

APR 14 2021

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11 DAVID JAIMES, and all others similarly situated

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SAN BERNARDINO

15 DAVID JAIMES, on behalf of himself, and
16 all others similarly situated, and as an
17 "aggrieved employee" on behalf of other
18 "aggrieved employees" under the Labor
Code Private Attorneys General Act of
2004,

19 *Plaintiff(s),*

20 vs.

22 BAKER'S BURGERS, INC., a California
23 corporation; and DOES 1-50, inclusive,

24 *Defendant(s).*

Case No. CIV DS 1933423

**[PROPOSED] FINAL ORDER AND
JUDGMENT APPROVING CLASS ACTION
AND PAGA SETTLEMENT**

Hearing Date: April 14, 2021

Hearing Time: 10:00 a.m.

Hearing S26, Hon. David S. Cohn

Dept.:



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1 This matter came on for hearing on April 14, 2021 at 10:00 a.m. in Department 26 of the
2 above-captioned court on Plaintiff's unopposed Motion for Final Approval of a Class Action and
3 PAGA Settlement pursuant to California Rules of Court, Rule 3.769, as set forth in the Stipulation
4 of Class Action and PAGA Settlement and Release (the Settlement) filed herewith. All capitalized
5 terms used herein shall have the same meaning as defined in the Settlement.

6 In accordance with the Court's prior Preliminary Approval Order and January 13, 2021
7 Order, Class Members have been given notice of the terms of the Settlement and the opportunity
8 to request exclusion, comment upon or object to it or to any of its terms. Having received and
9 considered the Settlement, the supporting papers filed by the Parties, and the evidence and
10 argument received by the Court in conjunction with the motions for preliminary and final approval
11 of the Settlement, and having conducted a Final Approval and Fairness Hearing ("Fairness
12 Hearing"), the Court grants final approval of the Settlement and HEREBY ORDERS,
13 ADJUDGES, DECREES AND MAKES THE FOLLOWING DETERMINATIONS:

14 1. The Court has and retains jurisdiction over the subject matter of the Action and
15 over all Parties to the Action, including all Settlement Class Members. Pursuant to this Court's
16 Preliminary Approval Order of September 23, 2020, the Notice Packets were sent in English and
17 Spanish to each Class Member by First Class U.S. mail with a pre-printed, postage paid return
18 envelope. The Notice informed Class Members of the terms of the Settlement, their right to receive
19 their proportional share of the Settlement, their right to request exclusion, their right to comment
20 upon or object to the Settlement, and their right to appear in person or by counsel at the final
21 approval hearing and be heard regarding final approval of the Settlement. Pursuant to the Court's
22 January 13, 2021 Order, each Class Member were sent a postcard in English and Spanish informing
23 them of the increase in Settlement Administrative Costs, extended deadlines and the continuation
24 of the date of the Final Approval Hearing to April 14, 2021. Adequate periods of time were
25 provided by each of these procedures. No member of the Class presented written objections to the
26 proposed Settlement as part of this notice process, stated an intention to appear, or actually
27 appeared at the final approval hearing.

28 2. For purposes of this Order and Judgment, the "Class Period" shall mean December

1 22, 2014 through September 23, 2020 and the Class is defined as all current and former non-
2 exempt employees Defendant employed in California at any time during the Class Period. For
3 purposes of this Order and Judgment, the "PAGA Period" shall mean that December 22, 2017
4 through September 23, 2020.

5 3. In accordance with California Code of Civil Procedure Section 382, California Rule
6 of Court 3.769 and the requirements of due process, all Class Members have been given proper
7 and adequate Notice of the Settlement. Based upon the evidence submitted by the parties, the
8 Settlement Agreement, the arguments of counsel, and all the files, records and proceedings in this
9 case, the Court finds that the Notice Packet and Notice methodology implemented pursuant to the
10 Settlement Agreement and the Court's Preliminary Approval Order and January 13, 2021 Order:
11 (a) constituted the best practicable notice under the circumstances; (b) constituted notice that was
12 reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the
13 litigation, their right to object to the Settlement, and their right to appear at the Fairness Hearing;
14 (c) was reasonable and constituted due, adequate and sufficient notice to all persons entitled to
15 notice; and (d) met all applicable requirements of California Code of Civil Procedure Section 382,
16 California Rule of Court 3.769, and any other applicable law.

17 4. The Court further finds and determines that the terms of the Settlement are fair,
18 reasonable and adequate, to those it affects, and resulted from vigorously contested litigation,
19 substantial discovery, motion practice, and extensive good-faith arm's length negotiations
20 between the parties, and is in the public interest considering the following factors:

- 21 (a) the strength of the Plaintiff's case;
- 22 (b) the risk, expense, complexity and likely duration of further litigation;
- 23 (c) the risk of maintaining class action status throughout the trial;
- 24 (d) the amount offered in settlement;
- 25 (e) the extent of discovery completed, and the stage of the proceedings;
- 26 (f) the experience and views of counsel; and
- 27 (g) the reaction of the class members to the proposed settlement.

