

VENTURA SUPERIOR COURT

FILED

04/03/2025

Brenda L. McCormick
Executive Officer and Clerk

Christine Holm
Christine Holm

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

ZIYAH BLACKSTONE, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE BOATYARD, INC., dba The Boatyard
Pub Seafood Restaurant, a California
Corporation, and DOES 1 through 20,

Defendants.

Case No.: 2023CUOE010578

**[PROPOSED] ORDER AND
JUDGMENT**

Date: March 6, 2025

Time: 8:20 a.m.

Department: 41

Complaint Filed: June 22, 2023

1 This matter came for hearing on March 6, 2025, in the above-entitled court, on the Motion
2 for Final Approval of Class Action Settlement. Prior to court convening Plaintiff and Defendant
3 submitted on the Court's written tentative ruling. The Court finds/orders that the Court's tentative
4 is adopted as the Court's ruling as follows on Motion by Plaintiff Ziyah Blackstone ("Plaintiff")
5 for Final Approval of Class Action Settlement, Etc. (Unopposed):

6 **I. Grounds**

7 Plaintiff moves for an order granting final approval of the class action/PAGA settlement
8 and procedures, certifying the settlement class, and entering the proposed order and judgment.

9 **II. Background and Settlement Terms**

10 Defendant, The Boatyard, Inc., ("Defendant") operates a restaurant inside the Ventura
11 Harbor. Plaintiff worked for Defendant as a server during the class period, and was subject to the
12 same policies and procedures as other hourly employees.

13 The First Amended Class Action Complaint ("FAC") sets forth claims for (i) failure to pay
14 minimum wages; (ii) failure to pay overtime wages; (iii) failure to provide meal periods; (iv)
15 failure to provide rest periods; (v) failure to furnish accurate wage statements; (vi) failure to
16 indemnify employees for necessary expenditures and losses; (vii) failure to pay earned wages
17 upon termination or discharge; (viii) unfair competition in violation of Business & Professions
18 Code Section 17200; and (ix) violation of Labor Code section 2698, et. seq.

19 The Court granted preliminary approval of the settlement and related matters on November
20 6, 2024, with a reduction to Plaintiff's service enhancement from \$20,000 to \$8,000. The minute
21 order states that "Plaintiff counsel will supplement-record on enhancement prior to the final
22 approval hearing."

23 The material terms of the settlement are:

- 24 (1) Gross settlement: \$500,000, non-revisionary;
- 25 (2) Attorney's fees: Up to \$175,000 (35%);
- 26 (3) Litigation costs: Up to \$12,209.50;
- 27 (4) Service award: Up to \$20,000 to Plaintiff;
- 28 (5) Administration costs: \$11,000;

- 1 (6) PAGA payment: \$10,000 total, with 75% (\$7,500) to Labor & Workforce Development
2 Agency ("LWDA") and 25% (\$2,500) to PAGA members;
3 (7) Estimated net settlement: \$271,790.50;
4 (8) Class members: 118 (no opt-outs or objections);
5 (9) Estimated average payment to each class member: \$2,254.74.

6 III. Legal Standards

7 The primary issue to address is whether the proposed settlement is "fair, reasonable, and
8 adequate," as outlined in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794. This involves
9 considering factors such as: "the strength of plaintiffs' case, the risk, expense, complexity and
10 likely duration of further litigation, the risk of maintaining class action status through trial, the
11 amount offered in settlement, the extent of discovery completed and the state of the proceedings,
12 the experience and views of counsel, the presence of a governmental participant, and the reaction
13 of the class members to the proposed settlement." (*Id.* at 1801; *see also Amaro v. Anaheim Arena*
14 *Mgmt., LLC* (2021) 69 Cal.App.5th 521, 534-535.)

15 Since this case involves the settlement of PAGA claims, the Court must also consider the
16 relevant criteria under that statute. The Court of Appeal's decision in *Moniz v. Adecco USA, Inc.*
17 (2021) 72 Cal.App.5th 56, disapproved on another ground in *Turrieta v. Lyft, Inc.* (2024) 16
18 Cal.5th 664, 684-692, provides guidance on this matter. In *Moniz*, the court ruled that the "fair,
19 reasonable, and adequate" standard used for class action settlements also applies to PAGA
20 settlements (*Id.*, at 64). The court further held that the trial court must evaluate "the fairness of
21 the settlement's allocation of civil penalties between the affected aggrieved employees" (*Id.*, at
22 64-65).

