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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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RENE CANALES; ALICIO ZAVALA and
ASTRID AIMEÉ ORTIZ, on behalf of themselves
and other similarly situated current and former

09 Civ. 4674 (RJS)

Plaintiffs,

-against-

115 BROADWAY CORP. d/b/a PANINI & CO.;
120 GREENWICH STREET CAFÉ CORP.
d/b/a FREDDO CAFE; ASAM CORP. and
ANGELO TZORZATOS,

FINAL ORDER
OF APPROVAL

Defendants.

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RICHARD J. SULLIVAN, District Judge:

This matter came before the Court for hearing pursuant to the Order of this Court, dated March 1, 2011, on the application of the parties for approval of the settlement set forth in the Stipulation of Settlement. Due and adequate notice has been given to the Class as is required in said Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause for appearing therefore, IT IS HEREBY ORDERED that:

1. This Order of Final Approval incorporates by reference the definitions in the Stipulation of Settlement, and all terms used herein shall have the same meanings as set forth in the Stipulation of Settlement, unless otherwise set forth herein.
2. This Court has jurisdiction over the subject matter of the Federal Action and over all parties to the Federal Action, including all Members of the Class.
3. The Court finally certifies, for settlement purposes only, a Class defined as “all current and former cashiers, deli workers and/or manual laborers who worked for Defendants at

any time from May 18, 2003 through the present.”

4. With respect to the Class, this Court finds that: (a) the Members of the Class are so numerous that joinder of all Class Members in the class action is impracticable; (b) there are questions of law and fact common to the Class which predominate over any individual questions; (c) the claims of the Class Representatives are typical of the claims of the Class; (d) the Class Representatives and Class Counsel have fairly and adequately represented and protected the interests of the Class Members; and (e) a class action is superior to other available methods for the fair and efficient adjudication of the controversy, considering: (i) the interests of the Members of the Class in individually controlling the prosecution of separate actions; (ii) the extent and nature of any litigation concerning the controversy already commenced by members of the Class, (iii) the desirability of concentrating the litigation of these claims in this particular forum, and (iv) the difficulties likely to be encountered in the management of the class action.¹

5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby approves the settlement set forth in the Stipulation of Settlement and finds that said settlement is, in all respects, fair, just, reasonable and adequate to the Class.

6. The formula for payments to Members of the Settlement Class and the claims administration process are fair, reasonable, adequate and in the best interests of the Class.

7. The Court finds that the Stipulation of Settlement is fair, just, reasonable, and

¹ The Court has previously expressed concern that by proceeding as a Rule 23 class action, rather than a collective action pursuant to the Fair Labor Standards Act, there is a greater possibility that unidentified class members will unknowingly forfeit their claims. (*See* Order dated February 18, 2011, Doc. No. 69). Nevertheless, the Court is persuaded that the settlement reached in the instant case is fair and that notice to the class was the best practicable, such that resolution of the case as a class action is superior to other available methods of adjudication in light of all the facts and circumstances of this matter.

adequate as to each of the Members of the Class, and that the Stipulation of Settlement is hereby finally approved in all respects, and the Parties are hereby directed to perform its terms.

8. The Notice of Proposed Settlement of Class and Collective Action Lawsuit (the “Class Notice”), which included the individual notice to all members of the class who could be identified through reasonable effort, provided the best notice practicable under the circumstances of these proceedings and of the matters set forth therein, including the proposed settlement set forth in the Stipulation of Settlement, to all persons entitled to receive such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process.

9. Class Counsel’s application for attorneys’ fees and expenses in the amount of \$65,000 is granted.

10. Class Representative Rene Canales’s application for an Incentive Award of \$10,000 is granted.

11. Neither the Stipulation of Settlement nor any act performed or document executed pursuant to or in furtherance of the Stipulation of Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Defendants; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any other Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

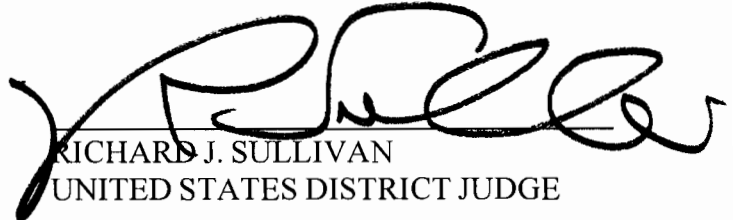
12. This Court hereby retains continuing jurisdiction over: (a) implementation of this settlement and any award or distribution of the Settlement Amount; (b) the disposition of the Settlement Fund; and (c) all parties hereto for the purpose of construing, enforcing and administering the Stipulation of Settlement.

13. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation of Settlement, or the Effective Date does not occur, then this Order shall be rendered null and void to the extent provided by and in accordance with the Stipulation of Settlement and shall be vacated.

The Clerk of Court is respectfully directed to terminate the motions located at docket numbers 63 and 72 and to close this case.

SO ORDERED.

Dated: July 5, 2011
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE