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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF SANTA CLARA**

15 MAURICIO VIDES, an individual, on
16 behalf of himself and on behalf of all
17 persons similarly situated,

18 Plaintiff,

19 vs.

20 ALEXANDER'S STEAKHOUSE, INC.,
21 a California Corporation; and DOES 1
22 through 50, inclusive,

23 Defendants.

Case No. 22CV399448

NOTICE OF ENTRY OF JUDGMENT

Hearing Date: December 5, 2024

Hearing Time: 1:30 p.m.

[Hearing scheduled by Order dated July 22 ,
2024]

Judge: Hon. Charles F. Adams

Dept: 7

Date Filed: June 24, 2022

Trial Date: Not set

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

2 YOU ARE HEREBY NOTIFIED THAT on December 5, 2024, the Court entered the
3 Judgment in the above entitled action. A true and correct copy of the Judgment is attached hereto
4 as Exhibit #1.

5 Respectfully submitted,

6
7 Dated: December 6, 2024

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

8 By: /s/ Kyle Nordrehaug
9 Kyle R. Nordrehaug
10 Attorneys for Plaintiff
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

3 I, Kyle Nordrehaug, am employed in the County of San Diego, State of California. I am
4 over the age of 18 and not a party to the within action. My business address is 2255 Calle Clara, La
5 Jolla, California 92037.

6 On December 6, 2024, I served the document(s) described as:

7 **1. Notice of Entry of Judgment**

8 X (BY ELECTRONIC SERVICE): I caused the above entitled documents to be served on the
9 following parties to this action via electronic service through e-mail:

10 Sybil L. Renick
11 sybil@pratherlawoffices.com
12 Edwin Prather
13 edwin@pratherlawoffices.com
14 PRATHER LAW OFFICES
245 Fifth Street, Suite 103
San Francisco, CA 94103

14 Attorneys for Defendant

15 X (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the
16 Labor Workforce Development Agency via online process at the PAGA Filing website in
accordance with the procedure imposed by the LWDA.

17 X (State): I declare under penalty of perjury under the laws of the State of California that the
18 above is true and correct.

19 Executed on December 6, 2024, at La Jolla, California.

20 By: /s/ Kyle Nordrehaug
21 Kyle R. Nordrehaug, Esq.

EXHIBIT #1



SUPERIOR COURT OF CALIFORNIA COUNTY OF SANTA CLARA

MINUTE ORDER

Vides v. Alexander's Steakhouse, Inc. (Class
Action/PAGA)

22CV399448

Date of Hearing: 12/05/2024

Hearing Start Time: 1:30 PM

Hearing Type: Motion: Final Fairness Hearing

Heard By: Adams, Charles F
Courtroom Reporter:

Location: Department 7
Courtroom Clerk: Thomas Duarte
Court Interpreter:
Court Investigator:

Parties Present:

Future Hearings:

- No appearance.

No one has contested the Tentative Ruling.

The Tentative Ruling is adopted. See below for ruling.

Calendar Line 5

Case Name: Mauricio Vides v. Alexander s Steakhouse, Inc.

Case No.: 22CV399448

This is a wage and hour putative class action and a Private Attorneys General Act (PAGA) representative action. Plaintiff Mauricio Vides alleges that Defendant Alexander s Steakhouse, Inc. (Defendant) committed various Labor Code violations. Before the Court is Plaintiff s motion for final approval of settlement, which is unopposed. As discussed below, the Court GRANTS the motion.

I. BACKGROUND

According to the allegations of the operative First Amended Complaint (FAC), Plaintiff was employed by Defendant as a non-exempt, hourly-paid employee from October 2021 to January 7, 2022. He alleges that Defendant failed to pay him and putative class members all wages due to them based on, at least in part, Defendant s requiring employees to work during meal breaks and to undergo covid-19 screen or mandatory drug testing. (FAC, 8.) Defendant also allegedly engaged in a practice of rounding the actual time worked and recorded by Plaintiff and putative class members such that during the course of employment these individuals were paid less than they would have been paid for actual recorded time. (Ibid.)

Plaintiff further alleges that when calculating the regular rate of pay in order to pay overtime and meal and rest break premiums to him and putative class members, Defendant failed to include non-discretionary incentive compensation as part of the calculation as required by law. (FAC, 10.) Employees were also regularly deprived of the meal breaks and rest periods to which they were entitled and Defendant failed to remit to them gratuities paid by customers as mandated. (Id., 11-18.) Defendant also failed to timely pay employees within seven days of the close of the close of payroll and underpaid the amount of sick wages owed. (Id., 19-21.) Finally, Plaintiff and putative class members were not reimbursed for



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required business expenses incurred by them as a consequence of discharging their duties. (Id., 26.)