23 California law generally favors settlement (*Neary v. Regents of University of California*
24 (1992) 3 Cal.4th 273). However, the court cannot approve a settlement that goes against the law
25 or public policy (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin*
26 (2003) 106 Cal.App.4th 1121, 1127). The court must ensure the judgment is fair and just, and
27 cannot merely approve a settlement without proper review (*California State Auto. Assn. InterIns.*
28

1 *Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664). Thus, in cases involving public rights, a
2 more thorough judicial review is required, even if it complicates the settlement process
3 (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48,
4 63).

5 **IV. Discussion**

6 Fairness, adequacy, and reasonableness are presumed, as here, when: “(1) the settlement is
7 reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow
8 counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4)
9 the percentage of objectors is small.” (*Dunk, supra*, 48 Cal.App.4th at p. 1802.)

10 Here, the settlement was reached at arms-length during mediation. Accordingly, the first
11 Dunk factor is satisfied. Plaintiff’s counsel engaged in mediation, investigation and discovery.
12 Accordingly, the evidence indicates that Plaintiff’s counsel engaged in sufficient investigation
13 and discovery to intelligently evaluate the claims of the Settlement Class Members. Accordingly,
14 the second Dunk factor is satisfied. Plaintiff’s counsel has significant prior experience in acting
15 as class counsel in wage and hour litigation. Accordingly, the third Dunk factor is satisfied.
16 There are no opt-outs or objections. The final Dunk factor is satisfied.

17 The Court notes the following:

- 18 · The class notice procedure, payment procedure, and use of an administrator are
19 reasonable.
- 20 · The standard release for class members is fair and reasonable.
- 21 · Based on the above, there is a presumption under Dunk as to the reasonableness
22 of the Settlement.
- 23 · In addition, in light of this estimate and the inherent risks of litigation, the
24 Settlement Amount appears reasonable.

25 **A. Attorney Fees and Other Costs**

26 The attorney’s fees are fair and reasonable. The amount of attorney’s fees sought by
27 Plaintiff’s is 35%, which is a typical contingency fee amount. The attorneys have spent more than
28 238.1 hours on this case, and anticipate spending another 30 hours related to executing the

1 settlement and finalizing the case. The fees are proper under the common fund doctrine or the
2 lodestar method. Under the lodestar crosscheck, the time spent on the matter is reasonable. While
3 the average hourly rate and multiplier are a bit high, given that the fees are only 35% of the gross
4 settlement, the Court finds that the fee award is reasonable. The litigation expenses and
5 administration costs are also reasonable.

6 The expenses and class representative enhancement are fair and reasonable. The parties
7 have agreed to a service award of no more than \$20,000.00 to Plaintiff (Bass Decl., Exh. A). The
8 Court previously reduced this enhancement to \$8,000, and directed Plaintiff's counsel to
9 supplement the record with respect to the requested enhanced service award. The papers state that
10 Plaintiff has personally worked over 85 hours on this case and she endured particularly high
11 violations, including overtime pay, that she could have resolved sooner had she pursued this as
12 an individual case. (Bass Decl., ¶¶ 64-65; Blackstone Decl., ¶¶ 4-11). Plaintiff undertook
13 litigation risks and made sacrifices that other class members did not make. The parties have
14 agreed to the \$20,000 payment, and that amount was disclosed in the settlement paperwork sent
15 to class members, and no class members opted out or objected. Plaintiff's arguments are
16 persuasive, especially in light of the amount of time she spent on this case. Accordingly, the
17 Court will include the requested \$20,000 enhancement to Plaintiff.

18 The Settlement includes the required 75% LWDA/25% class members payment required
19 for the PAGA claim. The required notice has been submitted to the LWDA. (See Lab. Code, §
20 2699.3, subd. (b)(40).) The Settlement includes all that is required under PAGA.

