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UNITED STATES FEDERAL DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

GABRIEL CHAVEZ, JOSE GARCIA,  
FRANCISCO MURGUIA, JUAN MANUEL  
BERUMEN and JUAN AGUILERA AYALA,  
on behalf of themselves and all other similarly  
situated individuals,

PLAINTIFFS,

vs.

DENIS PETRISSANS and NANCY  
PETRISSIANS (doing business as "Jai Alai  
Diary"),

Defendants.

No. 1:08-cv-00122-LJO-GSA

**ORDER:**

- (1) **CONDITIONALLY CERTIFYING SETTLEMENT CLASS;**
- (2) **PRELIMINARILY APPROVING CLASS SETTLEMENT;**
- (3) **APPOINTING CLASS REPRESENTATIVES AND CLASS COUNSEL;**
- (4) **APPROVING CLASS NOTICE AND RELATED MATERIALS;**
- (5) **APPOINTING SETTLEMENT ADMINISTRATOR; AND**
- (6) **SCHEDULING FINAL APPROVAL HEARING**

Date: September 28, 2009  
Time: 8:30 a.m.  
Judge: Lawrence O'Neill  
Courtroom: 4

1 On September 28, 2009, a hearing was held on the motion of plaintiffs Gabriel Chavez, Jose  
2 Garcia, Francisco Murguia, Juan Manuel Berumen and Juan Aguilera Ayala (“Plaintiffs”), for  
3 conditional certification of a settlement class in this action, preliminary approval of the parties’ proposed  
4 settlement, approval of the notice to be sent to the class about the settlement and the forms of class  
5 member settlement information and election not to participate in the settlement, approval of the claim  
6 form and consent to jurisdiction, and the setting of a date for the hearing on final approval of the  
7 settlement. Stan S. Mallison and Marco A. Palau of the Law Offices of Mallison & Martinez appeared  
8 by telephone for Plaintiffs; and Sue Cercone and Katie Franck of Marderosian Runyon Cercone Lehman  
9 and Armo appeared by telephone for Defendants.

10 The Court having read and considered the papers on the motion, the arguments of counsel, and  
11 the law, and good cause appearing therefore,

12 IT IS ORDERED:

13 1. The Court has jurisdiction over this action and the parties’ proposed settlement under 28  
14 U.S.C. sections 1331 and 1367, as plaintiffs’ original complaint was brought under the Agricultural  
15 Workers Protection Act, 29 U.S.C. § 1801 *et seq.*; and related California wage-and-hour law; the Court  
16 has original jurisdiction over plaintiffs’ federal law claims; and the Court has supplemental jurisdiction  
17 over plaintiffs’ state-law claims because they arise from the same alleged transactions and occurrences  
18 as do plaintiffs’ federal-law claims.

19 2. The proposed class satisfies the requirements of a settlement class because the class  
20 members are readily ascertainable and a well-defined community of interest exists in the questions of  
21 law and fact affecting the parties.

22 3. The Court hereby preliminarily approves the Settlement Agreement. (Doc. 61 and  
23 Exhibits attached.) The parties’ Settlement Agreement (the “Settlement”) (Declaration of Stan S.  
24 Mallison in Support of Joint Motion for Order: (1) Conditionally Certifying Settlement Class; (2)  
25 Preliminarily Approving Class Settlement; (3) Appointing Class Representatives and Class Counsel; (4)  
26 Approving Class Notice and Related Materials; (5) Appointing Settlement Administrator; and (6)  
27 Scheduling Final Approval Hearing [“Mallison Decl.”], Exh. 1) is granted preliminary approval as it  
28 meets the criteria for preliminary settlement approval. The Settlement falls within the range of possible

1 approval as fair, adequate and reasonable, and appears to be the product of arm's-length and informed  
2 negotiations and to treat all Class Members fairly.