Plaintiff filed the FAC on June 24, 2022, asserting the following causes of action: (1) unfair business practices; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide required meal periods; (5) failure to provide required rest periods; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse employees for required expenses; (8) failure to pay wages when due; (9) failure to provide gratuities; and (10) PAGA penalties.

II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL

C. Class Action

Generally, questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 234-235

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(Wershba), disapproved on other grounds by Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.)

In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. (Wershba, supra, 91 Cal.App.4th at pp. 244-245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs case on the merits, balanced against the amount offered in settlement. (See Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130 (Kullar).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (Wershba, supra, 91 Cal.App.4th at p. 245.) The trial court must examine the proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned. (Ibid., citation and internal quotation marks omitted.) The trial court also must independently confirm that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation. (Kullar, supra, 168 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise. (Id. at pp. 130, 133.)

B. PAGA

Labor Code section 2699, subdivision (l)(2) provides that [t]he superior court shall review and approve any settlement of any civil action filed pursuant to PAGA. The court shall ensure that any negotiated resolution is fair to those affected. (Williams v. Superior Court (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-five percent for the aggrieved employees. (Iskanian v. CLS Transportation



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Los Angeles, LLC (2014) 59 Cal.4th 348, 380, overruled on other grounds by Viking River Cruises, Inc. v. Moriana (2022) 596 U.S. 639, 2022 U.S. LEXIS 2940.) Similar to its review of class action settlements, the Court must determine independently whether a PAGA settlement is fair and reasonable, to protect the interests of the public and the LWDA in the enforcement of state labor laws. (Moniz v. Adecco USA, Inc. (2021) 72 Cal.App.5th 56, 76 77.) It must make this assessment in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws. (Id. at p. 77; see also Haralson v. U.S. Aviation Servs. Corp. (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971 [when a PAGA claim is settled, the relief provided for under the PAGA [should] be genuine and meaningful, consistent with the underlying purpose of the

statute to benefit the public.], quoting LWDA guidance discussed in O'Connor v. Uber Technologies, Inc. (N.D. Cal. 2016) 201 F.Supp.3d 1110 (O'Connor).)

The settlement must be reasonable in light of the potential verdict value. (See O'Connor, supra, 201 F.Supp.3d at p. 1135 [rejecting settlement of less than one percent of the potential verdict].) But a permissible settlement may be substantially discounted, given that courts often exercise their discretion to award PAGA penalties below the statutory maximum even where a claim succeeds at trial. (See Viceral v. Mistras Group, Inc. (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8 9.)

III.SETTLEMENT CLASS

For settlement purposes only, Plaintiff requests the following Class be finally certified:

All individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period, which is June 24, 2018 through November 18, 2023.

Rule 3.769(d) of the California Rules of Court states that [t]he court may make an order approving or denying certification of a provisional settlement class after [a] preliminary settlement hearing. California Code of Civil Procedure Section 382 authorizes certification of a class when the question is one of a common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court.

Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence:

(1) an ascertainable class and (2) a well-defined community of interest among the class members. (Sav-On Drug Stores, Inc. v. Superior Court (2004) 34 Cal.4th 319, 326, 332 (Sav On Drug Stores).) Other relevant considerations include the probability that each class

member will come forward ultimately to prove his or her separate claim to a portion of the total recovery and whether the class approach would actually serve to deter and redress alleged wrongdoing. (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of establishing that class treatment will yield substantial benefits to both the litigants and to the court. (Blue Chip Stamps v. Superior Court (1976) 18 Cal.3d 381, 385.)

In the settlement context, the court's evaluation of the certification issues is somewhat different from its consideration of certification issues when the class action has not yet settled. (Luckey v. Superior Court (2014) 228 Cal.App.4th 81, 93.) As no trial is anticipated in the settlement-only context, the case management issues inherent in the ascertainable class determination need not be confronted, and the court's review is more lenient in this respect. (Id. at pp. 93 94.) But considerations designed to protect absentees by blocking unwarranted or overbroad class definitions require heightened scrutiny in the settlement-only class context, since the court will lack the usual opportunity to adjust the class as proceedings unfold. (Id. at p. 94.)



