

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 04 2024

BY 
VALERIE URUENA, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MARCO JIMENEZ, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

PINA ENTERPRISES, INC., a California
Corporation; and DOES 1 through 20,
inclusive;

Defendants.

Case No.: CIVSB2301756
*[Assigned to the Hon. Christian Towns, Dept.
S26, for all purposes]*

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT;
AND ENTRY OF JUDGMENT**

~~[PROPOSED]~~ ORDER GRANTING FINAL APPROVAL OF SETTLEMENT; ENTRY OF JUDGMENT

1 Plaintiff Marco Jimenez's Motion for Final Approval of the Settlement (the "Final
2 Approval Motion"), as set forth in the Class Action Settlement Agreement and Release of Claims
3 ("Settlement Agreement"), came for a hearing in Department S26 of the above-entitled court.
4 The Final Approval Motion was unopposed by Defendants Pina Enterprises, Inc., and its owners
5 Jose Raul Pina and Monica Pina (collectively, "Defendants").

6 Having considered the Final Approval Motion, the Settlement Agreement, the
7 Declarations, and all other materials properly before the Court and having conducted an inquiry
8 pursuant to California Rules of Court, rule 3.769(g), the Court finds that the Settlement
9 Agreement was entered by all parties in good faith, and the Settlement Agreement is approved.
10 Due and adequate notice having been given to the Class, and the Court having considered the
11 Settlement Agreement, all papers filed and proceedings had herein and all oral and written
12 comments received regarding the proposed settlement, and having reviewed the record in this
13 Action, and good cause appearing,

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

15 1. The Court, for purposes of this Judgment and Order ("Judgment"), refers to all
16 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

17 2. The Court has jurisdiction over the subject matter over this Action, the
18 Plaintiff/Class Representative Marco Jimenez, the Class Members, and Defendants. The Court
19 finally appoints Plaintiff as Class Representative, and further appoints Brian Mankin and
20 Kristina Carlson of Lauby Mankin Lauby LLP as Class Counsel.

21 3. For purposes of effectuating this Order and Judgment, this Court has certified the
22 following class: "all current and former nonexempt employees employed by Defendant Pina
23 Enterprises, Inc., in California at any time during the Class Period of February 9, 2019, through
24 March 8, 2024." The Court deems this definition sufficient for purposes of California Rules of
25 Court, rule 3.765(a).

26 4. As set forth in the Settlement Agreement, Aggrieved Employees includes: "all
27 current and former nonexempt employees employed by Defendant Pina Enterprises, Inc., in
28 California at any time during the PAGA Period of February 9, 2022, through March 8, 2024."

1 5. The Court finds that the distribution of the Class Notice, as provided for in the
2 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
3 under the circumstances to all Class Members and fully met the requirements of California law
4 and due process under the California and United States Constitution. Based on evidence and
5 other material submitted, the actual notice to the class was adequate.

6 6. The Court finds that the instant Action presented a good faith dispute of the
7 claims alleged, and the Court finds in favor of settlement approval.

8 7. The Released Class Claims on behalf of the Participating Class Members
9 includes:

10 The claims stated in the Complaint and those claims that
11 reasonably could have been brought based upon the facts in the
12 Complaint, including but not limited to: (a) failure to pay
13 minimum wages, (b) failure to pay overtime wages, (c) failure to
14 provide meal periods, (d) failure to provide rest breaks, (e) failure
15 to reimburse business expenses, (f) failure to pay all wages due and
16 owing each pay period and upon separation of employment,
17 including but not limited to minimum, regular, and overtime
18 wages, wage premiums, vacation wages, among others, (g) failure
to provide accurate itemized wage statements, (h) unfair and
unlawful competition, and (i) all other claims for statutory
penalties based on the facts or claims alleged in the Complaint.
The time period governing the Released Class Claims shall be any
time during the Class Period.

19 8. The Released PAGA Claims on behalf of the Aggrieved Employees includes:

20 All PAGA claims that Plaintiff alleged against the Released
21 Parties, on behalf of the Aggrieved Employees and the State of
22 California, based on the facts stated in the Complaint and in the
23 relevant LWDA notice letters, including all PAGA claims seeking
24 civil penalties premised upon: (a) failure to pay minimum wages,
25 (b) failure to pay for overtime wages, (c) failure to provide meal
26 periods, (d) failure to provide rest breaks, (e) failure to reimburse
27 business expenses, (f) failure to pay all wages due and owing each
28 pay period and upon separation of employment, including but not
limited to minimum, regular, and overtime wages, wage premiums,
vacation wages, among others, (g) failure to provide accurate
itemized wage statements, (h) failure to maintain employment
records, and (i) all other claims for civil penalties recoverable
under the Private Attorneys General Act, Labor Code §§ 2698 *et*
seq. based on the facts or claims alleged in the Complaint. The

1 time period governing the Released PAGA Claims shall be any
2 time during the PAGA Period.

