



FILED
San Francisco County Superior Court

JAN 11 2021

CLERK OF THE COURT

BY: [Signature]
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

QINGYUN LI and GOU WEI ZHEN, individually
and on behalf of all others similarly situated,

Case No.: CGC-17-558187

Plaintiffs,

ORDER GRANTING FINAL APPROVAL
OF CLASS ACTION SETTLEMENT

vs.

VOLAR, LLC, and DOES 1 through 20, inclusive,

Defendants.

This matter came on regularly for hearing on January 11, 2021 in Department 304 of the above-captioned Court on Plaintiffs' Motion for Final Approval of Class Action Settlement and Plaintiffs' Motion for Attorney's Fees and Costs and Class Representative Service Award. No objector appeared at the hearing. Having fully reviewed and considered the moving and supplemental papers; having analyzed the Amended Joint Stipulation for Class Action Settlement and Release (the "Stipulation," "Settlement Agreement," or "Settlement");¹ having granted preliminary approval of the Settlement and conditional class certification for settlement purposes on August 3, 2020; having

¹ A copy of the Settlement is attached to the December 21, 2020 Declaration of Michael H. Kim as Exhibit A.

1 conducted a hearing regarding whether the Settlement should be granted final approval; and good
2 cause appearing therefor;

3 **IT IS HEREBY ORDERED AS FOLLOWS:**

4 1. This Court has jurisdiction over Plaintiffs Qingyun Li and Gou Wei Zhen and
5 Defendant Volar, LLC, and the subject matter of the action;

6 2. The Court grants final approval of the settlement in this action, as set forth in the
7 Stipulation. The Court finds that the terms of the Settlement are fair, reasonable, and adequate.
8 Plaintiffs have satisfied the requirements for final approval of this class action settlement. The parties
9 are directed to effectuate the Stipulation according to its terms and this order.

10 3. The following definitions, as provided in the Stipulation, shall apply herein:

11 a. "Class Members" and "Class" shall mean "the employees identified in the Class
12 List, attached as Exhibit 1 to the Settlement Agreement (and which will also be
13 attached as Exhibit A to the Class Notice), who were employed by Volar, LLC
14 d/b/a Sakesan Sushi and Bistro in San Francisco, California between April 24,
15 2013 and April 24, 2017, and who did not previously sign a Settlement
16 Agreement and Release of All Claims with Volar, LLC." The Class List is
17 attached to this Order.

18 b. "Settlement Amount" means "the total consideration of Two Hundred
19 Thousand Dollars (\$200,000.00) from which all Class Member payments,
20 Plaintiffs' Counsel's fees and costs, Class Representative's Enhancement
21 Awards, and costs and expenses of administration of the Settlement shall be
22 paid. The employer's share of the payroll taxes is not included in this
23 Settlement Amount."

24 c. "Net Settlement Amount" means "the Settlement Amount minus Plaintiffs'
25 Counsel's fees and costs, the charges and expenses of the Settlement
26 Administrator, and the Class Representatives' Enhancement Awards[.]"

27 d. "Settlement Class" or "Settlement Class Members" means "all persons who are
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1 Class Members who do not validly request exclusion (or ‘opt out’) from the
2 Settlement in the manner provided by [the Settlement] and the Class Notice.”

3 e. “Released Claims”² means “[a]ny and all claims for the payment of unpaid
4 wages, including but not limited to overtime wages, ‘off-the-clock’ wages, and
5 compensation associated with non-compliant meal or rest periods, penalties
6 (including penalties for alleged violations of California Labor Code sections
7 201, 202, 203, 204, and 226), interest, costs, attorneys’ fees, restitution,
8 conversion, common count, fraud, breach of contract, unjust enrichment,
9 compensatory damages, liquidated damages, punitive damages, injunctive
10 relief, and any other remedies available at law or equity for wages allegedly
11 owed to Plaintiffs and with respect to the Class Members only to the extent that
12 such claims were asserted or could have been asserted in the Litigation based
13 upon any of the conduct alleged in the Litigation and which arose from their
14 employment with Volar in California during the relevant Class Period. Subject
15 to the foregoing, the claims being waived include any and all claims, rights,
16 demands or causes of action, that were brought or could have been brought in
17 the Litigation on behalf of the Plaintiffs and all members of the Settlement
18 Class under any state or local statutory or common law, including, but not
19 limited to claims for Volar’s (i) alleged failed to pay all overtime wages (Cal.
20 Lab. Code §§ 510 and 1194); (ii) alleged failure to provide meal periods (Cal.
21 Lab. Code §§ 226.7 and 512); (iii) alleged failure to authorize and permit rest
22 periods (Cal. Lab. Code § 226.7; (iv) alleged failure to furnish complete and
23 accurate wage statements (Cal. Lab. Code § 226(a)); (v) alleged failure to
24 timely pay wages upon termination or resignation (Cal. Lab. Code §§ 201, 202,
25 and 203); (vi) alleged failure to maintain required records (Cal. Lab. Code §§
26 226, 1174); (vii) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200 et

