

Perez v Anejo, LLC

2023 NY Slip Op 34154(U)

December 1, 2023

Supreme Court, New York County

Docket Number: Index No. 150980/2020

Judge: Paul A. Goetz

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**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. PAUL A. GOETZ PART 47

Justice

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AMANDO PEREZ,

Plaintiff,

- v -

ANEJO, LLC, ANEJO TRIBECA, LLC, DAVID FEIT, ANGELO
SOSA, JOHN PAUL VALENTI, JOHN A. DIEHL, RICARDO
CAMACHO, CHARLIE DOE

Defendants.

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INDEX NO. 150980/2020

MOTION DATE 08/29/2023

MOTION SEQ. NO. 011

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 011) 245, 246, 247, 248, 249, 250, 251, 252

were read on this motion to/for ORDER MAINTAIN CLASS ACTION.

**ORDER GRANTING PLAINTIFF'S UNOPPOSED MOTION
FOR PRELIMINARY APPROVAL OF SETTLEMENT,
CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS,
APPOINTMENT OF LEE LITIGATION GROUP, PLLC AS CLASS COUNSEL,
APPOINTMENT OF CLAIMS ADMINISTRATOR AND APPROVAL OF THE
PROPOSED NOTICE OF SETTLEMENT AND CLASS ACTION PROCEDURE**

Plaintiff's move unopposed for preliminary approval of settlement, conditional certification of the settlement class, appointment of Lee Litigation Group, PLLC as class counsel, and approval of the proposed Notice of Settlement and class action settlement procedure.

I. PRELIMINARY APPROVAL OF SETTLEMENT

1. Based upon the Memorandum of Law in Support of the motion and the affirmation of C.K. Lee ("Lee affm") and the exhibits attached thereto, preliminary approval of the settlement memorialized in the Settlement Agreement and Release ("Settlement Agreement"), attached to the Lee affm as **Exhibit A** is GRANTED.

2. The court concludes that the proposed Settlement Agreement is within the range of possible settlement approval, such that notice to the Class is appropriate.

3. The court further concludes that the Settlement Agreement is the result of extensive, arm's length negotiations by counsel well-versed in the prosecution of wage and hour class and collective actions, and that the proposed settlement is fair and reasonable and has no obvious deficiencies.

II. CONDITIONAL CERTIFICATION OF THE PROPOSED SETTLEMENT CLASS

4. The court finds that this action satisfies all of the prerequisites of New York Civil Practice Law and Rules ("CPLR") § 901, and that consideration of the CPLR § 902 factors supports conditional certification.

5. The court provisionally certifies the following class under Article 9 of the CPLR, for settlement purposes only ("Settlement Class"): Named plaintiff and all non-exempt hourly front of house tipped employees (including bartenders, barbacks, servers, bussers, runners and delivery persons) employed by Defendants from July 31, 2014 through July 31, 2023, but excluding 58 individuals who received and cashed settlement checks from defendants after the filing of the lawsuit, who do not opt out of the litigation.

III. APPOINTMENT OF PLAINTIFF'S COUNSEL AS CLASS COUNSEL

6. The court appoints Lee Litigation Group, PLLC ("LLG") as Class Counsel because they did substantial work identifying, investigating, litigating, and settling plaintiff's and the class members' claims, have years of experience prosecuting and settling wage and hour class actions, and are well-versed in wage and hour law and in class action law.

7. The work that LLG has performed both in litigating and settling this case demonstrates their commitment to the class and to representing the class's interests.

IV. CLASS NOTICE

8. The court approves the proposed Notice of Settlement of Class Action Lawsuit and Fairness Hearing ("Notice"), attached as **Exhibit B** to the Lee affm, and directs its distribution to the Class.

9. CPLR § 908 requires that “[n]otice of proposed . . . compromise [of a class action] shall be given to members of the class in such manner as the court directs.”

10. The content of the Notice fully complies with due process. The Notice describes the terms of the settlement, informs the class about the allocation of attorneys' fees and costs, and provides specific information regarding the date, time, and place of the final approval hearing. Accordingly, the Notice fully and accurately informs Class Members of all material elements of the action and the proposed settlement.

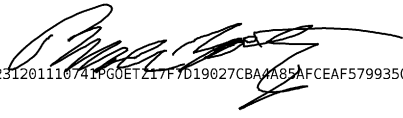
V. CLASS ACTION SETTLEMENT PROCEDURE

11. The court hereby adopts the following settlement procedure:
- a. On or before August 15, 2023, Defendants shall provide the Settlement Administrator with a list, in Excel program detailing the name, employment period, last known address, email, and mobile telephone number of each class member (the "Class List");
 - b. The Settlement Administrator shall mail the Notice to Class Members *via* First-Class United States Mail, postage prepared within 15 days of the court's entry of the Preliminary Approval Order;
 - c. Class Members will have 30 days from the date the Notice is mailed to opt out of the settlement or object to the settlement ("Notice Period");
 - d. Plaintiff will file a Motion for Final Approval of Settlement within 15 days of the fairness hearing;
 - e. The court will hold a final fairness hearing on February 1, 2024 at 2:15 p.m. in Part 47, Room 1021, at the Supreme Court of the State of New York, County of New York, located at 111 Centre Street, New York, New York 10007 to address: (i) whether the proposed Settlement Agreement should be finally approved as fair, reasonable, and adequate; (ii) Class Counsel's

application for attorneys' fees and costs; and (iii) Plaintiff's application for a service payment.

f. The parties shall abide by all other terms of the Settlement Agreement.

SO ORDERED.


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12/1/2023
DATE

PAUL A. GOETZ, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE