

23CV418940

By: fbryant

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

OLIVIA GUERRERO, individually, and on
behalf of other members of the general public
similarly situated, and as an aggrieved employee
pursuant to the Private Attorneys General Act
("PAGA"),

Plaintiffs,

v.

JB RESTAURANT #4365, INC., a California
corporation; JB RESTAURANT #401, INC., a
California corporation; JB RESTAURANT
#438, INC., a California corporation; JB
RESTAURANT #476, INC., a California
corporation; JB RESTAURANT #483, INC., a
California corporation; JB RESTAURANT
#3419, INC., a California corporation; JB
RESTAURANT, #3425, INC., a California
corporation; JB RESTAURANT #3462, INC., a
California corporation; JB RESTAURANT
#3464, INC., a California corporation; JB
RESTAURANT #4388, INC., a California
corporation; LJ & MW ENTERPRISES, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 23CV418940

**ORDER GRANTING PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

1 This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiffs
2 Olivia Guerrero and Edith Martinez (collectively, "Plaintiffs") allege defendants JB Restaurant
3 #4365, Inc., JB Restaurant #401, Inc., JB Restaurant #438, Inc., JB Restaurant #476, Inc., JB
4 Restaurant #483, Inc., JB Restaurant #3419, Inc., JB Restaurant #3425, Inc., JB Restaurant
5 #3462, Inc., JB Restaurant # 3464, Inc., JB Restaurant #4388, Inc., LJ & MW Enterprises, Inc.
6 (collectively, "Defendants") committed various wage and hour violations.

7 Before the Court is Plaintiffs' motion for final approval of settlement, which is
8 unopposed. As discussed below, the Court GRANTS Plaintiffs' motion for final approval.

9 **I. BACKGROUND**

10 According to the allegations of the operative second amended complaint ("SAC"),
11 Plaintiff Guerrero was employed by Defendant as an hourly paid, non-exempt cook from
12 approximately December 2015 to March 2023. (SAC, ¶ 4.) Plaintiff Martinez was employed by
13 Defendants as an hourly paid, non-exempt cashier from approximately September 2020 to May
14 2023. (SAC, ¶ 5.)

15 Plaintiffs allege Defendants failed to, among other things: timely pay all wages owed,
16 including minimum and overtime; provide meal periods or compensation in lieu thereof; provide
17 rest periods or compensation in lieu thereof; provide complete and accurate wage statements;
18 maintain complete and accurate payroll records; pay all wages due upon termination; fully
19 reimburse for business expenses. (SAC ¶¶ 35-46.)

20 Based on the foregoing, Plaintiff Guerrero initiated this action on July 17, 2023 with the
21 filing of the complaint and October 2, 2023, she filed her first amended complaint which asserted
22 the following causes of action: (1) violation of Labor Code §§ 510 and 1198 (unpaid overtime);
23 (2) violation of Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum
24 wages); (3) violation of Labor Code §§ 2267, 512, subdivision (a), 516, and 1198 (failure to
25 provide meal periods); (4) violation of Labor Code §§ 226.7, 516, and 1198 (failure to authorize
26 and permit rest periods); (5) violation of Labor Code §§ 226, subdivision (a), 1174, subdivision
27 (d), and 1198 (non-compliant wage statements and failure to maintain payroll records); (6)
28 violation of Labor Code §§ 201 and 202 (wages not timely paid upon termination); (7) violation

1 of Labor Code § 204 (failure to timely pay wages during employment); (8) violation of Labor
2 Code §§ 2802 (unreimbursed business expenses); (9) civil penalties under Labor Code § 2698, *et*
3 *seq.* (PAGA); (10) violation of Business & Professions Code §§ 17200, *et seq.* (unlawful
4 business practices); and (11) violation of Business & Professions Code §§ 17200, *et seq.* (unfair
5 business practices). On April 22, 2024, Plaintiff filed the operative SAC, which asserts the same
6 claims and added Plaintiff Martinez to this action.

7 On March 26, 2026, the Court issued its order which granted Plaintiffs' motion for
8 preliminary approval of class and PAGA settlement (the "Settlement").

9 Plaintiffs now move for an order finally approving: the Settlement; payments to class
10 members, PAGA members, and the LWDA; and costs to settlement administrator Phoenix
11 Settlement Administrators ("Phoenix").

12 **II. LEGAL STANDARDS FOR SETTLEMENT APPROVAL**

13 **A. Class Action**

14 Generally, "questions whether a [class action] settlement was fair and reasonable,
15 whether notice to the class was adequate, whether certification of the class was proper, and
16 whether the attorney fee award was proper are matters addressed to the trial court's broad
17 discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*),
18 disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th
19 260.)

