

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Soto vs. People First Pizza

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

CASE NUMBER:
30-2023-01301305-CU-OE-CXC

I certify that I am not a party to this cause. I certify that the following document(s), Order - Other dated 04/24/24, was transmitted electronically by an Orange County Superior Court email server on May 10, 2024, at 8:58:13 AM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

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Clerk of the Court, by: *Briana Jurado*, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

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21 Attorneys for Plaintiff

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **FOR THE COUNTY OF ORANGE**

24 PHILLIP SOTO, an individual(s) on behalf
25 of himself and on behalf of all persons
26 similarly situated,

27 PLAINTIFF,

28 vs.

PEOPLE FIRST PIZZA, a California
Corporation; and DOES 1-50, Inclusive,

DEFENDANTS.

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

APR 24 2024

DAVID H. YAMASAKI, Clerk of the Court

BY: , DEPUTY

Case Number: 30-2023-01301305-CU-OE-CXC

**[PROPOSED] ORDER APPROVING NOTICE
OF MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: January 11, 2023

Date: April 19, 2024
Time: 9:00 a.m.
Judge: Hon. William D. Claster
Dept: CX101
Reservation No.: 74227317

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 This matter having come before the Honorable Judge William Claster of the Superior Court of
3 the State of California, in and for the County of Orange, at 9:00 a.m. on April 19, 2024, with Kenneth
4 Seligson, Esq of SELIGSON LAW, Jean-Claude Lapuyade, Esq., of the JCL LAW FIRM, APC, and
5 Shani O. Zakay, Esq. of the ZAKAY LAW GROUP, APLC, as counsel for plaintiff PHILLIP SOTO
6 (“Plaintiff”), and Brook J. Carroll, Esq. of CLARK*EVERSON LLP, appearing for defendant
7 PEOPLE FIRST PIZZA (hereinafter “Defendant”). The Court, having carefully considered the briefs,
8 argument of counsel and all the matters presented to the Court, and good cause appearing, hereby
9 GRANTS Plaintiff’s Motion for Preliminary Approval of Class and PAGA Action Settlement.

10 **IT IS HEREBY ORDERED:**

11 1. The Court preliminarily approves the CLASS ACTION AND PAGA SETTLEMENT
12 AGREEMENT AND CLASS NOTICE (“Settlement Agreement” or “Agreement”) attached as
13 Exhibit “1” to the Supplemental Declaration of Kenneth Seligson. This is based on the Court’s
14 determination that the Settlement Agreement is within the range of possible final approval, pursuant
15 to the provisions of Section 382 of the California Code of Civil Procedure and California Rules of
16 Court, rule 3.769.

17 2. This Order incorporates by reference the definitions in the Agreement, and all terms
18 defined therein shall have the same meaning in this Order as set forth in the Agreement.

19 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
20 Defendant shall pay is Three Hundred Fifty Thousand Dollars (\$350,000.00). It appears to the Court
21 on a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to all
22 Class Members when balanced against the probable outcome of further litigation relating to
23 certification, liability, and damages issues. It further appears that investigation and research have been
24 conducted such that counsel for the Parties are able to reasonably evaluate their respective positions.
25 It further appears to the Court that settlement at this time will avoid substantial additional costs by all
26 Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the
27 litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and
28 non-collusive arms-length negotiations.

1 4. The Court preliminarily finds that the Settlement appears to be within the range of
2 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court
3 has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily
4 finds that the monetary settlement awards made available to the Class Members are fair, adequate, and
5 reasonable when balanced against the probable outcome of further litigation relating to certification,
6 liability, and damages issues.

7 5. Plaintiff seeks Class Counsel Award not to exceed one-third of the Gross Settlement
8 Amount, currently estimated to be One Hundred Sixteen Thousand Six Hundred Fifty-Five Dollars
9 (\$116,665.00), plus costs and expenses not to exceed Ten Thousand Six Hundred Dollars (\$10,600),
10 and proposed Class Representative Service Award to the Class Representative, Phillip Soto, in an
11 amount not to exceed Ten Thousand Dollars (\$10,000). While these awards appear to be within the
12 range of reasonableness, the Court will not approve the Class Counsel Award or the Class
13 Representative Service Award until the Final Approval Hearing.

14 6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification
15 of a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any
16 other proceeding should this Settlement not become final. For settlement purposes only, the Court
17 conditionally certifies the following Class:

18 “All non-exempt employees who are or previously were employed by Defendant, People First
19 Pizza, and performed work in California during the Class Period January 11, 2019, to October 30,
20 2023.”

21 7. The Court concludes that, for settlement purposes only, the Class meets the
22 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
23 the Class is ascertainable and so numerous that joinder of all members of the Class Members is
24 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
25 community of interest amongst the Class Members with respect to the subject matter of the litigation;
26 (c) the claims of the Class Representative are typical of the claims of the Class Members; (d) the Class
27 Representative will fairly and adequately protect the interests of the Class Members; (e) a class action
28 is superior to other available methods for the efficient adjudication of this controversy; and (f) Class

1 Counsel are qualified to act as counsel for the Class Representative in his individual capacity and as
2 the representative of the Class Members.

3 8. The Court provisionally appoints plaintiff PHILLIP SOTO as the representative of the
4 Class.

5 9. The Court provisionally appoints Kenneth Seligson, Esq. of Seligson Law P.C., Jean-
6 Claude Lapuyade, Esq., of the JCL Law Firm, APC, and Shani Zakay, Esq., of the Zakay Law Group,
7 APLC, as Class Counsel for the Class Members.

8 10. The Court hereby approves, as to form and content, the Proposed Notice of Class
9 Action Settlement ("Notice Packet") attached to the Settlement Agreement as Exhibit "A". The Court
10 finds that the Notice Packet appears to fully and accurately inform the Class Members and Aggrieved
11 Employees of all material elements of the proposed Settlement, including the right of any Class
12 Member to be excluded from the Class by submitting a written request for exclusion, and of each Class
13 Member's right and opportunity to object to the Settlement. The Court further finds that the
14 distribution of the notices substantially in the manner and form set forth in the Agreement and this
15 Order meets the requirements of due process, is the most reasonable notice under the circumstances,
16 and shall constitute due and sufficient notice to all persons entitled thereto. The Court orders the
17 mailing of the notices by first class mail, pursuant to the terms set forth in the Agreement.

18 11. The Court hereby appoints Apex Class Action, LLC, as Settlement Administrator.
19 Within thirty (30) days after the Preliminary Approval Date, Defendant shall provide to the Settlement
20 Administrator the Class Data including information regarding Class Members that Defendant will in
21 good faith compile from its records, including each Class Member's full name; last known address;
22 Social Security Number; and start dates and end dates of employment, and one half, or \$175,000.00
23 of the Gross Settlement Amount. Defendant shall provide the remaining one half, or \$175,000.00 of
24 the Gross Settlement Amount no later than May 1, 2024. Within fourteen (14) calendar days after
25 receiving the Class Data from Defendant, the Settlement Administrator shall mail and email the Notice
26 Packets to all Class Members via first class U.S. Mail and electronic mail using its best judgment to
27 determine the current mailing address for each Class Member.

28 12. The Court hereby preliminarily approves the proposed procedure for exclusion from

1 the Settlement. Any Class Member may individually choose to opt out of and be excluded from the
2 Settlement as provided in the Notice Packet by following the instructions for requesting exclusion
3 from the Settlement of the Released Class Claims that are set forth in the Notice Packet. All requests
4 for exclusion must be postmarked or received by the Response Deadline which is sixty (60) days after
5 the date the Notice Packet is mailed to the Class Members or, in the case of a re-mailed Notice Packet,
6 not more than fifteen (15) days from the original Response Deadline. Any such person who chooses
7 to opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement
8 Payment under the Settlement and will not be bound by the Settlement, or have any right to object,
9 appeal or comment thereon. Class Members who have not requested exclusion shall be bound by all
10 determinations of the Court, the Agreement, and Judgment. A request for exclusion may only opt out
11 that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of
12 individuals is not permitted and will be deemed invalid.

