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Attorneys for Plaintiff, JONPENN BLANDI,  
on behalf of herself and all others similarly situated  
and aggrieved

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

JONPENN BLANDI, an individual and on  
behalf of all others similarly situated and  
aggrieved,

Plaintiff,

v.

FRANCESCA RESTAURANT, LLC., a  
California limited liability company; SCOTT  
HARRIS HOSPITALITY, LLC, an Illinois  
limited liability company; and DOES 1  
through 50, inclusive,

Defendants.

**FILED**  
Clerk of the Superior Court

FEB 16 2024

By: V. Secaur

**ELECTRONICALLY RECEIVED**

Superior Court of California,  
County of San Diego

01/23/2024 at 04:51:54 PM

Clerk of the Superior Court  
By Nora Lopez, Deputy Clerk

CASE NO.: 37-2022-00049034-CU-OE-CTL

[Assigned for all purposes to the Hon. Marcella  
O. McLaughlin in Dept. C-72]

~~PROPOSED~~ **ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
AND REPRESENTATIVE ACTION  
SETTLEMENT AND CERTIFYING  
CLASS FOR SETTLEMENT PURPOSES  
ONLY**

1 This Court, having considered the Motion of plaintiff Jonpenn Blandi (“Plaintiff”) for  
2 Preliminary Approval of Class and Representative Action Settlement and Provisional Class  
3 Certification for Settlement Purposes Only (“Motion for Preliminary Approval”), the Declarations  
4 of David D. Bibiyan, Brandon M. Chang, Plaintiff, and Sean Hartranft, the Joint Stipulation Re:  
5 Class Action and Representative Action Settlement (the “Settlement,” “Settlement Agreement” or  
6 “Agreement”), the proposed Notice of Proposed Class Action Settlement and Date for Final  
7 Approval Hearing (“Class Notice”), and other documents submitted in support of the Motion for  
8 Preliminary Approval, hereby **ORDERS, ADJUDGES AND DECREES THAT:**

9 1. The definitions set out in the Settlement Agreement are incorporated by reference into this  
10 Order; all terms defined therein shall have the same meaning in this Order.

11 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement Class  
12 Members” or “Class Members”) for the purpose of settlement only: all hourly, non-exempt  
13 employees who work or worked for defendants Francesca Restaurant, LLC and Scott Harris  
14 Hospitality, LLC (collectively, “Defendants”) in California at any time during the period from  
15 December 7, 2018 through October 10, 2023 (“Class Period”).

16 3. The Court preliminarily appoints the named plaintiff Jonpenn Blandi as Class  
17 Representative, and David D. Bibiyan of Bibiyan Law Group, P.C., as Class Counsel.

18 4. The Court preliminarily approves the proposed class settlement upon the terms and  
19 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the  
20 settlement appears to be within the range of reasonableness of settlement that could ultimately be  
21 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement  
22 amount is fair, adequate, and reasonable as to all potential class members when balanced against the  
23 probable outcome of further litigation relating to liability and damages issues. It further appears that  
24 extensive and costly investigation and research has been conducted such that counsel for the parties  
25 at this time are reasonably able to evaluate their respective positions. It further appears to the Court  
26 that the settlement at this time will avoid substantial additional costs to all parties, as well as the  
27 delay and risks that would be presented by the further prosecution of the Action. It further appears  
28 that the settlement has been reached as the result of intensive, non-collusive and arms-length

1 negotiations utilizing an experienced third-party neutral.

2 5. The Court approves, as to form and content, the Class Notice that has been submitted  
3 herewith.

4 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to  
5 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The  
6 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies  
7 with the requirements of law and appears to be the best notice practicable under the circumstances.

8 7. The Court hereby preliminarily approves the definition and disposition of the Gross  
9 Settlement Amount of \$350,000.00, which is inclusive of: attorneys' fees of up to thirty-five percent  
10 (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Settlement  
11 Agreement, amounts to \$122,500.00, in addition to actual costs incurred of up to \$30,000.00; service  
12 award of up to \$7,500.00 to Plaintiff; costs of settlement administration of no more than \$8,500.00,  
13 and Private Attorneys' General Act of 2004 ("PAGA") penalties in the amount of \$20,000.00, of  
14 which \$15,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA")  
15 and \$5,000.00 (25%) to "Aggrieved Employees," defined as all non-exempt employees who work  
16 or worked for Defendants in California at any time from December 7, 2021 until the date that the  
17 Court grants preliminary approval of the Settlement ("PAGA Period").

