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F I L E D
Clerk of the Superior Court

AUG 30 2012

By: R. SMITH, Deputy

RMA

VIA FAX

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

MARINA PUCHALSKI and RAJEEV
CHHIBBER, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

TACO BELL CORP., a California
Corporation, and DOES 1-20, inclusive,

Defendants.

Case No.: GIC 870429

~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT

Hon. Kevin A. Enright
Dept: 74

1 The Motion for Final Approval of the settlement reached between plaintiffs, Marina
2 Puchalski, Rajeev Chhibber and the certified class, and defendant, Taco Bell Corp., and for final
3 approval of Class Counsel's Application for Statutory Attorney's Fees and Costs, Application for
4 Enhancement Awards for the Class Representatives and the Twenty-Five (25) class members who
5 testified at trial, and Application for Costs for the Claims Administrator was heard on August 17,
6 2012. On June 4, 2012, this Court signed the Order Granting Preliminary Approval of Settlement.
7 The Court Ordered that adequate notice be given to the Class Members in accordance with the
8 Preliminary Approval Order and the parties' Settlement Agreement.
9

10 The Court has read and considered all papers filed herein, including the Settlement
11 Agreement and Release of All Claims (hereinafter "Settlement Agreement"), Plaintiffs' Motion for
12 Final Approval of Class Action Settlement and Award of Attorney Fees, Costs and Enhancements
13 ("Motion") and supporting documents, including the Supplemental Declarations of Class Counsel.
14 The Court notes that that the Motion was not opposed and no Class Member filed an objection to
15 any aspect of the settlement. The Court also notes that only one class member opted-out of the
16 proposed settlement. In addition, this Court has had the opportunity to view the efforts of Class
17 Counsel, Charles A. Jones, Jones Law Firm, Edward J. Wynne, Wynne Law Firm, and Peter F.
18 Klett, Dickinson Wright PLLC, during the course of the four month trial in this case and as such
19 comments very favorably on the skill, expertise and professionalism demonstrated by Class
20 Counsel during the course of this complex and protracted trial. This case was heavily litigated and
21 aggressively defended for over six (6) years. Class Counsel successfully guided this case through
22 class certification and defeated ~~several~~ ^{*r. e.*} motions to decertify this case prior to the commencement of
23 trial. In view of the diligent efforts in a complex area of the law presenting many novel questions
24 of law, the significant monetary results obtained on behalf of the class members, and having
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1 considered all papers filed and proceedings herein and otherwise being fully informed in the
2 matter, and good cause appearing therefore,

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- 4
- 5 1. This Order and Judgment Granting Final Approval of Settlement ("Final Approval
6 Order and Judgment") incorporates by reference the definitions set forth in the
7 Settlement Agreement, and all terms used herein shall have the same meaning as set
8 forth in the Settlement Agreement.

 - 9 2. This Court has jurisdiction over the subject matter of this litigation and over all parties
10 to this litigation, including all members of the Classes. This Court will have
11 continuing jurisdiction over this matter until all obligations outlined in the Settlement
12 Agreement have been complied with and thereafter if any issues pertaining to this case
13 and/or settlement arise.

 - 14 3. The notice given to the Class of the settlement as described in the Settlement
15 Agreement and Preliminary Approval Order constituted the best notice practicable
16 under the circumstances. The notice program provided due and adequate notice of
17 these proceedings and of the matters set forth in the notice, including the settlement set
18 forth in the Settlement Agreement, to all persons and entities entitled to such notice,
19 and the notice program fully satisfied the requirements of due process and applicable
20 law. The Court further finds that the mailing of the Notice of Settlement to the class
21 members was properly administered by CPT Group, Inc., pursuant to Court order and
22 that in connection with the mailing of the notice the response was very favorably
23 received by class members. Only one class members filed a request for exclusion and
24 no class member filed an objection to any aspect of the Settlement.
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1 4. This Court hereby approves the settlement set forth in the Settlement Agreement and
2 finds that the settlement is, in all respects, fair, reasonable, adequate and in the best
3 interest of the Class. In making this determination, the Court has considered the
4 following factors, among others: the strength of the Plaintiffs' case; the risk, expense,
5 and complexity of the litigation; the likely duration of further litigation; the risk of
6 maintaining class status throughout trial; the nature and extent of the discovery
7 exchanged between the parties; the fact that the settlement resulted from multiple
8 arm's-length negotiations; the fact that the settlement confers a substantial economic
9 benefit to a large number of class members; the evidence put before this Court during
10 trial; the experience and views of counsel for both parties; and the lack of any
11 objections by Settlement Class Members. Consummation of the settlement in
12 accordance with the terms and provisions of the Settlement Agreement is therefore
13 approved. The settlement shall be binding upon all members of the Class who did not
14 timely elect to be excluded from the Class when the opportunity was provided by the
15 Court.

