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FILED
Superior Court of California
County of Los Angeles

03/15/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: L. McGreené Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, SPRING STREET COURTHOUSE**

JANINE SALINAS, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

JAFRA COSMETICS INTERNATIONAL,
INC., a Delaware corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 20STCV04284

Assigned for All Purposes To:

Hon. Carolyn Kuhl

Dept.: SS-12

CLASS ACTION

**~~[PROPOSED]~~ ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
THE CLASS ACTION SETTLEMENT**

Date: February 17, 2022

Time: 10:30 a.m.

Place: Department 12

Complaint Filed: February 3, 2020

First Amended: September 2, 2021

Trial Date: None Set

1 On February 17, 2022 Plaintiffs Janine Salinas and Brandi Johnson's (collectively
2 "Plaintiffs") Motion for Final Approval of Class Action Settlement, Attorneys' Fees and
3 Expenses, and Incentive Award came before the Court, in Department SS-12, for hearing
4 pursuant to the Order of this Court, dated November 3, 2021 ("Preliminary Approval Order"), on
5 the application of Plaintiffs and the Certified Class for approval of the Settlement set forth in the
6 Joint Stipulation of Class Action Settlement (the "Stipulation"). Full and adequate notice having
7 been given to the Class as required in the Court's Preliminary Approval Order, and the Court
8 having considered all papers filed and proceedings held herein and otherwise being fully
9 informed in the premises and good cause appearing therefore,

10 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

11 1. This Order incorporates by reference the definitions in the Stipulation, and all
12 capitalized terms used, but not defined herein, shall have the same meanings as in the
13 Stipulation.

14 2. This Court has jurisdiction over the subject matter of the Action and over all
15 parties to the Action, including all Class Members.

16 3. The Motion for final approval is granted. The Court approves the settlement as
17 fair, reasonable and adequate. The Court makes the following awards and approves the following
18 payments:

19 a. \$50,000.00 in attorneys' fees and \$13,648.94 in costs to Class Counsel,
20 Justice Law Corporation;

21 b. \$7,500.00 to Class Representative Janine Salinas and \$5,000.00 to Class
22 Representative Brandi Johnson;

23 c. \$7,500.00 in costs to the claims administrator CPT Group, Inc.;

24 d. \$5,000.00 for the PAGA claim (\$1,250.00 to be paid to the participating
25 Class Members and \$3,750.00 to be paid to the Labor and Workforce Development Agency);
26 and

27 e. A credit to Defendant in the amount of \$32,500.00, representing the
28 amount previously paid to Class Members and PAGA Members who executed individual

1 settlement agreements.

2 4. In accordance with the Settlement and the terms set forth in this order, this Order
3 shall not be deemed a judgment in favor of class members or any them and shall not constitute an
4 obligation for direct compensation of any one or any number of the Class Members, but rather it
5 simply approves and undertakes to monitor the execution of the settlement between the Parties.
6 Except for the payment due under the Stipulation, the parties are each to bear their own costs and
7 attorneys' fees. The Court approves the Stipulation and Defendant JAFRA COSMETICS
8 INTERNATIONAL, INC. ("Defendant") and the Released Parties are discharged from all
9 Released Claims in accordance with the terms of the Stipulation.

10 5. In this wage and hour class action lawsuit, Plaintiffs sued Defendant for a variety
11 of Labor Code violations. The operative complaint alleges that Defendant failed to pay minimum
12 wages and overtime, failed to provide meal periods and rest breaks, failed to provide accurate
13 wage statements, failed to pay final wages when due, failure to reimburse all necessary business
14 expenditures, committed unfair business practices under California's Unfair Competition Law
15 ("UCL"), and violated the Private Attorneys General Act of 2004 ("PAGA"), all in violation of
16 California law.

17 6. Defendant made and makes no admission of liability and none shall be inferred
18 from the Stipulation or entry of judgment. Neither this order nor the Stipulation shall be used or
19 submitted into evidence in any proceeding or action, except for the sole purpose of enforcing the
20 terms hereof.

21 7. In California, the notice to class members must have "a reasonable chance of
22 reaching a substantial percentage of the class members." *Wershba v. Apple Computer, Inc.*
23 (2001) 91 Cal.App.4th 224, 251. Importantly, however, the plaintiff need not demonstrate that
24 each member of the class received notice. As long as the notice had a "reasonable chance" of
25 reaching a substantial percentage of class members, it should be found effective.

26 8. CPT Group, Inc. is providing settlement administration services for this
27 settlement. (Declaration of Irvin Garcia In Support of Final Approval Motion, ¶¶ 1-2.) On
28 November 16, 2021, CPT received the class information from Defendant. (*Id.* at ¶ 4.) The list

1 contained 97 individuals class/PAGA members. (*Id.* at ¶ 4.) CPT conducted a search of the
2 NCOA to update addresses and, on December 13, 2021, mailed notice to all class members. (*Id.*
3 at ¶¶ 5-7.) CPT forwarded notice packets returned with forwarding addresses and performed skip
4 searches on all other returned mail. (*Id.* at ¶¶ 8-9.) Ultimately, two (2) notice packets were
5 undeliverable. (*Id.* at ¶ 9.) CPT received no objections and only three (3) requests for exclusion.
6 (*Id.* at ¶¶ 11-13.) Based on the foregoing, the Court finds that the notice provided to class
7 members conforms to due process requirements.

8 9. It is the duty of the Court, before finally approving the settlement, to conduct an
9 inquiry in the fairness of the proposed settlement. California Practice Guide, Civil Procedure
10 Before Trial, The Rutter Group, ¶14:139.12 (2012). The trial court has broad discretion in
11 determining whether the settlement is fair. In exercising that discretion, it normally considers the
12 following factors: strength of the plaintiff's case; the risk, expense, complexity and likely
13 duration of further litigation; the risk of maintaining class action status through trial; amount
14 offered in settlement; extent of discovery completed and stage of the proceedings; experience
15 and views of counsel; presence of a governmental participant; and reaction of the class members
16 to the proposed class settlement. *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; *In*
17 *Re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 723. This list is not exclusive and the Court
18 is free to balance and weigh the factors depending on the circumstances of the case. *Wershba v.*
19 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244-245.

20 10. The proponent bears the burden of proof to show the settlement is fair, adequate
21 and reasonable. *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th
22 1135, 1165-1166; *Wershba, supra*, 91 Cal.App.4th at 245. There is a presumption that a proposed
23 settlement is fair and reasonable when it is the result of arms'-length negotiations. 2 Herbert
24 Newburg & Albert Conte, Newburg on Class Actions §11.41 at 11-88 (3d ed. 1992); Manual for
25 Complex Litigation (Third) §30.42.

26 11. At the time of preliminary approval, Class Counsel's claim that Defendant failed
27 to pay minimum wage/overtime claim were valued in terms of maximum exposure at
28 \$434,652.00 (Han Declaration re: Preliminary Approval, at ¶ 33.) Meal break violations were

1 valued, in terms of a maximum exposure, at \$323,190.00, and rest breaks respectively at
2 \$791,343.00 when assuming a 100% violation rate. (Id. at ¶¶ 39-40.) The paystub violations
3 were valued at \$132,000.00. (Id. at ¶ 43.) The claim for failure to pay final wages valued at
4 \$173,986.00. (Id. at ¶ 46.) The claim under Labor Code § 2699 *et seq.* was valued at \$218,600.00
5 (Id. at ¶ 50.)

6 12. Had this case not settled, there would have been additional risks and expenses
7 associated with continuing to litigate. Procedural hurdles (e.g., motion practice and appeals) are
8 also likely to prolong the litigation as well as any recovery by the class members.

9 13. There is always a risk of decertification. *Weinstat v. Dentsply Intern., Inc.* (2010)
10 180 Cal.App.4th 1213, 1226 (“Our Supreme Court has recognized that trial courts should retain
11 some flexibility in conducting class actions, which means, under suitable circumstances,
12 entertaining successive motions on certification if the court subsequently discovers that the
13 propriety of a class action is not appropriate.”)

14 14. As part of the Court’s analysis of this factor, the Court should take into
15 consideration the admonition in *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116,
16 133. In *Kullar*, objectors to a class settlement argued the trial court erred in finding the terms of
17 the settlement to be fair, reasonable, and adequate without any evidence of the amount to which
18 class members would be entitled if they prevailed in the litigation, and without any basis to
19 evaluate the reasonableness of the agreed recovery. The Court of Appeal agreed with the
20 objectors that the trial court bore the ultimate responsibility to ensure the reasonableness of the
21 settlement terms. Although many factors had to be considered in making that determination, and
22 a trial court was not required to decide the ultimate merits of class members’ claims before
23 approving a proposed settlement, an informed evaluation could not be made without an
24 understanding of the amount in controversy and the realistic range of outcomes of the litigation.

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1 15. Defendant has agreed to settle for the non-reversionary amount of \$150,000.00¹
2 all in, with no additional sums being due from Defendant for damages, costs, attorneys' fees,
3 contributions, reimbursements or for any other reason. According to the claims administrator's
4 calculations, the average settlement payment will be \$276.04 per Class Member, with the highest
5 Settlement Share estimated to be \$1,273.70 (Garcia Declaration, ¶ 14.)

6 16. Class Counsel conducted an investigation that included informal discovery,
7 reviewed time records, reviewed Plaintiffs' documents, and formed damage models based on all
8 of these. (Han Declaration re: Preliminary Approval, ("Han PA Decl.") ¶ 14-18.) The parties also
9 mediated this case with Jeffrey Krivis, a respected and highly experienced mediator in wage and
10 hour class actions. (*Id.* at ¶ 12.) In connection with mediation and through discussions with
11 counsel for Defendant, Class Counsel also discussed all aspects of the case, including the risks of
12 litigation and the risks to both parties of proceeding with a motion for class certification as well
13 as the law relating to meal periods. (Han PA Decl., ¶ 18.)

14 17. Class Counsel has experience with wage and hour class litigation. (Han PA Decl.,
15 ¶¶ 3-10.) He is of the opinion that this settlement is in the best interest of the class (Han
16 Declaration re: Final Approval ("Han FA Decl."), ¶¶ 17-18.) and provides substantial benefit to
17 class members. (*Id.*)

18 18. The class reacted very positively with a 97.94% participation rate. (Garcia Decl.,
19 ¶ 17.)

20 19. On balance, this is a fair settlement that satisfies the *Dunk* factors, such that final
21 approval is warranted.

22 20. Class Counsel requested attorneys' fees of \$50,000.00. The Court employs the
23 lodestar method in awarding fees, as opposed to a "percentage of the common fund" method.
24 This amount would reflect the actual work performed, plus a multiplier (if applicable) to
25 recognize counsel's efforts. In common fund cases, the Court may employ a percentage of the

26
27 ¹ The amount deposited into the Qualified Settlement Fund is \$150,000.00 minus a credit in the amount of
28 \$32,500.00, representing the amount previously paid to Class Members and PAGA Members who executed
individual settlement agreements with Defendant.

benefit method, as cross-checked against the lodestar. *Laffitte v. Robert Half Int'l., Inc.* (2016) 1 Cal.5th 480, 503.

21. Here, fees are sought pursuant to the percentage method. The determination of what constitutes an appropriate percentage “is somewhat elastic and depends largely on the facts of a given case, but certain factors are commonly considered. Specifically, the court may address the percentage likely to have been negotiated between private parties in a similar case, percentages applied in other class actions, the quality of class counsel, and the size of the award.” *In re Ikon Office Solutions, Inc., Securities Litigation* (E.D. Pa. 2000) 194 F.R.D. 166, 193.

22. These factors favor the \$50,000.00 award. As for the first factor, private contingency fee agreements are routinely 30% to 40% of the recovery. (*Id.* at 194.) As for the second factor, although the median percentage of attorney fees in class action is 25%, “most fees appear to fall in the range of nineteen to forty-five percent.” (*Id.*) As for the third factor, Class Counsel has experience in class actions, including wage and hour cases. Most importantly, Class Counsel achieved good results for the class as evidenced by the class members’ reaction to the settlement. As for the fourth factor, Class Counsel negotiated a \$150,000.00 Maximum Settlement Amount. Applying the lodestar cross-check, Class Counsel states that members of his firm have spent at least 356.7 hours on this case, with additional hours to come. (Han FA Decl., ¶ 22.) The lodestar is calculated at \$210,302.50. (*Id.*) The hourly rates appear to be reasonable for attorneys with their respective years of experience. (*Id.* at ¶ 22), and the hours spent is reasonable for this case, which has been pending for nearly two years. It appears that Class Counsel utilized skill in litigating this case, and by all accounts, have good reputations in the legal community; at the very least, there is no evidence before the Court to indicate that the attorneys have negative reputations in the legal community. It also appears that Class Counsel spent appreciable time on the case, which time could have been spent on other meritorious fee-generating cases. Based on the \$210,302.50 lodestar, the fee request of \$50,000.00 translates into a negative multiplier as Class Counsel has exceed the fees that they seek to recover. Because the fee request is based on a reasonable percentage of the settlement fund and is supported by the lodestar calculation, and

1 because the class was provided with notice of the fee request and did not object, the Court
2 awards fees in the amount requested.

3 23. Class Counsel requested costs up to \$15,000.00. (Han FA Decl., ¶ 33.) Class
4 Counsel's actual costs, totaling \$13,648.94, consist of filing fees, mediation fees, court
5 appearances, copying, filing and service. (*Id.*, Exhibit H thereto.) These costs appear reasonable
6 and necessary to the conduct of the litigation. Further, as with the fee requests, the maximum
7 cost request was disclosed to class members and deemed unobjectionable. For these reasons, the
8 cost request is granted in the amount of \$13,648.94.

9 24. Claims administrator CPT requests administration costs of \$7,500.00. (Garcia
10 Declaration, ¶ 15.) Based upon the work performed and yet to be performed, and the fact that the
11 class was provided notice of up to \$7,500.00 for claims administration expense and none
12 objected, the request for administration costs of \$7,500.00 is granted.

13 25. The Court also approves the payment to the Labor and Workforce Development
14 Agency ("LWDA") in the amount of \$3,750.00 (out of \$5,000.00 as allocated to the claim under
15 the California Private Attorneys General Act).

16 26. Finally, Class Counsel seeks incentive payments of \$7,500.00 to Brandi Johnson
17 and \$5,000.00 to Janine Salinas. The Court considers the following factors, among others, in
18 determining whether to pay an incentive or enhancement award to a class representative: whether
19 an incentive was necessary to induce the class representative to participate in the case; actions, if
20 any, taken by the class representative to protect the interests of the class; the degree to which the
21 class benefited from those actions; the amount of time and effort the class representative
22 expended in pursuing the litigation; the risk to the class representative in commencing suit, both
23 financial and otherwise; the notoriety and personal difficulties encountered by the class
24 representative; the duration of the litigation; and the personal benefit (or lack thereof) enjoyed by
25 the class representative as a result of the litigation. California Practice Guide, Civil Procedure
26 Before Trial, ¶14:146.10 (The Rutter Group 2012) (citing *Clark v American Residential Services,*
27 *LLC* (2009) 175 Cal.App.4th 785, 804; *Bell v. Farmers Ins. Exch.* (2004) 115 Cal.App.4th 715,
28 726; *In re Cellphone Fee Termination Cases* (2010) 186 Cal.App.4th 1380, 1394; *Munoz v. BCI*

1 *Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412. Plaintiffs each devoted
2 number hours to this litigation. (Salinas Declaration (“Salinas Decl.”) ¶6; Brandi Johnson
3 Declaration (“Johnson Decl.”) ¶6.) They each assisted their attorneys by having multiple
4 conferences with them and by providing documents. (*Ibid.*) Plaintiffs also helped Class Counsel
5 prepare for mediation. (*Ibid.*) Plaintiffs freely chose to champion the rights of the class and
6 accepted the risks associated with acting as class representatives. (Salinas/Johnson Decl. ¶ 7-8.)

7 27. The Court grants the class representatives an enhancement award of \$7,500.00 to
8 Janine Salinas and \$5,000.00 to Brandi Johnson, for the following reasons: Plaintiffs spent
9 significant time on this litigation; Plaintiffs’ actions benefitted the class; and Plaintiffs accepted
10 the risks and notoriety that are associated with acting as a class representative.

11 28. All Parties, including each and all class members, are bound by this Final
12 Approval Order and by the Stipulation. All Class Members shall be deemed to have entered into
13 the Stipulation and the releases provided therein. Defendant shall have no obligation to pay any
14 sums in excess of the \$150,000.00 settlement payment set forth in the Stipulation (save and
15 except for the additional employer payroll taxes associated therewith). Other than as provided in
16 the Stipulation, Defendant shall have no obligation after entry of judgment to pay any sum to any
17 person, whether for costs, attorneys’ fees, class member reimbursement or contribution, as a
18 result of entry of judgment.

19 29. The Court previously certified the Action as a class action under California Code
20 of Civil Procedure section 382 for settlement purposes only. The Class is defined as follows:

21 a. “Settlement Class Members:” all current and former individuals who are
22 or who have been employed by Defendant in California during the Class Period as a non-exempt
23 employee (or if any such person is incompetent, deceased, or unavailable due to military service,
24 the person’s legal representative or successor in interest evidenced by reasonable verification).

25 b. “Class Period:” means the period from February 3, 2016 through May 30,
26 2021.

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1 30. Excluded from the Class are those persons who validly requested exclusion in
2 accordance with the requirements set forth in the Preliminary Approval Order. The three
3 individuals who timely did so are: (i) Althena Debra Cadle, (ii) Alison Cervelli, and (iii) Crystal
4 Dysthe. (Garcia Decl. ¶ 13; Exhibit B.)

5 31. The certified Class continues to meet all the requirements of California Code of
6 Civil Procedure section 382, as already found, and for the reasons set forth, in the Court's
7 Preliminary Approval Order.

8 32. Plaintiffs Janine Salinas and Brandi Johnson are the Court-appointed Class
9 Representatives.

10 33. Douglas Han of the law firm JUSTICE LAW CORPORATION, is the Court-
11 appointed Class Counsel.

12 34. As set forth in the Stipulation any checks issued to Class Members will expire one
13 hundred and eighty (180) days from the date they are issued by the Claims Administrator and
14 any uncashed checks will be paid to the Controller of the State of California to be held pursuant
15 to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those
16 Class Members who did not cash their checks until such time as, under the law, those funds
17 escheat to the State of California.

18 35. Upon the Effective Date, Plaintiffs and Class Members, save and except for those
19 who timely requested exclusion, will be deemed to have released the Released Parties of and
20 from all of the Released Claims during the Class Period. These claims include without limitation:
21 (1) failure to pay minimum wages, (2) failure to pay wages and overtime, (3) meal period
22 liability under Labor Code § 226.7, (4) rest period liability under Labor Code § 226.7, (5) failure
23 to provide itemized statements, (6) failure to reimburse expenses, (7) violation of Labor Code §
24 226(a), (8) violation of Labor Code § 203, (9) violation of Labor Code § 227.3, (10) violation of
25 California Business and Professions Code §§ 17200, *et seq.*, and (11) violations of PAGA and all
26 related claims for penalties. This release covers all claims pled, or that could have been pled,
27 based on the factual allegations in the complaint or any amendments thereto. All Class Members
28 are hereby forever barred and enjoined from commencing, prosecuting or continuing, either

1 directly or indirectly, against the Releasees, in this or any other jurisdiction or forum, any and all
2 Released Claims. "Released Claims" means all causes of action and factual or legal theories that
3 were alleged in the operative complaints or that could have been alleged against Defendant based
4 on the facts contained in the operative complaints, including all of the following claims for relief:
5 (a) failure to pay all regular wages, minimum wages and overtime wages due; (b) failure to
6 provide proper meal and rest periods, and to properly provide premium pay in lieu thereof; (c)
7 failure to provide complete, accurate or properly formatted wage statements; (d) waiting time
8 penalties; (e) failure to reimburse business expenditures, (f) unfair business practices that could
9 have been premised on the claims, causes of action or legal theories of relief described above or
10 any of the claims, causes of action or legal theories of relief pleaded in the operative complaint;
11 (g) any other claims or penalties under the California Labor Code or other wage and hour laws
12 pleaded in the Action, including but not limited to California Labor Code Sections 201, 201.3,
13 201.5, 201.6, 201.8, 201.9, 202, 203, 204, 205.5, 218.5, 221, 226, 226(a), 226(g), 226.3, 226.7,
14 510, 512(a), 558, 1174(d), 1021.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802; (h) all
15 damages, penalties, interest and other amounts recoverable under said claims, causes of action or
16 legal theories of relief, and, exclusively to PAGA Members, (i) all claims under the California
17 Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims,
18 causes of action or legal theories described above or any of the claims, the letter to the LWDA
19 dated September 4, 2020, and causes of action or legal theories of relief pleaded in the operative
20 complaint.

21 36. Without affecting the finality of this Order in any way, this Court hereby retains
22 continuing jurisdiction over: (a) implementation of the Stipulation and any award or distribution
23 of the Maximum Settlement Amount, including interest earned thereon; (b) disposition of the
24 Maximum Settlement Amount; (c) hearing and determining applications for attorney fees and
25 expenses in the Action; and (d) all parties hereto for the purpose of construing, enforcing, and
26 administering the Stipulation and the Settlement therein.

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1 37. There is no just reason for delay in the entry of judgment approving the Class
2 Settlement and immediate entry by the Clerk of the Court is expressly directed.

3 **IT IS SO ORDERED.**

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5 DATED: 03/15/2022



A handwritten signature in cursive script, reading "Carolyn B. Kuhl".

Carolyn B. Kuhl / Judge
HONORABLE CAROLYN KUHL
JUDGE OF THE SUPERIOR COURT

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On March 16, 2022, I served the foregoing document described as

for the following case: **Salinas v. JAFRA Cosmetics International, Inc.**
 LWDA/Court Case No.: **LWDA Case No.: CM-805170-20**
Court Case No.: 20STCV04284
Los Angeles County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 16, 2022, at Pasadena, California.

Martin Andersen

Mariah Anderson