

Veras v Park Ave. Bake LLC

2022 NY Slip Op 33152(U)

September 19, 2022

Supreme Court, New York County

Docket Number: Index No. 156197/2019

Judge: Lyle E. Frank

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. LYLE E. ANK PART 11M

Justice

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ERIC VERAS,

Plaintiff,

- v -

PARK AVE. BAKE LLC, ST MANAGEMENT GROUP, INC.

Defendant.

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INDEX NO. 156197/2019

MOTION DATE 09/08/2022

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 26, 27, 28, 29, 30, 31, 32

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

The above-entitled matter comes before the Court on Plaintiffs' Motion for Preliminary Approval of the Joint Settlement and Release, Certification of the Class for Settlement Purposes, Appointment of the Named Plaintiff Eric Veras as Class Representative, Appointment of Bouklas Gaylord LLP as Class Counsel, Approval of the Class Notice and Claim Form, and the Scheduling of a Fairness Hearing ("Motion for Preliminary Approval).

Preliminary Approval

Based upon the Court's review of the Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Settlement and the Affirmation of Mark Gaylord, Esq., and the exhibits attached thereto, the Court concludes that the proposed Settlement Agreement is within the range of possible settlement approval, such that notice to the Class is appropriate. The Court further finds 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 actions, and that the proposed settlement has no obvious deficiencies.

Conditional Certification

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 support certification for purposes of settlement.

Appointment of Plaintiffs’ Counsel as Class Counsel

The Court finds that the work that Bouklas Gaylord LLP has performed both in litigating and settling this case demonstrates their commitment to the class and to representing the class’ interests, given the substantial work identifying, investigating, litigating, and settling Plaintiffs’ and the class members’ claims.

Class notice and claim form

CPLR § 908 requires that “[n]otice of the proposed... compromise [of a class action] shall be given to members of the class in such manner as the court directs.”. The Court finds that the contents of the Class Notice and Claim Form fully comply with due process. The Class Notice describes the terms of the settlement, informs the class about the allocation of attorneys’ fees and costs, explains how class members can object or opt-out, and provides specific information regarding the date, time, and place of the final approval hearing. The Claim Form provides instructions on how to complete and submit a claim as well as a detailed description of the claims being released.

This motion is therefore granted without opposition. Accordingly, it is therefore

ORDERED AND ADJUDGED that preliminary approval of the settlement memorialized in the Settlement Agreement is granted; and it is further

ORDERED AND ADJUDGED that Bouklas Gaylord LLP be appointed as class counsel, and Plaintiff Eric Veras as the class representative; and it is further

ORDERED AND ADJUDGED that the proposed Class notice and Claim form are approved, and directs its distribution to the Class; and it is further

ORDERED AND ADJUDGED that The Court provisionally certifies the following class under Article 9 of the CPLR is provisionally certified, for settlement purposes only:

Named Plaintiff and All current and former employees who worked at Defendants' Fresh & Co. location at 425 Park Avenue South, New York, New York in the State of New York during the Class Period who worked at least 75 shifts and were required as a condition of their employment to wear a uniform that required ironing, dry cleaning, daily washing, commercial laundering, or other treatment, and/or made of wash and wear materials, and/or may be routinely washed and dried with other personal garments, and/or were not furnished in sufficient number or reimbursed by the employer for a sufficient number of uniforms, consistent with the average number of days per week worked by the employee, and were not provided uniform maintenance pay or reimbursement.

and it is further

ORDERED AND ADJUDGED that the following settlement procedure be adopted:

- 1) Within 30 days after the Court issues its Order Granting Preliminary Approval, the Defendant as Settlement Claims Administrator shall mail, via First Class United States mail, postage prepaid, the court-approved Class Notice and Claim Form to all Settlement Class Members.
- 2) Settlement Class members will have 60 calendar days after the date the Class Notice and Claim Form is mailed to submit a Claim Form or to request exclusion from the Settlement Class.
- 3) Settlement Class members will have 60 calendar days after the date the Notice is mailed to object to the Settlement.
- 4) Class Counsel shall file a Motion for Final Approval on or before 12/20/2022.
- 5) The Court will hold a final Fairness Hearing on 1/18/2023 at 11am, at the Supreme Court of the State of New York, County of New York, located at 80 Centre Street, New York, NY 10013 in courtroom 308.

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9/19/2022

DATE

LYLE E. FRANK, 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