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At preliminary approval, the Court provisionally certified the above-described class, determining that Plaintiff had demonstrated by a preponderance of the evidence (1) an ascertainable class, (2) a well-defined community of interest among the class members and (3) that a class action provides substantial benefits to both litigants and the Court. Consequently, the Court will certify the class for settlement purposes as requested.

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IV. TERMS AND ADMINISTRATION OF SETTLEMENT

The non-reversionary gross settlement amount is \$1,070,000. Attorney's fees of up to one-third of the settlement (\$356,666), litigation costs of up to \$21,000, and up to \$20,000 in administrative costs will be paid from the gross settlement. \$30,000 will be allocated to PAGA penalties, 75% of which (\$22,500) will be paid to the LWDA, with the remaining 25% (\$7,500) paid to Aggrieved Employees, who are defined as all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period [March 10, 2021 through November 18, 2023]. The Class is defined as all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period [June 24, 2018 through November 18, 2023]. Plaintiff seeks a service payment of no more than \$12,500.

The net settlement amount will be allocated to Class members on a pro rata basis based on the number of weeks worked during the Class Period, and the average net settlement amount is currently estimated to be \$373.34 per member. For tax purposes, 20% of the payment to each Class member will be allocated to wages, with the remaining 80% allocated to interest and penalties. The employer-side payroll taxes will be paid by Defendant separately from the gross settlement amount. 100% of the PAGA payment to Aggrieved Employees will be allocated to penalties. Funds associated with checks uncashed after 180 days will be transmitted to the California State Controller's Unclaimed Property Fund in the name of the Class member.

In exchange for settlement, Class members who do not opt-out will release:

[A]ll claims that were alleged, or reasonably could have been alleged, based on facts stated in the Operative Complaint, which occurred during the Class Period, including but not limited to claims for unpaid service charges and/or gratuities, failure to pay overtime compensation, failure to provide meal periods, failure to provide rest periods, failure to pay meal and/or rest period premiums, failure to include bonuses or incentive wages in calculating the regular rate of pay, failure to pay wages for off-the-clock work including time spent studying food and menu items and time spent donning and doffing, failure to reimburse business expenses including but not limited to expenses for cell phone usage and use of personal computers, failure to furnish accurate wage statements, failure to timely pay all earned wages, waiting time penalties, and violations of California & Professions Code 17200, et seq. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims based on facts occurring outside the Class Period.

Aggrieved Employees, who consistent with the statute will not be able to opt out of the PAGA portion of the settlement, will release:

[A]ll claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the



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PAGA Notice, which occurred during the PAGA Period, including but not limited to claims for unpaid service charges and/or gratuities, failure to pay overtime compensation, failure to provide meal periods, failure to provide rest periods, failure to pay meal and/or rest period premiums, failure to include bonuses or incentive wages in calculating the regular rate of pay, failure to pay wages for off-the-clock work including time spent studying food and menu items and time spent donning and doffing, failure to reimburse business expenses including but not limited to expenses for cell phone usage and use of personal computers, failure to furnish accurate wage statements, failure to timely pay all earned wages, waiting time penalties, and civil penalties pursuant to PAGA.. The Released PAGA Claims do not include other PAGA claims, claims for vested benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, and worker s compensation, and PAGA claims outside of the PAGA Period.

The foregoing releases are both appropriately tailored to the allegations at issue. (See *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 537.)

The notice period has now been completed. According to the declaration of case manager Nathalie Hernandez with settlement administrator ILYM Group, Inc. (ILYM) submitted in support of the instant motion, on August 19, 2024, ILYM received from Defendant class data files containing the names, social security numbers, last known mailing addresses, and the total number of relevant workweeks worked for each of the 1,666 settlement Class members. ILYM processed the addresses it had against the National Change of Address database to confirm and update this information and then mailed the notice packet to Class members on September 3, 2024 via first class mail. As of the date of Ms. Hernandez s declaration, November 5, 2024, 359 notices have been returned to ILYM as undeliverable, none of which included a forwarding address. ILYM performed a skip trace to locate a current mailing address for these notices and located 201 updated addresses, to which notices were promptly re-mailed. At present, 158 Class notices are considered undeliverable.

The deadline to submit a request for exclusion, a challenge to the amount of work weeks listed, or an objection to the settlement was October 18, 2024. As of the date of Ms. Hernandez s declaration, ILYM has not received any workweek disputes, requests for exclusion or objections to the settlement. Consequently, there are 1,666 participating settlement class members, representing 100% of the settlement class. Based on this number, Class members will receive an average estimated gross payment of \$380.17, with the estimated highest payment being \$2,990.76.