20 In determining whether a class settlement is fair, adequate and reasonable, the
21 trial court should consider relevant factors, such as the strength of plaintiffs' case,
22 the risk, expense, complexity and likely duration of further litigation, the risk of
23 maintaining class action status through trial, the amount offered in settlement, the
24 extent of discovery completed and the stage of the proceedings, the experience
25 and views of counsel, the presence of a governmental participant, and the reaction
26 of the class members to the proposed settlement.
27 (*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)
28

1 In general, the most important factor is the strength of the plaintiffs' case on the merits,
2 balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008)
3 168 Cal.App.4th 116, 130 (*Kullar*)). But the trial court is free to engage in a balancing and
4 weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91
5 Cal.App.4th at p. 245.) The trial court must examine the "proposed settlement agreement to the
6 extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or
7 overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a
8 whole, is fair, reasonable and adequate to all concerned." (*Ibid.*, citation and internal quotation
9 marks omitted.) The trial court also must independently confirm that "the consideration being
10 received for the release of the class members' claims is reasonable in light of the strengths and
11 weaknesses of the claims and the risks of the particular litigation." (*Kullar, supra*, 168
12 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
13 "provided with basic information about the nature and magnitude of the claims in question and
14 the basis for concluding that the consideration being paid for the release of those claims
15 represents a reasonable compromise." (*Id.* at pp. 130, 133.)

16 B. PAGA

17 Labor Code section 2699, subdivision (l)(2) provides that "[t]he superior court shall
18 review and approve any settlement of any civil action filed pursuant to" PAGA. The court's
19 review "ensur[es] that any negotiated resolution is fair to those affected." (*Williams v. Superior*
20 *Court* (2017) 3 Cal.5th 531, 549.) Seventy-five percent of any penalties recovered under PAGA
21 go to the Labor and Workforce Development Agency (LWDA), leaving the remaining twenty-
22 five percent for the aggrieved employees. (*Iskanian v. CLS Transportation Los Angeles, LLC*
23 (2014) 59 Cal.4th 348, 380, overruled on other grounds by *Viking River Cruises, Inc. v.*
24 *Moriana* (2022) 596 U.S. 639, 2022 U.S. LEXIS 2940.)

25 Similar to its review of class action settlements, the Court must "determine independently
26 whether a PAGA settlement is fair and reasonable," to protect "the interests of the public and the
27 LWDA in the enforcement of state labor laws." (*Moniz v. Adecco USA, Inc.* (2021) 72
28 Cal.App.5th 56, 76–77.) It must make this assessment "in view of PAGA's purposes to

1 remediate present labor law violations, deter future ones, and to maximize enforcement of state
2 labor laws.” (*Id.* at p. 77; see also *Haralson v. U.S. Aviation Servs. Corp.* (N.D. Cal. 2019) 383
3 F. Supp. 3d 959, 971 [“when a PAGA claim is settled, the relief provided for under the PAGA
4 [should] be genuine and meaningful, consistent with the underlying purpose of the statute to
5 benefit the public”], quoting LWDA guidance discussed in *O’Connor v. Uber Technologies,*
6 *Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110 (*O’Connor*).)

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

13 **III. SETTLEMENT CLASS**

14 All persons who worked for Defendant as non-exempt, hourly employees in the
15 State of California at any time during the Class Period.¹

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

21 Section 382 requires the plaintiff to demonstrate by a preponderance of the evidence:
22 (1) an ascertainable class and (2) a well-defined community of interest among the class
23 members. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, 332 (*Sav-On*
24 *Drug Stores*).) “Other relevant considerations include the probability that each class member
25 will come forward ultimately to prove his or her separate claim to a portion of the total recovery
26 and whether the class approach would actually serve to deter and redress alleged wrongdoing.”

27
28 ¹ The Class Period is defined as the period from July 17, 2019, through October 24, 2025.

1 (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.) The plaintiff has the burden of
2 establishing that class treatment will yield “substantial benefits” to both “the litigants and to the
3 court.” (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381, 385.)

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

12 At preliminary approval, the Court provisionally certified the above-described Class, and
13 it does not find any reasons to depart from that ruling at this time. Consequently, the Court will
14 certify the Class for settlement purposes as requested.

15 **IV. TERMS AND ADMINISTRATION OF SETTLEMENT**

16 The non-reversionary gross settlement amount is \$ 1,000,000. Attorneys’ fees of up to
17 one-third, which is approximately \$333,333, litigation costs of up to \$20,000, and administrative
18 costs of \$15,500. \$60,000 will be allocated to PAGA penalties, with \$45,000 paid to Labor and
19 Workforce Development Agency (“LWDA”) and \$15,000 will be distributed to PAGA
20 Members, who are defined as “all persons who worked for Defendant as non-exempt, hourly
21 employees in the State of California at any time during the PAGA Period.² Plaintiffs will seek a
22 Class Representative Service Award in the amount of \$10,000 each—totaling \$20,000.