21 **B. Class Certification**

22 The general requirements for certification of a class action are (1) existence of an
23 ascertainable class, and (2) a well-defined community of interest in the questions of law and fact
24 involved. In determining whether there is well-defined community of interest, the Court must
25 consider three main factors: whether there are (a) predominant common questions of law or fact
26 ("commonality" requirement); (b) class representatives with claims or defenses typical of the
27 class ("typicality" requirement); and (c) class representatives who can adequately represent the
28 class ("adequate representation" requirement). The party seeking certification has the burden of

1 establishing the factual prerequisites for a class action treatment. Moreover, the party seeking
2 certification bears the burden of establish the existence of both an ascertainable class and a well-
3 defined community of interest among class members. (*Sav-On Drug Stores, Inc. v. Sup. Ct.* (2004)
4 34 Cal.4th 319, 326.)

5 The case law suggests that class certification requirements are substantially relaxed for
6 settlement-only classes. (See, e.g., *Global Minerals & Metals Corp. v. Sup. Ct.* (2003) 113
7 Cal.App.4th 836, 859; *Dunk v. Ford Motor Company* (1996) 48 Cal.App.4th 1794, 1807, fn. 19.)

8 The definition of the Settlement Class is as follows: “[A]ll persons employed by The
9 Boatyard, Inc. and paid on an hourly basis at any location in California at any time between June
10 22, 2019 and June 7, 2024.”

11 Given the proposed Settlement Class definition, the members of the Settlement Class are
12 readily ascertainable, and the parties have already ascertained that there are at least 119 members
13 of the Settlement Class. (See Bass Decl., ¶ 12.)

14 In light of the Settlement Class definition, and Plaintiff’s claims in the FAC, there is a
15 reasonable presumption of commonality among Settlement Class Members’ claims.

16 The size of the Settlement Class (i.e., 118 members) is sufficiently large to justify the use
17 of class action procedures and, in fact, to make the class action approach superior to resolving
18 Settlement Class Members’ claims in individual lawsuits

19 Plaintiff is a member of the Settlement Class and her claims are typical of the other
20 Members of the Settlement Class. Only the amount of damages would appear to differ among the
21 Settlement Class Members. Accordingly, the “typicality” requirement is satisfied.

22 There appears to be no evidence before the Court that challenges the adequacy of Plaintiff
23 as Class Representative, or the adequacy of Plaintiff’s counsel to serve as class counsel.

24 The Court observes that these kind of overtime/wage statement/meal period classes are
25 routinely certified for settlement purposes because they are typically based on general practices by
26 an employer applicable to all employees falling within a certain job classification and therefore
27 are generally suitable for class treatment due to substantial common issues with respect to the
28 employer’s practices, there is usually a modest amount of wages/damages as stake for each

1 employee, and the availability of employer payroll records often provides a basis for calculating
2 the damages/payments due to each member of the class. Moreover, the amount at issue for each
3 employee is often insufficient to justify the expense of bringing an individual lawsuit, thereby
4 making the class action procedure the only practical remedy for the alleged violations. Based on
5 the above, the Court certifies the Settlement Class as defined in the Stipulation of Settlement.

6 **V. Conclusion**

7 The moving papers sufficiently establish that the proposed settlement is fair, reasonable,
8 and adequate to justify final approval.

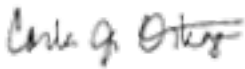
9 The court sets the Final Report Hearing for **December 19, 2025 at 8:35 a.m.**, to confirm
10 that distribution efforts are fully completed, that the Administrator's work is complete, and that
11 the court's file thus may be closed. The parties must report to the court the total amount that was
12 actually paid to the aggrieved employees. All supporting papers must be filed at least 10 days
13 before the Final Report Hearing date.

14 Hearing Re: Final Report is scheduled for 12/19/2025 at 08:35 AM in Department 41 at
15 Hall of Justice.

16 Pursuant to California Rules of Court, Rule 3.769(h), the Court will retain jurisdiction
17 over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement
18 and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-
19 Judgment matters as are permitted by law.

20 **IT IS SO ORDERED.**

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22 Dated: 04/01/2025, 2025

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25 Honorable Judge of the Superior Court
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