3 9. There were no Objections to the Settlement, and no Requests for Exclusion. As
4 such, all Class Members are Participating Class Members, who are entitled to an Individual Class
5 Payment pursuant to the Settlement and this Judgment. Likewise, all Aggrieved Employees are
6 entitled to an Individual PAGA Payment, constituting a pro rata share of PAGA Penalties.

7 10. The Court approves the Settlement, as set forth in the Settlement Agreement and
8 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Settling
9 Parties. The Parties are directed to perform in accordance with the terms set forth in the
10 Settlement Agreement.

11 11. The Parties are to bear their own costs, except as otherwise provided in the
12 Settlement Agreement.

13 12. With respect to the Class and for purposes of approving this Settlement, this Court
14 finds and concludes as follows: (a) the Class Members are ascertainable and so numerous that
15 joinder of all members is impracticable; (b) there are questions of law or fact common to the
16 Class Members, and there is a well-defined community of interest among the Class Members
17 with respect to the subject matter of the Action; (c) the claims of the Class Representative are
18 typical of the claims of the Class Members; (d) the Class Representative has fairly and
19 adequately protected the interests of the Class Members; (e) a class action is superior to other
20 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
21 qualified to serve as counsel for the Plaintiff in his individual and representative capacity and for
22 the Class.

23 13. By this Judgment, the Class Representative shall release, relinquish, and
24 discharge, and each of the Participating Class Members shall be deemed to have, and by
25 operation of the Judgment shall have, fully, finally, and forever released, relinquished, and
26 discharged all Released Class Claims, as defined in the Settlement Agreement.

27 14. Neither the Settlement Agreement nor the Settlement contained therein, nor any
28 act performed or document executed pursuant to or in furtherance of the Settlement Agreement

1 or the Settlement (i) is or may be deemed to be or may be used by the Class Representative or
2 Participating Class Members as an admission of, or evidence of, the validity of any of the
3 Released Class Claims, or of any wrongdoing or liability of Defendants or any of the other
4 Released Parties; or (ii) is or may be deemed to be or may be used by any of the Class
5 Representative or Participating Class Members as an admission of, or evidence of, any fault or
6 omission of Defendants or any of the other Released Parties in any civil, criminal, or
7 administrative proceeding in any court, administrative agency, or other tribunal. Defendants or
8 any of the other Released Parties may file the Settlement Agreement and/or the Judgment from
9 this Action in any other action that may be brought against it or them in order to support a
10 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good
11 faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion
12 or similar defense or counterclaim.

13 15. The Settlement Amount to be paid under the Settlement Agreement is \$220,000.
14 From this amount, Class Counsel sought a Class Counsel Fee Payment of \$73,333.33, Class
15 Counsel's litigation expenses of \$18,087.51, a Service Payment to Class Representative Plaintiff
16 Marco Jimenez of \$10,000, an Administrator Expenses Payment of \$8,500.00 to Phoenix
17 Settlement Administrators, and \$15,000 to the LWDA for PAGA penalties and \$5,000 to the
18 Aggrieved Employees for PAGA Penalties. Defendants do not oppose these requests. In
19 addition, and concurrently with paying the Settlement Amount, Defendants shall separately pay
20 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, which
21 shall be reported through the Settlement Administrator. The Court finds that the Settlement
22 Amount is fair, reasonable and adequate, and awards the payments set forth below from the
23 Settlement Amount:

24 A) \$73,333.33 to Class Counsel for attorneys fees in light of the benefit
25 obtained on behalf of the Class;

26 B) \$18,087.51 to Class Counsel for litigation costs;

27 C) \$10,000 to Class Representative Marco Jimenez as a Service Award;
28

1 D) \$8,500.00 to the Settlement Administrator, Phoenix Settlement
2 Administrators;
3 E) \$15,000 to the LWDA;
4 F) \$5,000 to the Aggrieved Employees on a pro rata basis;
5 G) After deducting the foregoing payments from the Settlement Amount, the
6 remainder shall form the Net Settlement Amount payable to the Participating Class
7 Members as set forth in the Settlement Agreement and as calculated by the Settlement
8 Administrator.

