reserves the right to adjourn or continue the Final Approval
13 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
14 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

15 **IT IS SO ORDERED.**

16 DATED: 4/26/13

17 
18 THE HONORABLE STEPHEN GIZZI
19 JUDGE OF THE SUPERIOR COURT
20
21
22



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