

FILED
San Francisco County Superior Court

SEP 27 2023

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

DOUGLAS HAN (SBN 232858)
SHUNT TATAVOS-GHARAJEH (SBN 272164)
HALINA E. SZYMANSKI (SBN 341183)
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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

JOSHUA PARK, individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

v.

BRENDA'S LLC DBA BRENDA'S FRENCH
SOUL FOOD, a California limited liability
company; and DOES 1 through 100, inclusive;

Defendants.

Case No.: CGC-22-599371

Honorable Richard B. Ulmer
Department 302

CLASS ACTION

**[PROPOSED] ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: August 28, 2023
Hearing Time: 9:30 a.m.
Hearing Place: Department 302

Complaint Filed: April 26, 2022
FAC Filed: February 27, 2023
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Joshua Park's ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Joint Stipulation and Class Action and PAGA Settlement
4 Agreement ("Settlement Agreement," "Settlement," or "Agreement"), hereby **FINDS AND**
5 **ORDERS:**

6 Plaintiff and Defendant Brenda's LLC dba Brenda's French Soul Food ("Defendant")
7 entered the Settlement Agreement on or about February 23, 2023 to settle this lawsuit.

8 The Court entered an order dated April 10, 2023 preliminarily approving the settlement
9 of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil Procedure
10 section 382 and California Rule of Court 3.769, ordering notice to be sent to Class Members,
11 providing Class Members with an opportunity to object to the Settlement or exclude themselves
12 from the Class, and scheduling a Final Approval Hearing.

13 The Court held a Final Approval Hearing on August 28, 2023 to determine whether to
14 give final approval to the Settlement of this lawsuit.

15 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
16 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
17 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
18 in the Settlement Agreement.

19 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
20 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
21 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
22 including jurisdiction to approve the Settlement and grants final certification of the Class.

23 3. Final Class Certification. The Court finds the Class satisfies all applicable
24 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
25 process. The Court certifies the Class consisting of all current and former hourly-paid or non-
26 exempt employees of Defendant within the State of California at any time during the period from
27 October 29, 2017, through February 5, 2023 ("Class," "Class Members," and "Class Period").¹
28

¹ The Escalator Clause of section P(20) of the Settlement Agreement was triggered.

1 There are two hundred twenty-seven (227) Class Members who did not submit valid and timely
2 requests to exclude themselves from the Settlement (“Participating Class Members”).²

3 4. Adequacy of Representation. Class Counsel fully and adequately represented the
4 Class for the purposes of entering and implementing the Settlement and satisfied the
5 requirements of Code of Civil Procedure section 382.

6 5. Notice Packet. The Court finds the Notice Packet and its distribution to Class
7 Members were implemented pursuant to the Settlement and this Court’s Preliminary Approval
8 Order. The Court also finds the Notice Packet:

9 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
10 pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and
11 their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to
12 exclude themselves from the Settlement Agreement; (v) their right to receive settlement
13 payments; (vi) their right to appear at the Final Approval Hearing; and (vii) binding effect of the
14 orders and judgment in this lawsuit on all Participating Class Members;

15 b. constitutes notice that fully satisfied the requirements of Code of Civil
16 Procedure section 382, California Rule of Court 3.769, and due process;

17 c. constitutes the best practicable notice to Class Members under the
18 circumstances of this lawsuit; and

19 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

20 6. Final Settlement Approval. The terms and provisions of the Settlement
21 Agreement have been entered into in good faith and are the product of arm’s-length negotiations
22 by experienced counsel who have carried out a meaningful investigation of the claims. The
23 Settlement Agreement and all its terms and provisions are fully and finally approved as fair,
24
25

26 Defendant elected to shorten the Class Period to February 5, 2023 so that the number of
27 workweeks does not exceed 11,000.

28 ² The Settlement Administrator mailed Notice Packets to two hundred twenty-eight (228)
Class Members and received one (1) request for exclusion. Thus, there are two hundred
twenty-seven (227) Participating Class Members.

reasonable, adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the Settlement Agreement according to its terms and provisions.

7. Binding Effect. The terms and provisions of the Settlement Agreement and this Order and Judgment are binding on Plaintiff, Participating Class Members, Eligible Aggrieved Employees, and their spouses, heirs, registered domestic partners, executors, administrators, successors, and assigns. In addition, those terms shall have res judicata and other preclusive effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf of any such persons to the extent those claims, lawsuits, or other proceedings involve matters that were or could have been raised in this lawsuit and are encompassed by the Class Released Claims and Private Attorneys General Act of 2004 ("PAGA") Released Claims. The Settlement Agreement will have no binding effect upon, and provide no res judicata preclusion to, those Class Members who have submitted timely requests for exclusion.