18 8. The Gross Settlement Amount expressly excludes Employer Taxes, which will be  
19 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

20 9. "Workweeks" shall mean the number of weeks that a Settlement Class Member  
21 worked for Defendants in a non-exempt, hourly-paid position during the Class Period in California,  
22 based on either: (1) hire dates, re-hire dates (as applicable), and termination dates (as applicable);  
23 or (2) actual timekeeping records.

24 10. The settlement was negotiated based Defendants' representation that there are 12,376  
25 Workweeks worked by Class Members during the period from December 7, 2018 through July 12,  
26 2023. The Parties agree that if, once the data covering the Class Period is reviewed by the Settlement  
27 Administrator, and the actual number of workweeks during the Class Period is more than 10 percent  
28 (10%) greater than 12,376 (or greater than 13,614), then the Gross Settlement Amount shall increase

1 by \$28.28 for each additional Workweek. For example, if the actual number of Workweeks during  
2 the Class Period is 13,624, then the Gross Settlement Amount will increase in the amount of  
3 \$282.80.

4 11. The Court deems Apex Class Action Administration (“Apex” or “Settlement  
5 Administrator”), the settlement administrator, and payment of administrative costs, not to exceed  
6 \$8,500.00 out of the Gross Settlement Amount for services to be rendered by Apex on behalf of the  
7 class.

8 12. No later than seven (7) calendar days from the Response Deadline, the Settlement  
9 Administrator shall provide counsel for the Parties with a declaration attesting to the completion of  
10 the notice process, including the number of attempts to obtain valid mailing addresses for and re-  
11 sending of any returned Class Notices, as well as the identities, number of, and copies of all Requests  
12 for Exclusion and Objections received by the Settlement Administrator.

13 13. Within seven (7) calendar days after the Preliminary Approval Date, Defendants’  
14 Counsel shall provide the Settlement Administrator with information with respect to each Settlement  
15 Class Member, including his or her: (1) name; (2) last known address(es) currently in Defendants’  
16 possession, custody or control; (3) last known telephone number(s) currently in Defendants’  
17 possession, custody or control; (4) last known Social Security Number(s) in Defendants’ possession,  
18 custody or control; and (5) the dates of employment (i.e., hire dates and, if applicable, re-hire date(s)  
19 and/or separation date(s)) for each Settlement Class Member (“Class List”).

20 14. Upon receipt of the Class Data, the Settlement Administrator shall perform an  
21 address search using the United States Postal Service National Change of Address (“NCOA”)  
22 database and update the addresses contained on the Class List with the newly found addresses, if  
23 any. To the extent that this process yields an updated address, that updated address shall replace the  
24 last known address and be treated as the new last known address for purposes of this Settlement,  
25 and for subsequent mailings.

26 15. Because Social Security Numbers are included in the Class Data, the Settlement  
27 Administrator shall maintain the Class Data in confidence and shall only access and use the data to  
28 administer the settlement in conformity with the Court’s orders.

1       16.       Within seven (7) calendar days or soon thereafter of receiving the Class List from  
2 Defendants, the Settlement Administrator shall mail the Class Notice in English and Spanish to the  
3 Settlement Class Members via first-class regular U.S. Mail using the most current mailing address  
4 information available.

5       17.       “Response Deadline” means the deadline for Settlement Class Members to mail any  
6 Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator, which  
7 is forty-five (45) calendar days from the date that the Class Notice is first mailed in English and  
8 Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an  
9 instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing or forty-five  
10 (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark a  
11 Request for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the  
12 exclusive means for determining whether a Request for Exclusion, Objection or Workweek Dispute  
13 was submitted by the Response Deadline.