16
17 5. Pursuant to the Settlement Agreement, the effective date of the settlement shall be
18 thirty-five (35) days after a Notice of Entry of this Order and Judgment granting Final
19 Approval of the Settlement in this case.

20
21 6. Defendant, Taco Bell, shall pay the total gross sum of Twenty Million Dollars
22 (\$20,000,000) to the Settlement Administrator within thirty-five (35) days of the entry
23 of this Order. The Settlement Administrator is directed to immediately place these
24 funds into a federally insured interest bearing escrow account as provided for in the
25 Settlement Agreement. This sum shall represent the total consideration to be paid by
26 defendant in connection with the settlement.

1 7. The following payments shall be made from the Settlement Fund: (1) payment of
2 attorney's fees and costs, in the amount of Ten Million, Eight Hundred Thousand
3 Dollars (\$10,800,000); (2) the payment of enhancement awards to each of the Class
4 Representatives of Fifty Thousand Dollars (\$50,000) and payment to each of the
5 twenty-five (25) class members who testified at trial in the amount of Two Thousand
6 Dollars (\$2,000); (3) the payment of costs and administrative fees to the Settlement
7 Administrator, C.P.T. Group, Inc., in the amount of Twenty One Thousand, Three
8 Hundred and Four Dollars (\$21,304). Once all of the above payments have been made,
9 all amounts remaining in the Settlement Fund, as discussed herein, shall be distributed
10 to the class members and Bankruptcy Trustees who timely filed valid claim forms
11 pursuant to section IV (M) of the Settlement Agreement.

12
13 8. With respect to the eight (8) Bankruptcy Trustees who filed claim forms, settlement
14 checks shall be made payable to the Bankruptcy Trustee for the estate of the
15 corresponding class member for whom the Bankruptcy Trustee filed a claim and not to
16 the class member.

17
18 9. The Settlement Administrator, CPT Group, Inc., shall calculate the amount of each
19 class member's settlement check as further described in the Settlement Agreement at
20 section IV (M). All class members who timely submitted valid claims and did not
21 exclude themselves from this settlement will be paid their settlement payments out of
22 the Net Settlement Fund in accordance with the time frame provided in the Settlement
23 Agreement Section I. The Settlement Administrator shall mail the settlement awards to
24 the class members within forty (40) days of the signing of this order.

25
26 10. Proof of the payments outlined in paragraphs 7 through 9 of this Final Order and
27 Judgment will be filed with the Court by the Settlement Administrator and provided to
28 Class Counsel and Defense Counsel.

1 11. Undeliverable or un-cashed checks will be governed by section IV (R) of the
2 Settlement Agreement. After all settlement payments, attorney's fees and costs, claims
3 administration costs, enhancement payments to the class representatives and twenty-
4 five (25) class members who testified at trial, and taxes have been paid and distributed
5 from the Settlement Fund, the Claims Administrator shall inform Class Counsel and
6 Defense Counsel of the total value of the Unclaimed Settlement Funds.

7
8 12. Neither the fact of settlement, nor the Settlement Agreement (or any other mediation
9 or settlement-related documents or data), nor any of the negotiations or proceedings
10 connected with the settlement, nor any act performed or document executed pursuant to
11 or in furtherance of the settlement, shall be construed as an admission or evidence of
12 the truth of the allegations in this Action, or of any liability, fault, or wrongdoing of
13 any kind.

14
15 13. All valid claims filed by Class Members on or before September 14, 2012 will be
16 honored. With respect to any Class Members who file untimely claims after
17 September 14, 2012, the Court hereby finds that those claims shall not be allowed and
18 that the Claims Administrator may notify them accordingly. Any Class Member who
19 previously excluded him/herself from this action shall not be entitled to receive any
20 settlement proceeds stemming from this settlement.

21
22 14. The Court hereby approves Class Counsel's application for the payment of attorney's
23 fees in the amount of \$10,000,000. The Settlement Administrator is directed to pay
24 Class Counsel's attorney's fees in the amount of \$10,000,000, within thirty-five (35)
25 days of the signing of this Order to the following Class Counsel: Jones Law Firm,
26 Wynne Law Firm, Dickinson Wright PLLC, and Righetti Glugoski P.C.. The total
27 amount of hours spent by the attorneys representing the class is 19,949 hours. Thus,
28 the effective hourly rate for Class Counsel is \$501.27 an hour. The Court notes that