8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude any action to enforce the terms and provisions of the Settlement Agreement.

9. Release of Claims. As of the Effective Final Settlement Date, Participating Class Members waive, release, promise never to assert in any forum, remise, and forever discharge the Released Parties from the Class Released Claims during the Class Period. This release expressly excludes the PAGA Released Claims.

a. Effect of PAGA Settlement. As of the Effective Final Settlement Date, Plaintiff, California Labor and Workforce Development Agency ("LWDA"), and any other representative, proxy, or agent thereof, including, but not limited to, any and all Eligible Aggrieved Employees waive, release, promise never to assert in any forum, remise, and forever discharge the Released Parties from the PAGA Released Claims during the PAGA Period. Eligible Aggrieved Employees may not opt out of the PAGA portion of the Settlement, will still be entitled to payment of their portions of the PAGA Payment, and shall still release the PAGA Released Claims as of the Effective Final Settlement Date regardless of the submission of a valid and timely Exclusion Form to the Settlement Administrator.

1 b. Plaintiff's Release of Claims and General Release. As of the Effective Final
2 Settlement Date, and in exchange for the Class Representative Enhancement
3 Payment to Plaintiff, in recognition of his work and efforts in obtaining the
4 benefits for the Class and undertaking the risk for the payment of costs if this
5 matter had not successfully resolved, Plaintiff provides a general release of claims
6 for himself and his spouse, heirs, successors, and assigns. With respect to the
7 General Release, Plaintiff stipulates and agrees he shall be deemed to have
8 expressly waived and relinquished, to the fullest extent permitted by law, the
9 provisions, rights, and benefits of section 1542 of the Civil Code, or any other
10 similar provision under federal or state law.

11 c. Released Parties. The Released Parties include Defendant and each of its former
12 and current parents, predecessors, successors, all affiliates, subsidiaries, officers,
13 directors, members, agents, employees, stockholders, owners, attorneys, insurers,
14 assigns, and any individual or entity that could be jointly liable with Defendant.

15 10. Class Representative Enhancement Payment. The Court finds the Class
16 Representative Enhancement Payment of \$10,000, to be paid by Defendant to Plaintiff out of the
17 Gross Settlement Amount, to be reasonable and appropriate. Class Representative Enhancement
18 Payment is to be paid pursuant to the terms and provisions set forth in the Agreement.

19 a. The rationale for making enhancement payments is class representatives should
20 be compensated for the expense and risk they incurred in conferring a benefit on
21 the Class. Criteria courts consider include: (1) risk to the class representatives in
22 commencing suit; (2) notoriety and personal difficulties; (3) amount of time and
23 effort spent by the class representatives; (4) duration of the litigation; and (5)
24 personal benefit (or lack thereof) enjoyed by class representatives.

25 b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the
26 risks inherent in the services as the class representative, duration of the case and
27 time involved, and benefits created for the Class, the Court approves the payment
28 of the Class Representative Enhancement Payment of \$10,000 to Plaintiff.

11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award of \$157,500, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. In addition, the Court finds the Cost Award as reimbursement for actual litigation costs incurred of \$17,955.24; to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiff or Class Members. Defendant shall also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiff or Class Members in connection with or related in any manner to this lawsuit, Settlement Agreement, settlement administration, and/or Class Released Claims and PAGA Released Claims.

a. The Court has an independent right and responsibility to review the Attorney Fee Award and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The Attorney Fee Award of \$157,500 is thirty-five percent (35%) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the results achieved, financial risk undertaken, difficult nature of this litigation, skills required, percentage fees award in previous and other cases, and contingent fees charged in the marketplace, the Court finds the Attorney Fee Award is consistent with the marketplace, is reasonable, and is approved.

b. The Court reviewed the declaration of Douglas Han regarding the costs expended in prosecuting this case. Under the terms of the Settlement, Class Counsel may seek reimbursement of up to \$25,000 in litigation costs. The Court finds Class Counsel expended \$17,955.24 in litigation costs, and such costs were reasonable.

Thus, the Court approves the payment of the Cost Award of \$17,955.24 from the common fund for the reimbursement of Class Counsel's litigation costs.

12. Administration Costs. The Court finds Administration Costs of \$8,500, to be paid by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be reasonable and appropriate. The Administration Costs are to be paid pursuant to terms and provisions set forth in the Settlement Agreement.

a. The Court reviewed the declaration of Kevin Lee from Phoenix Class Action Administration Solutions, the Court-approved Settlement Administrator. The Court finds notice was provided to the Class pursuant to the Preliminary Approval Order, constitutes the best practicable notice to the Class, and satisfied due process. The Court approves the payment of the Administration Costs of \$8,500 for the Settlement Administrator's services in administering the Settlement.