9 16. The Settlement Administrator is directed to calculate the Participating Class
10 Member's Individual Class Payments and the Aggrieved Employees' Individual PAGA
11 Payments and issue all payments within in accordance with the Settlement Agreement and this
12 Order/Judgment.

13 17. Concurrently with mailing the settlement checks to the Participating Class
14 Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of
15 Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the
16 check for the Participating Class Members, noting the following: "Please be advised that on
17 [insert date], the Superior Court of California for the County of San Bernardino entered
18 Judgment in the case entitled *Jimenez v. Pina Enterprises, Inc., et al.*, pending in Superior Court
19 of the State of California, County of San Bernardino, Case No. CIVSB2301756, on behalf of all
20 current and former nonexempt employees employed by Defendant Pina Enterprises, Inc., in
21 California at any time during the Class Period of February 9, 2019, through March 8, 202424."

22 18. The Class Members shall have 180 days to negotiate the settlement check from
23 the date of issuance by the Settlement Administrator. In the event that a Participating Class
24 Member or Aggrieved Employee does not negotiate his/her check within this time period, the
25 check will be canceled. The value of the unclaimed funds in the Settlement Administrator's
26 account as a result of a failure to timely cash a settlement check shall be issued to the State
27 Controller's Office for the State of California in the name of the person.
28

1 19. The following dates shall govern for purposes of this implementing this
2 Order/Judgment:

3 November 4, 2024	The Final Order is entered and the Effective 4 Date occurs.
5 December 4, 2024	<u>Payment #1:</u> Defendants, jointly and 6 severally, shall wire \$146,666.67 to the 7 Settlement Administrator, which shall be 8 distributed in a manner that compensates 9 Plaintiff, the Participating Class Members, 10 the Aggrieved Employees, the LWDA, Class 11 Counsel [for fees and costs], and the 12 Settlement Administrator for two-thirds of 13 the Court-awarded amounts [\$146,666.67 is 14 two-thirds of the Settlement Amount].
15 December 16, 2024	According to the percentages set forth in 16 Payment #1 above, the Settlement 17 Administrator to issue all Individual Class 18 Payments to the Participating Class 19 Members, Individual PAGA Payments to the 20 Aggrieved Employees, payment to Class 21 Counsel for the Class Counsel Fee Payment 22 and Litigation Expenses, the Service 23 Payment to the Class Representative, the 24 payment to the LWDA for PAGA Penalties, 25 and pay itself the Administrator Costs.
26 180 days after Payment #2 is issued 27 (approximately June 14, 2025)	Deadline for Participating Class Members 28 and Aggrieved Employees to cash Payment #1. If the first check is not cashed within 180 days, the Settlement Administrator will hold the funds in trust, pending a request by the recipient to have the payment reissued. However, once 180 days has passed after the second check, the Settlement Administrator shall issue all unclaimed funds (from both installments) to the California State Controller's Office in the name of the Participating Class Member or Aggrieved Employee

December 1, 2025	Payment #2: Defendants, jointly and severally, shall wire \$73,333.33 to the Settlement Administrator, representing the remaining balance of the Settlement Amount, and which will be distributed in a manner that compensates Plaintiff, the Participating Class Members, the Aggrieved Employees, the LWDA, Class Counsel [for fees and costs], and the Settlement Administrator for all remaining Court-awarded amounts.
December 10, 2025	According to the percentages set forth in Payment #2 above, the Settlement Administrator to issue all remaining Individual Class Payments to the Participating Class Members, Individual PAGA Payments to the Aggrieved Employees, payment to Class Counsel for the Class Counsel Fee Payment and Litigation Expenses, the Service Payment to the Class Representative, the payment to the LWDA for PAGA Penalties, and pay itself the Administrator Costs.
180 days after Payment #2 is issued (approximately June 8, 2026)	Deadline for Participating Class Members and Aggrieved Employees to cash Payment #2
July 23, 2026	Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including any uncashed checks and status of process of forwarding unclaimed funds to the State Controller.
Date: <u>9/2</u> , 2026 Time: <u>8:30</u> a.m.	Hearing re: status of disbursements.

20. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the Class Representative, the Class Members, and Defendants for the purposes of supervising the implementation, enforcement, construction, administration, and interpretation of the Settlement Agreement and this Judgment.

IT IS SO ORDERED.

NOV 04 2024

Dated: _____

C. Towns
HON. CHRISTIAN TOWNS