27 ² The term “Released Claims” is not used in the Stipulation. The scope of the release is set forth at
28 paragraph 5.1(a) of the Stipulation.

1 seq.), and the laws of contract, torts and equity that relate to the claims asserted
2 in the Litigation. Except as to Plaintiffs, who release any and all claims, known
3 or unknown, that they may have against Volar, this release does not release any
4 claims other than those described above or claims held by Class Members for
5 unlawful employment discrimination under Title VII of the Civil Rights Act of
6 1964 (Title VII, as amended), 42 U.S.C. § 2000e, et seq., the Americans with
7 Disabilities Act (the 'ADA'), 42 U.S.C. § 12101 et seq., the Age
8 Discrimination in Employment Act (the 'ADEA'), 29 U.S.C. § 621 et seq.,
9 or the California Fair Employment and Housing Act (the 'FEHA'), California
10 Government Code § 12940 et seq. or any other claims for wrongful termination
11 based on state or federal law.”

12 4. The Court has determined that the notice was distributed to the Class Members in
13 substantial compliance with this Court’s preliminary approval order. The notice provided to the Class
14 Members informed all Class Members of the material terms of the Settlement, constituted the best
15 notice practicable under the circumstances, and constituted valid, due, and sufficient notice to all
16 Class Members. The Court finds the notice adequate.

17 5. No Class Members objected to the settlement.

18 6. No Class Members requested exclusion.

19 7. As set forth in the preliminary approval order, the Court finds that the Class meets the
20 requirements for class certification for settlement purposes. The Court finally certifies the Class.

21 8. Plaintiffs Qingyun Li and Gou Wei Zhen are confirmed as class representatives.

22 9. Michael H. Kim, Esq. and Adam K. Tanouye, Esq. of Michael H. Kim, P.C. are
23 confirmed as class counsel.

24 10. By no later than ten (10) business days after the date of entry of the Final Approval
25 Order, Volar shall fund the settlement by wiring the Settlement Amount into an account established
26 by the Settlement Administrator.

27 11. Within five (5) business days after the wiring of the funds, the Settlement
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1 Administrator will distribute the settlement to the Settlement Class Members, Plaintiffs, Plaintiffs'
2 Counsel, and the Settlement Administrator.

3 12. The Court approves a service awards of \$ 2,000 each, totaling \$4,000 to Plaintiffs
4 Qingyun Li and Gou Wei Zhen. Plaintiffs' requested \$7,500 each, totaling \$15,000. The Court has
5 considered the full record, including Plaintiffs' declarations, and the relevant factors, including those
6 set forth in *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380 and *Munoz v. BCI Coca-*
7 *Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399. The Court finds the awards approved
8 here appropriate to compensate Plaintiffs for their service to the Class.³

9 13. The Court makes the following awards to Class Counsel to be paid from the Settlement
10 Amount:

11 a. \$66,000.00 in attorney's fees shall be paid to Michael H. Kim, P.C.;

12 b. \$12,775.68 in costs shall be paid to Michael H. Kim, P.C.;

13 14. The Court approves the Settlement Administrator's service charges in the amount of
14 \$9,500.00 and directs payment from the Settlement Amount. The Settlement Administrator is
15 authorized to deduct its charges from the Settlement Amount at the same time it issues payments to
16 the Settlement Class Members, the Class Representatives, and Class Counsel.

17 15. Bay Area Legal Aid is approved as the cy pres beneficiary pursuant to Code of Civil
18 Procedure § 384. If a cy pres distribution is made pursuant to the terms of the Settlement, Bay Area
19 Legal Aid will be the cy pres beneficiary.