1 this effective hourly rate is far less than the rates at which Class Counsel have been
2 approved by other Courts. The fact that Class Counsel are receiving a lower effective
3 hourly rate than that at which they have been approved in other cases is not a reflection
4 on the quality of the work performed by Class Counsel in this case: rather it is due to
5 the unique aspects of this settlement and the substantial number of hours spent by Class
6 Counsel in prosecuting this case over the last six years. The Court finds that an award
7 of attorney's fees in the amount of \$10,000,000 is reasonable and justified based on the
8 following: (1) this was a unique case that involved numerous novel and complex
9 issues of law; (2) this case was heavily litigated and aggressively defended over the
10 course of the last six years; (3) the quality of representation by all counsel involved in
11 this case was extremely high; (4) the effective hourly rate for Class Counsel is far less
12 than the hourly rate of lead defense counsel (\$795 per hour); (5) the amount of
13 attorney's fees awarded to Class Counsel are nearly \$2,000,000 less than the amount
14 of attorneys fees paid by Taco Bell to defend this action; (6) the firms representing
15 Taco Bell are very well respected in the legal community and proved to be very
16 formidable opponents which required increased attention and work on this case by
17 Class Counsel; (7) this case is one of only a handful of wage and hour class action
18 cases in this State that has actually gone to trial; (8) unlike many settlements in class
19 actions which settle either pre or post-certification or pre-trial, this case settled during
20 its fourth month of trial; (9) Class Counsel has yet to be compensated for the
21 substantial amount of work completed in this case over the course of the last six years;
22 (10) due to the unique demands associated with this case, Class Counsel was precluded
23 from taking on other cases while prosecuting this case; (11) this settlement is a non-
24 reversionary, total payout settlement; (12) not a single class member objected to any
25 aspect of this settlement; (13) this settlement resulted in substantial monetary recovery
26 for a large number of class members; and (14) the monetary recovery for the class
27 members in this case compares very favorably and is much higher than the monetary
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1 recovery obtained for class members in other similar wage and hour class action
2 settlements.

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4 15. The Court hereby approves Class Counsel's application for the reimbursement of
5 litigation costs in the amount of \$800,000. The Settlement Administrator is directed to
6 pay Class Counsel's litigation costs in the amount of \$800,000 within thirty-five (35)
7 days of the signing of this Order. The Settlement Administrator is directed to pay the
8 \$800,000 in litigation costs to the following Class Counsel: Jones Law Firm,
9 Wynne Law Firm, Dickinson Wright PLLC, Righetti Glugoski P.C..

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11 16. The Court hereby approves the application for enhancement awards to Class
12 Representatives Marina Puchalski and Rajeev Chhibber in the amount of \$50,000,
13 each. The Court hereby approves the application of enhancement awards to each of the
14 following twenty-five (25) class members who testified at trial in the amount of
15 \$2,000: Michelle Kafity, Mallisa Baustian, Nora Markert, Randolph Clark, Sheryl Nix
16 Kaufman, Andrea Ferguson, Jacob Dittburner, James Petersen, Sajjad Amhad, Bijan
17 Amir, Carlos Diaz, Kalif Omar, Chi Hatwood, Rene Rodriguez, Reymundo Santibanes,
18 Berta Hernandez, Brian Cooper, Paul Shouse, Jose Torres, Carmen Santiago, Kwan
19 Tuchinda, Greg Carlos Jr., Adan Santos, Araceli Madrigal and Carrie Landgraf. The
20 Settlement Administrator is directed to pay the above enhancement awards
21 within thirty-five (35) days of the signing of this Order.


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23 17. The Court hereby approves the payment of costs to the Settlement Administrator, CPT
24 Group, Inc., in the amount of \$ 21,304.

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26 18. This Final Approval Order and Judgment is entered pursuant to the Stipulation of the
27 parties and is intended to effectuate the settlement more fully described in the
28 Stipulation.

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19. The parties are mutually released, as provided in the Settlement Agreement.

Dated: August 30, 2012

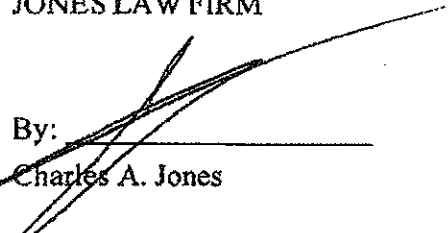


Honorable Kevin A. Enright
Judge of the Superior Court

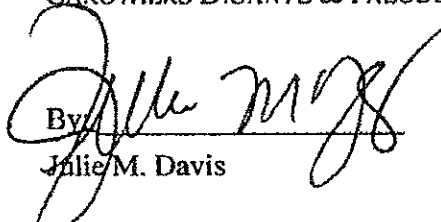
Approved as to form and content:

Class Counsel
JONES LAW FIRM

Defense Counsel
CAROTHERS DiSANTe & FREUDENBERGER LLP

By: 

Charles A. Jones

By: 

Julie M. Davis