13 13. Any Class Member who has not opted out may appear at the final approval hearing and
14 may object or express the Class Member's views regarding the Settlement and may present evidence
15 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined
16 by the Court as provided in the Notice. Class Members will have sixty (60) days from the date the
17 Settlement Administrator mails the Notice Packet to postmark their written objections to the
18 Settlement Administrator.

19 14. A final approval hearing shall be held before this Court on **September 13, 2024, at**
20 **9:00 AM** in Department CX101 of the Orange County Superior Court to determine all necessary
21 matters concerning the Settlement, including: whether the proposed settlement of the Action on the
22 terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be
23 finally approved by the Court; whether an Order Granting Final Approval should be entered herein;
24 whether the plan of allocation contained in the Agreement should be approved as fair, adequate and
25 reasonable to the Class; and to finally approve the Class Counsel Award, Class Representative Award,
26 and the Claims Administration Expenses. All papers in support of the motion for final approval and
27 the motion for Attorneys' Fees, Costs, and Service Award shall be filed with the Court and served on
28 all counsel no later than sixteen (16) court days before the hearing.

1 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder
2 shall be construed as a concession or admission by Defendant in any way, and shall not be used as
3 evidence of, or used against Defendant as an admission or indication in any way, including with respect
4 to any claim of any liability, wrongdoing, fault, or omission by Defendant or with respect to the truth
5 of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither
6 the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement,
7 nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence
8 as received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not
9 limited to, evidence of a presumption, concession, indication or admission by Defendant of any
10 liability, fault, wrongdoing, omission, concession or damage.

11 16. In the event the Settlement does not become effective in accordance with the terms of
12 the Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
13 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
14 shall revert to their respective positions as of before entering into the Agreement. In such an event, the
15 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used
16 or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
17 the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

18 17. Pending final determination of whether the Settlement should be approved, Class
19 Representative and all Class Members are barred and enjoined from filing, commencing, prosecuting,
20 intervening in, instigating or in any way participating in the commencement or prosecution of any
21 lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting
22 any claims that are, or relate in any way to, the Released Class Claims, unless and until they submit a
23 timely request for exclusion pursuant to the Agreement.

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1 18. The Court reserves the right to adjourn or continue the date of the final approval hearing
2 and all dates provided for in the Agreement without further notice to Class Members and retains
3 jurisdiction to consider all further applications arising out of or connected with the proposed
4 Settlement.

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6 **IT IS SO ORDERED.**

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8 DATED: 4-24-24



Honorable Judge William D. Claster
Judge of the Superior Court; Dept. No CX101

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1 I declare that I am employed in the county of Los Angeles, California. I am over the age of
2 eighteen years and not a party to the within action. My business address is 2219 Main Street, Suite
3 710, Santa Monica, California 90405.

4 On April 23, 2024, I served the within documents:

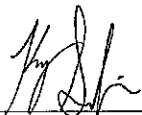
5 **[PROPOSED] ORDER APPROVING NOTICE OF MOTION AND MOTION FOR**
6 **PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

7 On the interested parties herein by sending true copies as follows:

8 **Brook J. Carroll**
9 Clark*Everson LLP
10 4580 E. Thousand Oaks Blvd., Suite 160
11 Westlake Village, CA 91362
12 bcarroll@clarkeversonlaw.com
13 805-322-4949 (t)
14 805-322-4958 (f)

15 All of the pages of the above-described document(s) were sent to the recipients listed
16 above via electronic mail, at the respective email address(es) indicated thereon.

17 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
18 was executed on April 23, 2024, at Los Angeles, California.

19 
20 _____
21 Ken Seligson

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