23 The net settlement amount—which is estimated to be \$551,167—will be allocated to
24 members of the Class, who are defined as “all persons who worked for Defendant as non-
25 exempt, hourly employees in the State of California at any time during the Class Period.” The
26 average individual payment will be \$363.81. For tax purposes, 20% of each individual Class
27

28 ² The PAGA Period is defined as the period from May 13, 2022, through October 24, 2025.

1 payment will be allocated as wages and 80% will be located as non-wages. Funds associated
2 with checks uncashed after 180 days will be transmitted to the State Controller's Office,
3 Unclaimed Property Division.

4 In exchange for settlement, Class Members who do not opt out will release:

5 [A]ll claims, rights, demands, liabilities, and causes of action that are alleged in
6 the operative Complaint, or which could have been alleged by reason of, or in
7 connection with, any manner or fact set forth or referred to in the operative
8 Complaint, including claims for violation of: 1) California Labor Code sections
9 510 and 1198 (unpaid overtime); (2) California Labor Code sections 1182.12,
10 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (3) California Labor
11 Code sections 226.7, 512(a), 516, and 1198 (failure to provide meal periods); (4)
12 California Labor Code sections 226.7, 516, and 1198 (failure to authorize and
13 permit rest periods); (5) California Labor Code sections 226(a), 1174(d), and
14 1198 (non-compliant wage statements and failure to maintain payroll records); (6)
15 California Labor Code sections 201 and 202 (wages not timely paid upon
16 termination); (7) California Labor Code section 204 (failure to timely pay wages
17 during employment); (8) California Labor Code section 2802 (unreimbursed
18 business expenses); (9) California Business & Professions Code sections 17200,
19 *et seq.* (unlawful business practices); and (10) California Business & Professions
20 Code sections 17200, *et seq.* (unfair business practices).

21 PAGA Members, who consistent with the statute will not be able to opt out of the
22 PAGA portion of the settlement, will release:

23 [A]ll claims for civil penalties under California Labor Code §§ 2698, *et seq.*, that
24 were brought or could reasonably have been brought based on the same facts
25 alleged in Plaintiffs' LWDA letter during the PAGA Period.

26 The notice period has now been completed. Jarrod Salinas ("Salinas"), a case
27 manager for Phoenix, submitted a declaration in support of the instant motion. On March
28 22, 2026, Phoenix received the notice packet and on April 9, 2026, defense counsel

1 provided the Class list, which was processed and updated by Phoenix using the National
2 Change of Address Database. On April 24, 2026, Phoenix mailed notice packets to 1,515
3 Class members. As of the date of Salinas' declaration, 12 notice packets have been
4 returned and Phoenix performed skip traces and remained 4 notice packets. Thus, 8
5 notice packets have been deemed undeliverable.

6 The deadline to respond was June 8, 2026. As of the date of Salinas' declaration,
7 Phoenix received 0 requests for exclusion and 0 objections to the settlement.
8 Consequently, there are 1,515 participating Class members, representing 100% of the
9 Class. The average individual payment is 363.81, with the highest being \$5,388.39. The
10 average PAGA payment is \$25.38, with the highest being \$171.57.

11 Plaintiffs request \$15,500 for administration costs. This request is supported by
12 Salinas' declaration. Thus, the amount is reasonable and therefore, it is approved.

13 At the preliminary approval, the Court found that the proposed settlement provides a fair
14 and reasonable compromise to Plaintiffs' claims. It finds no reason to depart from these findings
15 now, especially considering that there are no objections. Therefore, the Court finds that the
16 Settlement is fair and reasonable for the purposes of final approval.

17 **V. ATTORNEYS' FEES, LITIGATION COSTS, AND PLAINTIFFS' SERVICE**
18 **AWARD**

19 Class Counsel seeks a fee award of \$333,333 or one-third of the gross settlement amount,
20 which is not an uncommon contingency fee in a wage and hour class action. Class Counsel
21 provides a lodestar figure of \$203,412.50, based on 283.8 hours of work at billing rates ranging
22 from \$500 to \$1,050 per hour, resulting in a multiplier of 1.64, which is within the range of
23 multipliers that courts typically approve. (See *Wershba, supra*, 91 Cal.App.4th at p. 255
24 ["[m]ultipliers can range from 2 to 4 or even higher"]; *Vizcaino v. Microsoft Corp.* (9th Cir.
25 2002) 290 F.3d 1043, 1051, fn. 6 [stating that multipliers ranging from one to four are typical in
26 common fund cases and citing the court's own survey of large settlements funding a range of
27 0.6-19.6, with most (20 to 24, or 83%) from 1.0-4.0 and a bare majority (13 of 24, or 54%) in the
28 1.5-3.0 range"].)