13. PAGA Payment. The Court finds the PAGA Payment of \$20,000, seventy-five percent (75%) of which (\$15,000) will be paid to the LWDA out of the Gross Settlement Amount and twenty-five percent (25%) of which (\$5,000) shall be distributed to Eligible Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

14. Funding the Settlement. No later than fourteen (14) calendar days after the Effective Final Settlement Date, Defendant shall deposit the Gross Settlement Amount of \$450,000 needed to pay the entire Gross Settlement Amount by wiring the funds to the Settlement Administrator. Defendant shall also at this time provide any tax information that the Settlement Administrator may need to calculate each Participating Class Member's Individual Settlement Share. Within fourteen (14) calendar days after the funding of the Settlement, the Settlement Administrator shall calculate and pay all payments due under the Settlement.

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1 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
2 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
3 Settlement was the product of arm's-length negotiations following extensive litigation,
4 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
5 Mark Rudy, an experienced and well-respected mediator.

6 a. The fairness of the Settlement is demonstrated by there being no objections to and
7 only one (1) request for exclusion from the Settlement.

8 b. The fairness of the Settlement is further illustrated by the gross *average*
9 Individual Settlement Share being approximately \$1,039.84, and the gross *highest*
10 Individual Settlement Share being about \$5,647.63.

11 16. Uncashed Checks. Participating Class Members and Eligible Aggrieved
12 Employees must cash or deposit their Individual Settlement Share checks within one hundred
13 eighty (180) calendar days after the checks are mailed to them. Uncashed settlement checks will
14 be canceled, and the Settlement Administrator will reissue the checks to those Participating Class
15 Members and Eligible Aggrieved Employees who have cashed their checks. The second round of
16 checks will expire and become non-negotiable after thirty (30) calendar days. After the second
17 round of mailing, uncashed settlement checks will be canceled and paid to the State Controller's
18 Unclaimed Property Fund.

19 17. Modification of Settlement Agreement. The Participating Class Members are
20 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
21 modifications of the Settlement Agreement by an express written instrument signed by counsel
22 for all Parties or their successors-in-interest. Such amendments or modifications shall be
23 consistent with this Order and Judgment and cannot limit the rights of Participating Class
24 Members under the Settlement Agreement.

25 18. Final Accounting and Compliance. The Court sets a ~~non~~¹⁰ appearance case review
26 for June 14, 2024 in Department 302. Within ~~five~~¹⁰ (5) court days before this hearing, Plaintiff
27 shall file a compliance status report. Pursuant to Code of Civil Procedure section 384, the
28 compliance status report shall specify the total amount paid to Class Members and the residual of

1 the unclaimed settlement funds that will be paid to the entity identified as the recipient of such
2 funds in the Settlement Agreement.

3 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
4 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
5 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
6 and for any other necessary purpose, including, without limitation:

- 7 a. enforcing the terms and provisions of the Settlement and resolving any disputes,
8 claims, or causes of action in this lawsuit that, in whole or in part, are related to or
9 arise out of the Settlement or this Order and Judgment;
- 10 b. entering such additional orders as may be necessary or appropriate to protect or
11 effectuate this Order and Judgment approving the Settlement, and permanently
12 enjoining Plaintiff from initiating or pursuing related proceedings, or to ensure the
13 fair and orderly administration of the Settlement; and
- 14 c. entering any other necessary or appropriate orders to protect and effectuate this
15 Court's retention of continuing jurisdiction.

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1 The Motion for Final Approval of Class Action Settlement, Attorney Fee Award, Cost
2 Award, and Class Representative Enhancement Payment is GRANTED. The Settlement
3 Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

4 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
5 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
6 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
7 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
8 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
9 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
10 THE JUDGMENT THEREON.

11 IT IS SO ORDERED.

12
13 DATED: 9/26/

14 RL
HONORABLE RICHARD B. ULMER
SUPERIOR COURT JUDGE

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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 aokada@justicelawcorp.com

On October 10, 2023, I served the foregoing document described as

ORDER OF FINAL APPROVAL

for the following case: **Park v. Brenda's LLC d/b/a Brenda's French Soul Food**
LWDA/Court Case No.: **LWDA Case No.: CM- 932651-23**
Court Case No.: CGC-22-599371
San Francisco 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

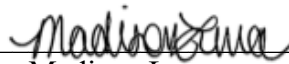
[X] BY ELECTRONIC SUBMISSION

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 October 10, 2023, at Pasadena, California.



Madison Luna