

JS-6

**NOTE CHANGES MADE BY THE COURT**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAVID ETTEDGUI, an individual,  
on behalf of himself and on behalf of  
all persons similarly situated,

Plaintiffs,

vs.

WB STUDIO ENTERPRISES INC.,  
a corporation; and DOES 1 through  
50, inclusive,

Defendant.

CASE NO. 2:20-cv-08053-MCS-JDE

Assigned to: Hon. Mark C. Scarsi

**~~PROPOSED~~ ORDER:**

- (1) GRANTING FINAL APPROVAL  
OF CLASS ACTION  
SETTLEMENT (ECF NO. 74);**
- (2) GRANTING IN PART AND  
DENYING IN PART MOTION  
FOR ATTORNEY FEES AND  
COSTS (ECF NO. 73); AND**
- (3) ENTERING FINAL JUDGMENT**

1           On May 23, 2022 at 9:00 a.m., a hearing was held on the motion of  
2 Plaintiff David Ettedgui (“Plaintiff”) for final approval of the class settlement (the  
3 “Settlement”) with Defendant WB Studio Enterprises Inc. (“Defendant”) and  
4 payments to the Class, Aggrieved Employees, the Plaintiff, Class Counsel, and the  
5 Settlement Administrator.

6           The Parties have submitted their Settlement, which this Court  
7 preliminarily approved by its Order on January 26, 2022 (Docket No. 52) (the  
8 “Preliminary Approval Order”). In accordance with the Preliminary Approval  
9 Order, Class Members and the Aggrieved Employees have been given notice of the  
10 terms of the Settlement and the opportunity to comment on and/or object to the  
11 Settlement. In addition, Class Members have been given the opportunity to exclude  
12 themselves from the Settlement.

13           Having received and considered the Settlement, the supporting papers  
14 filed, and the evidence and argument received by the Court before entering the  
15 Preliminary Approval Order and at the final approval hearing, the Court **GRANTS**  
16 final approval of the Settlement, enters this Final Approval Order and Judgment  
17 (“Final Approval Order and Judgment” or “Order”), and **HEREBY ORDERS** and  
18 **MAKES DETERMINATIONS** as follows:

19           1. The Court has jurisdiction over this Action and the Settlement pursuant  
20 to 28 U.S.C. sections 1132(a) and 1332(d). The Court further has jurisdiction over  
21 all parties to the Action, including members of the Class and all Aggrieved  
22 Employees. The Court finds that the CAFA Notice has been served as required by  
23 the Class Action Fairness Act, 28 U.S.C. § 1711 *et seq.* (“CAFA”).

24           2. Except as otherwise specified herein, the Court for purposes of this  
25 Final Approval Order and Judgment adopts all defined terms set forth in the Class  
26 Action Settlement Agreement (“Agreement”).

27           3. For settlement purposes only, the Court finds that Plaintiff is an  
28 adequate representative of the Class and appoints him as such. The Court also

1 approves a representative action under the Private Attorneys General Act,  
2 California Labor Code section 2698 et. seq. (“PAGA”) on behalf of the Aggrieved  
3 Employees and finds that Plaintiff is also an adequate representative of the  
4 Aggrieved Employees.

5 4. The Court finds that Blumenthal Nordrehaug Bhowmik De Blouw  
6 LLP has adequately represented the Class and the Aggrieved Employees and are  
7 appointed as Class Counsel for the Class and as counsel for the represented  
8 Aggrieved Employees.

9 5. In the Preliminary Approval Order, this Court certified the Class and a  
10 representative action on behalf of the Aggrieved Employees for settlement purposes  
11 only. For settlement purposes only, the Court confirms the certification of the  
12 Class which is defined as all individuals who worked for Defendant in California as  
13 non-exempt employees who were Tour Guides/Floaters as at any time during the  
14 Class Period. The Class Period is June 29, 2016 through May 27, 2021. For  
15 settlement purposes only, the Court further confirms the manageability of the  
16 representative action on behalf of the Aggrieved Employees, which is defined as all  
17 individuals who worked for Defendant in California as non-exempt employees who  
18 were Tour Guides/Floaters at any time during the PAGA Period. The PAGA  
19 Period is February 17, 2019 through May 27, 2021.

20 6. There were four (4) valid Requests for Exclusion to the Settlement in  
21 response to the Class Notice. The individuals who validly requested exclusion are:  
22 Tanner Conant, Matthew Harrison, Kenneth W. Sapp Jr., and James Foye.

23 7. Pursuant to the Preliminary Approval Order, the Notice of Pendency of  
24 Class Action Settlement and Hearing Date for Court Approval (“Class Notice”) was  
25 sent to each Class Member and Aggrieved Employee by first-class mail. The Class  
26 Notice informed Class Members of the terms of the Settlement, their right to  
27 receive a Settlement Share, their right to comment on or object to the Settlement  
28 and/or the attorneys’ fees and costs application, their right to elect not to participate

1 in the Settlement and pursue their own remedies, and their right to appear in person  
2 or by counsel at the final approval hearing and be heard regarding approval of the  
3 Settlement. The Class Notice further informed Aggrieved Employees of the PAGA  
4 settlement, including their right to receive a share of the PAGA Payment and to  
5 comment or object to that portion of the Settlement. Adequate periods of time were  
6 provided for each of these procedures.

7 8. The Court finds and determines that this notice procedure afforded  
8 adequate protections to Class Members and Aggrieved Employees and provides the  
9 basis for the Court to make an informed decision regarding approval of the  
10 Settlement based on the responses of Class Members and/or Aggrieved Employees.  
11 The Court finds and determines that the Class Notice provided in this case was the  
12 best notice practicable, which satisfies the requirements of law and due process.

13 9. No Class Members and/or Aggrieved Employees filed written  
14 objections to the proposed settlement as part of this notice process.

15 10. For the reasons stated in the Preliminary Approval Order, the Court  
16 finds and determines that the terms of the Settlement are fair, reasonable and  
17 adequate to the Class and the Aggrieved Employees when balanced against the  
18 probable outcome of extensive and costly litigation. Substantial investigation and  
19 research have been conducted such that counsel for the Parties are reasonably able  
20 to evaluate their respective positions. It appears to the Court that Settlement will  
21 avoid substantial additional costs by all Parties, as well as the delay and  
22 uncertainties that would be presented by further prosecution of the Action. The  
23 Court finds the Settlement that has been reached is the result of intensive, non-  
24 collusive, arm's-length negotiations, including mediation with an experienced,  
25 third-party neutral.

26 11. The Court finds and determines that all Participating Class Members  
27 and Aggrieved Employees will be bound by the Settlement, that the Settlement is  
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1 ordered finally approved, and that all terms and provisions of the Settlement should  
2 be and hereby are ordered to be consummated.

3 12. The Court finds and determines that the all-inclusive Gross Settlement  
4 Amount in the amount of Seven Hundred Twenty Thousand Dollars (\$720,000.00)  
5 and the Settlement Shares to be paid to the Participating Class Members as  
6 provided for by the Settlement are fair and reasonable. The Court hereby grants  
7 final approval to and orders the payment of those amounts be distributed to the  
8 Participating Class Members out of the Net Settlement Amount in accordance with  
9 the Agreement. Pursuant to the terms of the Agreement, the Settlement  
10 Administrator is directed to make the payments to each Participating Class Member  
11 in accordance with the Agreement.

12 13. The Court finds and determines that the fees and expenses of Simpluris  
13 in administering the settlement, in the amount of \$20,000, are fair and reasonable.  
14 The Court hereby grants final approval to and orders that the payment of that  
15 amount be paid out of the Gross Settlement Amount in accordance with the  
16 Agreement.

17 14. The Court approves the PAGA Payment of \$20,000, which \$15,000  
18 shall be allocated to the Labor Workforce Development Agency ("LWDA") as the  
19 LWDA's share of the settlement of civil penalties paid under this Agreement  
20 pursuant to the PAGA, and \$5,000 will be distributed to the Aggrieved Employees  
21 to be allocated based on the number of pay periods worked as an Aggrieved  
22 Employee during the PAGA Period.

23 15. The Court finds and determines that the request by Plaintiff and Class  
24 Counsel for the Class Representative Service Payment and an attorneys' fees and  
25 costs award pursuant to their application for such awards (as limited by the  
26 Agreement) are fair and reasonable. The Court hereby grants final approval to and  
27 orders that the payment of the amounts of ~~\$10,000~~ **\$5,000** to the Plaintiff for his  
28 Class Representative Service Payment, \$240,000 for attorneys' fees to Class

1 Counsel, and \$17,774.86 for reimbursement of costs be paid out of the Gross  
2 Settlement Amount in accordance with the Agreement.

3 16. Upon the occurrence of the Effective Date and the funding of the  
4 Settlement, the Participating Class Members shall irrevocably release, acquit, and  
5 forever discharge the Released Class Claims as to Defendant and the Released  
6 Parties. "Released Class Claims" are any and all claims, liabilities, rights,  
7 demands, suits, matters, obligations, liens, damages, losses, costs, expenses, debts,  
8 actions, and causes of action, of every kind and/or nature whatsoever, which any  
9 Participating Class Member now has or at any time ever had against any of the  
10 Released Parties that is alleged in the operative Complaint or that could have been  
11 alleged based on the facts alleged in the operative Complaint, including: (a) meal  
12 period penalties allegedly owed to the Participating Class Members by Defendant  
13 during the Class Period; (b) rest period penalties allegedly owed to the Participating  
14 Class Members by Defendant during the Class Period; (c) violation or alleged  
15 violation of California Labor Code Sections 201, 202, 203, 226, 226.7, 512, and  
16 2802 and/or any California Industrial Commission Wage Order or other statute or  
17 regulation regarding meal and rest periods; (d) attorneys' fees due or allegedly due  
18 under California Labor Code or any other statute, regulation, or contractual  
19 provision providing for such fees in connection with the operative Complaint; and  
20 (e) penalties or other payments which are based on any of the foregoing, including  
21 penalties, premiums, or payments under California Labor Code Sections 201, 202,  
22 203, 226, 226.7, 512, and 2802 and/or any violation of the California Industrial  
23 Commission Wage Order alleged in the operative Complaint ("Released Class  
24 Claims"). Without in any way limiting the foregoing, the Released Class Claims  
25 shall include all claims, liabilities, rights, demands, suits, matters, obligations, liens,  
26 damages, losses, costs, expenses, debts, actions, and causes of action under statutes  
27 and regulations set forth in this paragraph, whether enforced directly or pursuant to  
28 California Labor Code Section 2699, California Business and Professions Code

1 Section 17200, *et seq.*, or any other mechanism. The Released Class Claims do not  
2 include claims for vested benefits, wrongful termination, unemployment insurance,  
3 disability, social security, workers' compensation, and claims outside of the Class  
4 Period.

5 17. Upon the occurrence of the Effective Date and the funding of the  
6 Settlement, (i) Plaintiff, in his capacity as a private attorney general for, and proxy  
7 or agent of, the LWDA, and (ii) the LWDA, as the real party in interest, both will  
8 irrevocably release, acquit, and forever discharge Defendant and the Released  
9 Parties of all PAGA claims for civil penalties pled in the operative Complaint or in  
10 the Class Representative's letter to the LWDA, dated February 17, 2020, which  
11 arose during the PAGA Period or could have been alleged based on the factual  
12 allegations contained in the operative Complaint or letters sent by Plaintiff that  
13 occurred during the PAGA Period as to the Aggrieved Employees, including: (a)  
14 PAGA claims predicated on meal period penalties allegedly owed to the Aggrieved  
15 Employees by Defendant during the PAGA Period; (b) PAGA claims predicated on  
16 rest period penalties allegedly owed to the Aggrieved Employees by Defendant  
17 during the PAGA Period; (c) PAGA claims predicated on violation or alleged  
18 violation of California Labor Code Sections 201, 202, 203, 226, 226.7, 512, and  
19 2802 and/or any California Industrial Commission Wage Order or other statute or  
20 regulation regarding meal and rest periods; (d) attorneys' fees due or allegedly due  
21 under PAGA in connection with the operative Complaint; and (e) PAGA penalties  
22 which are based on any of the foregoing, including PAGA penalties predicated on  
23 penalties, premiums, or payments allegedly due under California Labor Code  
24 Sections 201, 202, 203, 226, 226.7, 512, and 2802 and/or any California Industrial  
25 Commission Wage Order ("Released PAGA Claims"). The Released PAGA  
26 Claims exclude any PAGA claims outside the PAGA Period. The release of the  
27 Released PAGA Claims shall be effective as to all Aggrieved Employees,  
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1 regardless of whether an Aggrieved Employee submitted a request to be excluded  
2 from the Settlement.

3 18. Upon the occurrence of the Effective Date and the funding of the  
4 Settlement, the Plaintiff also irrevocably releases, acquits, and forever discharges  
5 Defendant and the Released Parties from any and all claims, transactions or  
6 occurrences between them, inclusive of the Released Class Claims, the Released  
7 PAGA Claims, and any claims arising from his employment with Defendant and  
8 separation of said employment with Defendant (“Plaintiff’s Released Claims”).  
9 Notwithstanding the foregoing, this waiver and release of claims does not extend to  
10 any rights which as a matter of law cannot be waived and released by private  
11 agreement, including rights to sue to enforce this Agreement and rights to vested  
12 benefits, unemployment benefits, disability benefits, social security benefits, and  
13 workers’ compensation benefits and claims.

14 19. The Released Class Claims, Released PAGA Claims, and Plaintiff’s  
15 Released Claims include any claim of the kind described in Paragraphs 16, 17,  
16 and/or 18 above whether or not Plaintiff or any Class Member or Aggrieved  
17 Employee has directly or indirectly assigned, transferred, encumbered, or purported  
18 to assign, transfer, or encumber, to any person or entity, whether by operation of  
19 law or otherwise, any portion of any Released Class Claims, Released PAGA  
20 Claims, or Plaintiff’s Released Claims.

21 20. All Participating Class Members shall be bound by all of the applicable  
22 releases and other terms of the Agreement and this Final Approval Order and  
23 Judgment, whether or not they actually receive or cash their settlement checks for  
24 their Settlement Share, and shall not be permitted to seek any further payment or  
25 any personal relief of any kind, including any payment for damages, wages,  
26 compensation, fees, costs, penalties, or interest, other than their respective  
27 Settlement Share on account of the Released Class Claims.  
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1           21. All Aggrieved Employees shall be bound by all of the applicable  
2 releases and other terms of the Agreement and this Final Approval Order and  
3 Judgment, whether or not they actually receive or cash their settlement checks for  
4 their share of the PAGA Payment, and shall not be permitted to seek any further  
5 payment or any personal relief of any kind, including any payment for damages,  
6 wages, compensation, fees, costs, penalties, or interest, other than their share of the  
7 PAGA Payment on account of the Released PAGA Claims.

8           22. Each Participating Class Member and each Aggrieved Employee shall  
9 not hereafter, individually or as a member of any class or representative proceeding,  
10 file any civil action, lawsuit, grievance, demand for arbitration, charge, claim,  
11 and/or administrative complaint against Defendant or any of the Released Parties,  
12 based upon any Released Class Claims or Released PAGA Claims.

13           23. Nothing in this order shall preclude any action to enforce the Parties'  
14 obligations under the Settlement or under this Order, including the requirement that  
15 Defendant make payment in accordance with the Agreement.

16           24. If, for any reason, the Effective Date (as defined by the Agreement)  
17 does not occur, this Order will be vacated; the Parties will return to their respective  
18 positions in this action as those positions existed before the Parties executed the  
19 Agreement; and nothing stated in the Agreement or any other papers filed with this  
20 Court in connection with the Settlement will be deemed an admission of any kind  
21 by any of the Parties or used as evidence against, or over the objection of, any of  
22 the Parties for any purpose in this action or in any other action.

23           25. The Parties entered into the Settlement solely for the purpose of  
24 compromising and settling disputed claims. Defendant in no way admits any  
25 violation of law or any liability whatsoever to Plaintiff, the Class, and/or the  
26 Aggrieved Employees, individually or collectively. All liability is expressly denied  
27 by Defendant. Defendant further in no way admits that class certification is  
28 appropriate as it relates to the Class or that Plaintiff's representative PAGA action

1 is manageable as it relates to the Aggrieved Employees for any purposes unrelated  
2 to the Settlement.

3 26. Without affecting the finality of this Final Approval Order and  
4 Judgment in any way, the Court retains jurisdiction of all matters relating to the  
5 interpretation, administration, implementation, effectuation and enforcement of this  
6 Order and the Settlement.

7 27. Each side will bear its own costs and attorneys' fees except as  
8 provided by the Agreement and this Order.

9 28. Class Counsel shall provide a copy of this Final Approval Order and  
10 Judgment to the LWDA within 10 days after entry.

11 **29. The Court GRANTS the Motion for Settlement Approval (ECF**  
12 **No. 74) and GRANTS IN PART AND DENIES IN PART the Motion for**  
13 **Attorney Fees and Costs (ECF No. 73) consistent with this Order.**

14 30. By means of this Order, this Court hereby enters final judgment in this  
15 action, as defined in Rule 58(a)(1), Federal Rules of Civil Procedure.

16 31. The Parties are hereby ordered to comply with the terms of the  
17 Agreement.

18 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

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20 DATED: May 23, 2022  
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22 **MARK C. SCARSI**  
23 **UNITED STATES DISTRICT JUDGE**  
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