At preliminary approval, the Court found that the proposed settlement provides a fair and reasonable compromise to Plaintiff s claims, and that the PAGA settlement is genuine, meaningful, and fair to those affected. It finds no reason to depart from these findings now, especially considering that there are no objections. Therefore, the Court finds that the settlement is fair and reasonable for the purposes of final approval.

V. ATTORNEYS FEES, COSTS AND INCENTIVE AWARDS

As set forth above, Plaintiff s counsel seeks a fee award of \$356,666, or one-third of the gross settlement amount, which is not an uncommon contingency fee allocation in a wage

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and hour class action. Plaintiff also provides a lodestar figure of \$213,650, which is based on 281 hours of work at billing rates of \$450 to \$995 per hour, resulting in a multiplier of 1.7. This well within the range of multipliers that courts typically approve. (See *Laffitte v. Robert*



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Half Intern. Inc. (2016) 1 Cal.5th 480, 488, 503 504 (Laffitte) [trial court did not abuse its discretion in approving fee award of 1/3 of the common fund, cross-checked against a lodestar resulting in a multiplier of 2.03 to 2.13]; Wershba, supra, 91 Cal.App.4th at p. 255 [[m]ultipliers can range from 2 to 4 or even higher]; Vizcaino v. Microsoft Corp. (9th Cir. 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in common fund cases and citing the court's own survey of large settlements finding a range of 0.6 19.6, with most (20 of 24, or 83%) from 1.0 4.0 and a bare majority (13 of 24, or 54%) in the 1.5 3.0 range].)

While the percentage method has been generally approved in common fund cases, courts have sought to ensure the percentage fee is reasonable by refining the choice of a percentage or by checking the percentage result against a lodestar- multiplier calculation. (Laffitte, supra, 1 Cal.5th 480, 494-495.) Applying this latter approach, [T]he percentage-based fee will typically be larger than the lodestar based fee.

Assuming that one expects rough parity between the results of the percentage method and the lodestar method, the difference between the two computed fees will be attributable solely to a multiplier that has yet to be applied. Stated another way, the ratio of the percentage-based fee to the lodestar-based fee implies a multiplier, and that implied multiplier can be evaluated for reasonableness. If the implied multiplier is reasonable, then the cross-check confirms the reasonableness of the percentage-based fee; if the implied multiplier is unreasonable, the court should revisit its assumptions.

(Laffitte, supra, 1 Cal.5th at p. 496, quoting Walker & Horwich, The Ethical Imperative of a Lodestar Cross-check: Judicial Misgivings About Reasonable Percentage Fees in Common Fund Cases (2005) 18 Geo. J. Legal Ethics 1453, 1463.) As described by the California Supreme Court, [i]f the multiplier calculated by means of a lodestar crosscheck is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment. (Laffitte, supra, 1 Cal.5th at 505.)

Here, as the multiplier sought by Plaintiff's counsel is well within the range of modifiers typically approved by courts and is supported by the percentage cross-check, the Court finds counsel's requested fee award is reasonable.

Plaintiff's counsel also seeks \$21,000 in litigation costs, which is the maximum amount permitted under the settlement agreement. Based on the information contained in the declaration of Plaintiff's counsel, this amount is reasonable and is therefore approved. The \$16,476.63 in administrative costs are also approved.

Finally, Plaintiff requests an enhancement award of \$10,000. To support this request, Plaintiff submits a declaration in support of the instant motion in which he describes his efforts in this action. The Courts finds that he is entitled to an enhancement award and the amount requested is reasonable and is therefore approved.

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VI.CONCLUSION

In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Plaintiff's motion for final approval and for fees and costs is GRANTED. The following class is certified for settlement purposes only:

All individuals who were employed by Defendant in California and classified as a non exempt employee at any time during the Class Period , which is June 24, 2018 through November 18, 2023.



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Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc., 668.5.) Plaintiff and the members of the Class/Aggrieved Employees will take from the FAC only the relief set forth in the settlement agreement and this order and judgment. Pursuant to Rule 3.769(h) of the California Rules of Court, the Court will retain jurisdiction over the parties to enforce the terms of the settlement agreement and the final order and judgment.

The Court sets a compliance hearing for July 31, 2025 at 2:30 P.M. in Department 7.

At least ten court days before the hearing, class counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and any other matters appropriate to bring to the Court's attention. Counsel shall also submit an amended judgment as described in Code of Civil Procedure section 384, subdivision (b).

Counsel may appear at the compliance hearing remotely.

The Court will prepare the order.