3 4. The parties' proposed notice plan is constitutionally sound because individual notices will  
4 be mailed to all class members whose identities are known to the parties, and such notice is the best  
5 notice practicable. The parties' proposed Notice of Proposed Settlement of Class Action, Conditional  
6 Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court  
7 Approval ("Class Notice") (Settlement Agreement, Exh. 2), and proposed forms of Claim Form and  
8 Election Not to Participate in Settlement (*id.*, Exhs. 3 and 4)) (collectively the "Class Notice Packet")  
9 are sufficient to inform Class Members of the terms of the Settlement, their rights under the Settlement,  
10 their rights to object to the settlement, their right to receive a Settlement Share or elect not to participate  
11 in the Settlement, and the processes for doing so, and the date and location of the final approval hearing,  
12 and therefore are all approved.

13 5. The following class of persons are certified as the Class in this action solely for the  
14 purposes of the Settlement:

15 All persons who are of have been employed by Jai Alai in the State of California as non-  
16 exempt employees from January 24, 2004 to until September 31, 2009.

17 6. Any Class Member who submits a timely and valid Claim Form within thirty days after  
18 the date the Settlement Administrator mails the Class Notice Packet will receive a Settlement Share.

19 7. Any Class Member who wishes to comment on or object to the Settlement or who elects  
20 not to participate in the Settlement has until thirty days after the mailing of the Class Notice Packet to  
21 submit his or her comment, objection, or Election Not to Participate in Settlement pursuant to the  
22 procedures set forth in the Class Notice.

23 8. Rust Consulting, Inc., is appointed to act as the Settlement Administrator, pursuant to the  
24 terms set forth in the Settlement.

25 9. Plaintiffs Gabriel Chavez, Jose Garcia, Francisco Murguia, Juan Manuel Berumen  
26 and Juan Aguilera Ayala are appointed Class Representatives. Stan S. Mallison, Hector R. Martinez,  
27 Marco A. Palau, and the Law Offices of Mallison & Martinez are appointed Class Counsel.

28 10. The Class Notice Packet will be disseminated according to the notice plan described in  
the Settlement Agreement and substantially in the form submitted by the parties. Proof of distribution of

1 notice will be filed by the parties at or prior to the final approval hearing.

2 11. Jai Alai is directed to provide the Settlement Administrator not later than fourteen days  
3 after the date of this order the Class Data as specified by the Settlement Agreement.

4 12. The Settlement Administrator is directed to mail the approved Class Notice Packet by  
5 first-class mail to the Class Members not later than ten days after receipt of the Class Data from Jai Alai.

6 13. A final hearing will be held on December 14, 2009, at 8:15 a.m. in Department 4 to  
7 determine whether the Settlement should be granted final approval as fair, reasonable, and adequate as  
8 to the Class Members. The Court will hear all evidence and argument necessary to evaluate the  
9 Settlement, and will consider the Class Representatives' request for Class Representative Payment and  
10 Class Counsel's request for the Class Counsel Fees Payment and the Class Counsel Litigation Expenses  
11 Payment. Class Members and their counsel may support or oppose the Settlement and the motion for  
12 awards of the Class Representative Payment and the Class Counsel Fees Payment and Class Counsel  
13 Litigation Expenses Payment, if they so desire, as set forth in the Class Notice.

14 14. Any Class Member may appear at the final approval hearing in person or by his or her  
15 own attorney, and show cause why the Court should not approve the Settlement, or object to the motion  
16 for awards of the Class Representative Payment and the Class Counsel Fees Payment and Class Counsel  
17 Litigation Expenses Payment. For any comments or objections to be considered at the hearing, the Class  
18 Member must file comments with the Clerk of Court indicating briefly the nature of the Class Member's  
19 comments, support or objection. Such comments must be filed with the Court, and mailed to Class  
20 Counsel, not later than thirty days after mailing of the Class Notice Packet.

21 15. The Court reserves the right to continue the date of the final approval hearing without  
22 further notice to Class Members. The Court retains jurisdiction to consider all further applications  
23 arising out of or in connection with the Settlement.

24  
25 Dated: September 28, 2009

26  
27 /s/ Lawrence J. O'Neill

LAWRENCE O'NEILL  
United States District Judge