1 “While the percentage method has been generally approved in common fund cases,
2 courts have sought to ensure the percentage fee is reasonable by refining the choice of a
3 percentage or by checking the percentage result against the lodestar-multiplier calculation.”
4 (*Laffitte v. Robert Half Intern, Inc.* (2016) 1 Cal.5th 480, 495 (*Laffitte*)). Applying the latter
5 approach,

6 [T]he percentage-based fee will typically be larger than the lodestar based fee.

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

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

22 Here, the multiplier sought by Class Counsel is within the range California courts
23 typically award, and it is supported by the percentage cross-check and Class Counsel’s
24 declaration. Thus, the Court finds Class Counsel’s requested fee award is reasonable.

25 Class Counsel also seeks \$14,639.27 in litigation costs, which is below the \$20,000
26 allowed for in the Settlement. The request is supported by Class Counsel’s declaration. This
27 amount is reasonable and thus, it is approved.

1 Plaintiffs request Class Representative Enhancement payment of \$10,000 each—totaling
2 \$20,000.

3 The rationale for making enhancement or incentive awards to named plaintiffs is
4 that they should be compensated for the expense or risk they have incurred in
5 conferring a benefit on other members of the class. An incentive award is
6 appropriate if it is necessary to induce an individual to participate in the suit.
7 Criteria courts may consider in determining whether to make an incentive award
8 include: 1) the risk to the class representative in commencing suit, both financial
9 and otherwise; 2) the notoriety and personal difficulties encountered by the class
10 representative; 3) the amount of time and effort spent by the class representative;
11 4) the duration of the litigation and; 5) the personal benefit (or lack thereof)
12 enjoyed by the class representative as a result of the litigation. These “incentive
13 awards” to class representatives must not be disproportionate to the amount of
14 time and energy expended in pursuit of the lawsuit.

15 (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, internal
16 punctuation and citations omitted.) Incentive awards are particularly appropriate where a plaintiff
17 undertakes a significant reputational risk in bringing an action against an employer. (*Covillo v.*
18 *Specialty's Café* (N.D. Cal. 2014) 2014 U.S.Dist.LEXIS 29837, at *29.)

19 In the order granting preliminary approval, the Court ordered Plaintiffs to submit
20 declarations detailing their efforts in this action. (See Order Granting Preliminary Approval, p.
21 13:3-4.) Accordingly, Plaintiffs submitted their respective declarations.

22 Plaintiffs Guerrero states she spent between 25 to 35 hours on this action, which includes
23 meeting with Class Counsel, discussing facts related to her employment, reviewing documents,
24 and communicating with Class Counsel. (Plaintiff Guerrero Declaration (“Decl.”), ¶¶ 4-5, 7, 10-
25 11.) She further states that she considered the personal risk of participating in this action.
26 (Plaintiff Guerrero Declaration (“Decl.”), ¶¶ 4, 6, 12.) Similarly, Plaintiff Martinez states she
27 spent between 25 to 35 hours on this action, which includes meeting with Class Counsel,
28 discussing facts related to her employment, reviewing documents, and communicating with

1 Class Counsel. (Plaintiff Martinez Decl., ¶¶ 4-5, 8-10.) She also considered the personal risk of
2 participating in this action. (Plaintiff Martinez Decl., ¶¶ 6-7, 11.) The Court finds Plaintiffs are
3 entitled to service awards and the amounts requested are reasonable. Thus, Plaintiffs' request is
4 approved.

5 **VI. CONCLUSION**

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

8 Plaintiffs' motion for final approval is GRANTED. The following Class is certified for
9 settlement purposes only:

10 All persons who worked for Defendant as non-exempt, hourly employees in the
11 State of California at any time during the Class Period.

12 Judgment will be entered through the filing of this order and judgment. (Code Civ. Proc.,
13 § 668.5.) Plaintiff and the members of the Class will take from the operative complaint only the
14 relief set forth in the settlement agreement and this order and judgment. Pursuant to Rule
15 3.769(h) of the California Rules of Court, the Court will retain jurisdiction over the parties to
16 enforce the terms of the settlement agreement and the final order and judgment.

17 The Court sets a compliance hearing for May 27, 2027 at 2:30 P.M. in Department 22.
18 At least ten court days before the hearing, class counsel and the settlement administrator shall
19 submit a summary accounting of the net settlement fund identifying distributions made as
20 ordered herein; the number and value of any uncashed checks; amounts remitted pursuant to
21 Code of Civil Procedure section 384, subdivision (b); the status of any unresolved issues; and
22 any other matters appropriate to bring to the Court's attention. Counsel shall also submit an
23 amended judgment as described in Code of Civil Procedure section 384, subdivision (b).

24 Counsel may appear at the compliance hearing remotely.

25 **IT IS SO ORDERED.**

26
27 Date: 9-27-26

28 
BETH MCGOWEN