28 Accordingly the Settlement is ordered finally approved, and that all terms and provisions

1 of the Settlement, including the release of claims contained therein, should be and hereby are
2 ordered to be consummated, and directs the Parties to effectuate the Settlement according to its
3 terms. As of the Effective Date, all Settlement Class Members are hereby deemed to have waived
4 and released all Released Claims and are forever barred and enjoined from prosecuting the
5 Released Claims against the Released Parties as fully set forth in the Settlement. As of the Effective
6 Date, all Class Members are hereby deemed to have waived and released all PAGA Released
7 Claims and are forever barred and enjoined from prosecuting the PAGA Released Claims against
8 the Released Parties as fully set forth in the Settlement. No objections were received by the Parties
9 or the Court through the date of this Final Order and Judgment. The Court finds that 8 Class
10 Members (Chelsea Dian Hogan, Magdalena Margarita Laurel, Debra Leal, Zoe Lemus, Barbara
11 Luttrell, Tyler Vernon Marshall, Kaneeyah C. Ross and Jessica Grace Sencion) timely submitted
12 a valid request for exclusion from the non-PAGA portion of the Settlement as determined by the
13 Settlement Administrator and therefore they are not Settlement Class Members.

14 5. The Court finds and determines that (a) the Individual Settlement Awards to be paid
15 to Settlement Class Members and (b) the PAGA Payment as civil penalties under the California
16 Labor Code Private Attorneys General Act of 2004, as amended, California Labor Code sections
17 2699 et seq., as provided for by the Settlement are fair and reasonable. The Court hereby grants
18 final approval to, and orders the payment of, those amounts be made to the Settlement Class
19 Members, Class Members, and to the California Labor & Workforce Development Agency, in
20 accordance with the terms of the Settlement.

21 6. The Court further grants final approval to and orders that the following payments
22 be made in accordance with the terms of the Settlement:

- 23 a. \$533,333.00 Fee Award and \$10,215.59 Expense Award to Class Counsel;
- 24 b. \$20,000 as an Enhancement Award payable to Plaintiff, David Jaimes, for
25 his services as Class Representative; and
- 26 c. \$56,000.00 in Administration Costs payable to CPT Group, Inc. for its
27 services as the Settlement Administrator.

28 7. The Settlement shall proceed as directed in the implementation schedule in the



1 Preliminary Approval Orders consistent with the Settlement, and pursuant to Paragraph 35 of the
2 Settlement. Without affecting the finality of this Order and Judgment in any way, the Court retains
3 jurisdiction of all matters relating to the interpretation, administration, implementation,
4 effectuation and enforcement of this Order and the Settlement pursuant to California Rule of Court
5 3.769(h).

6 8. On December 29, 2020, Defendant deposited the first fifty percent (50%) of the
7 Gross Settlement Fund with the Settlement Administrator pursuant to the December 1, 2020 Order
8 to Amend the Preliminary Approval Order to Establish a Qualified Settlement Fund. Defendant
9 shall deposit the remainder of the Gross Settlement Fund and Employer taxes to effectuate the
10 terms of this Settlement within ten days following the Effective Date or within five business days
11 after the Settlement Administrator provides Defendant's counsel with routing instructions to wire
12 funds, whichever occurs later..

13 9. Nothing in this Final Approval Order and Judgment shall preclude any action to
14 enforce the Parties' obligations under the Settlement or hereunder, including the requirement that
15 Defendant deposit funds for distribution by the Settlement Administrator to Settlement Class
16 Members as set forth above in Paragraph 8.

17 10. The Court hereby enters final Judgment in this case in accordance with the terms
18 of the Settlement, Order Granting Preliminary Approval and as amended, and this Final Approval
19 Order and Judgment.

20 11. The Parties are hereby ordered to comply with the terms of the Settlement.

21 12. The Parties shall bear their own costs and attorneys' fees except as otherwise
22 provided by the Settlement and this Final Approval Order and Judgment.

23 13. The Settlement is not an admission by Defendant nor is this Order and Final
24 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendant.
25 Furthermore, the Settlement is not a concession by Defendant and shall not be used as an admission
26 of any fault, omission, or wrongdoing by Defendant. Neither this Order and Final Judgment,
27 Settlement, any document referred to herein, any exhibit to any document referred to herein, any
28 action taken to carry out the Settlement, nor any negotiations or proceedings related to the

1 Settlement are to be construed as, or deemed to be evidence of, or an admission or concession with
2 regard to, the denials or defenses of Defendant, and shall not be offered in evidence in any
3 proceeding against the Parties hereto in any Court, administrative agency, or other tribunal for any
4 purpose whatsoever other than to enforce the provisions of this Order and Final Judgment. This
5 Order and Final Judgment, the Settlement and exhibits thereto, and any other papers and records
6 on file in the Action may be filed in this Court or in any other litigation as evidence of the
7 settlement by Defendant to support a defense of res judicata, collateral estoppel, release, or other
8 theory of claim or issue preclusion or similar defense as to the Released Claims.

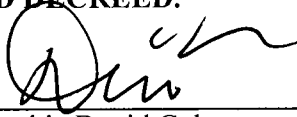
9 14. This document shall constitute a Judgment for purposes of California Rule of Court
10 3.769(h).

11 15. Per California Rules of Court, Rule 3.771(b), CPT Group, Inc. is directed to post
12 the final judgment, once entered, on its website.

13 16. This Court finds that there is no just reason for delay and expressly directs entry
14 by the Clerk of the Court of Final Judgment.

15 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

16 Date: 4/14/21

17 
18 _____
19 Honorable David Cohn
20 Judge of the San Bernardino Superior Court