14       18.       Any Settlement Class Member may request exclusion from (*i.e.*, “opt out” of) the  
15 Settlement by mailing a written request to be excluded from the Settlement (“Request for  
16 Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline. To  
17 be valid, a Request for Exclusion must include: (1) the Class Member’s name; (2) the last four (4)  
18 digits of the Class Member’s Social Security Number; (3) the Class Member’s signature; and (4)  
19 the following statement: “Please exclude me from the Settlement Class in the *Blandi v. Francesca*  
20 *Restaurant, LLC et. al* matter,” or any statement of similar meaning standing for the proposition that  
21 the Class Member does not wish to participate in the Settlement. The Settlement Administrator shall  
22 immediately provide copies of all Requests for Exclusion to Class Counsel and Defendants’ Counsel  
23 and shall report the Requests for Exclusions that it receives, to the Court, in its declaration to be  
24 provided in advance of the Final Approval Hearing.

25       19.       Any Settlement Class Member who does not opt out of the Settlement by submitting  
26 a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including  
27 those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court  
28 if Final Approval of the Settlement is granted.

1       20.       Each Settlement Class Member may dispute the number of Workweeks attributed to  
2 him or her on his or her Class Notice ("Workweek Dispute"). Any such disputes must be mailed to  
3 the Settlement Administrator by the Settlement Class Member, postmarked on or before the  
4 Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes  
5 to Class Counsel and counsel for Defendants and shall immediately attempt to resolve all such  
6 disputes directly with relevant Settlement Class Member(s) with the assistance of Defendants and  
7 Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the dispute.

8       21.       Only Participating Class Members may object to the Settlement. In order for any  
9 Settlement Class Member to object to the Settlement in writing, or any term of it, he or she must do  
10 so by mailing a written objection to the Settlement Administrator at the address or phone number  
11 provided on the Class Notice no later than the Response Deadline. The Settlement Administrator  
12 shall email a copy of the Objection forthwith to Class Counsel and Defendants' counsel and attach  
13 copies of all Objections to the Declaration it provides Class Counsel, which Class Counsel shall file  
14 in support of Plaintiff's Motion for Final Approval. The Objection should set forth in writing: (1)  
15 the Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social  
16 Security Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to  
17 appear at the Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever  
18 legal authority, if any, the Objector asserts in support of the Objection. If a Settlement Class  
19 Member objects to the Settlement, the Settlement Class Member will remain a member of the  
20 Settlement Class and if the Court approves this Agreement, the Settlement Class Member will be  
21 bound by the terms of the Settlement in the same way and to the same extent as a Settlement Class  
22 Member who does not object. The date of mailing of the Class Notice to the objecting Settlement  
23 Class Member shall be conclusively determined according to the records of the Settlement  
24 Administrator. Settlement Class Members need not object in writing to be heard at the Final  
25 Approval Hearing; they may object or comment in person at the hearing at their own expense.

26       22.       If a Class Member submits both an objection and a Request for Exclusion, the  
27 Request for Exclusion will control and the Objection will be overruled.

28       23.       All papers filed in support of final approval, including supporting documents for

1 attorneys' fees and costs, shall be filed by JUNE 15, 2024

2 24. A Final Approval Hearing shall be held with the Court on JUNE 28, 2024  
3 at 9:30 .m in Department C-72 of the above-entitled Court to determine: (1) whether the  
4 proposed settlement is fair, reasonable and adequate, and should be finally approved by the Court;  
5 (2) the amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount of service  
6 award to the Class Representative; (4) the amount to be paid to the Settlement Administrator; and  
7 (5) the amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

8 25. Participating Class Members will receive an Individual Settlement Payment and  
9 Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement Payment  
10 and Individual PAGA Payment checks shall remain valid and negotiable for one hundred and eighty  
11 (180) calendar days after the date of their issuance. For any Class Member whose Individual Class  
12 Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date,  
13 the Administrator shall transmit the funds represented by such checks to the California Controller's  
14 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"  
15 subject to the requirements of California Code of Civil Procedure Section 384, subd (b).

16 ///

17 **IT IS SO ORDERED.**

18  
19 Dated: 2/16/2024

  
Judge of the Superior Court

**MARCELLA O. MCLAUGHLIN**

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