20 16. Upon the filing of this Order Granting Final Approval, the Class Members will be
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23 ³ The gross settlement in this case was \$200,000. There are 39 Class Members, including Plaintiffs. If
24 all requested disbursements were approved, the Net Settlement Fund would have been \$96,724.32. The
25 average individual payment would have been \$2,480.11. Plaintiffs' shares would have been \$21,478.83
26 and \$17,118.12, respectively. \$21,478.83 is the largest share any Class Member would have received
27 from the Settlement. Plaintiffs' shares, alone, command about 40% of the Net Settlement Fund. Once
28 Plaintiffs' shares are removed from the average, the other Class Members would have received, on
average \$1,571.01. The effect of a reduction in the service award is to increase all settlement shares,
including Plaintiffs' settlement shares, proportionally. Considering all of the circumstances, including
that Plaintiffs are both receiving very large settlement shares even without the benefit of a service award,
the Court finds that the service award granted here is appropriate.

1 deemed to have released the Released Parties⁴ from the Released Claims, as set forth in the Settlement
2 Agreement.

3 17. The checks to the Settlement Class Members shall indicate on their face that they will
4 be valid for one hundred twenty (120) days of their issuance.

5 18. The funds represented by any checks that were not issued because a current address
6 could not be obtained for a Class Member by the Settlement Administrator, or checks that were
7 mailed but not cashed, shall be reallocated on a pro-rata basis to those Class Members who cashed
8 their Individual Settlement Payment checks. These reallocation checks will be valid for thirty (30)
9 days. On or before July 26, 2021, after meeting and conferring with Defendant, Plaintiffs will file a
10 report stating the amount of money that was actually paid to the class members and the amount of
11 money that remains to be paid pursuant to Code of Civil Procedure § 384(b). The report shall be
12 supported by an admissible declaration. If appropriate, the report will be accompanied by a proposed
13 amended judgment directing a cy pres distribution pursuant to Code of Civil Procedure § 384(b). A
14 status conference is set for August 2, 2021 at 9:15 a.m.

15 19. Each party will bear their/its own attorneys' fees and costs, except as provided for in
16 the Settlement Agreement and this Order.

17 20. Without affecting the finality of this Order Granting Final Approval in any way, the
18 Court reserves exclusive and continuing jurisdiction over the parties and the action for the purposes of
19 supervising the implementation, enforcement, construction, administration, and effectuation of the
20 Settlement pursuant to Code of Civil Procedure § 664.6 and California Rules of Court, rule 3.769(h).

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26 ⁴ "Released Parties" is not a defined term in the Stipulation. The release in the Stipulation uses the term
27 "Volar," which is defined to mean "Volar, LLC d/b/a Sakesan Sushi and Bistro," and applies to "Volar
28 and its predecessors and successors, as well as all of its current, former and future subsidiaries, affiliates,
parent companies, fiduciaries, insurers, agents, partners, employees, assigns, subrogees, privies, officers,
officials, directors, shareholders, attorneys, benefit plans, administrators and trustees."

1 21. Notice of final judgment shall be provided to the Settlement Class by posting this
2 Order and the final judgment on the administrator's website for a period of not less than 60 days from
3 the date the judgment is entered.

4 IT IS SO ORDERED.

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6 Dated: Nov. 14, 2021



7 Anne-Christine Massullo

8 Judge of the Superior Court

CLASS LIST

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- Bat-Ochir, Ariunaa
- Chen, Chen
- Chon, Hyun-Ji
- Durak, Alexandra Nicole
- Dzav, Luis
- Dzib, Rogelio
- Li, Qing Yun
- Garcia, Juan
- Guan, Carmen
- Ha, Stephanie
- He, Wen Yi
- Huey, Steven
- Kung, Ying Hung
- Kwok, Michael
- Lee, Jiang
- Lee, Ju
- Li, Chak
- Luo, Guan Sheng
- Luo, Jian Kang
- Luo, Shen
- Mei, Irene
- Qvismorio, Leighmann
- Rojo, Mercedes
- Ruskit, Madison
- Ryan, Mary
- Solls, Brooke
- Sosa, Luis
- Tan, Wenbin
- Thavibaigarn, Apichoya
- Tuyub, Freddy
- Vanni, Nicole
- Vargas, Joanna
- Wu, Ming Wei
- Zhen, Guo Wei
- Xu, Meng
- Xiang, Wei Quan
- Yang, Zhi Jian
- Yan, Li Feng
- Chen, Jia Guan

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

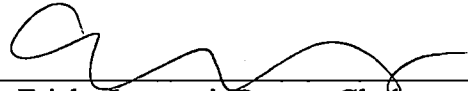
I, Ericka Larnauti, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On January 11, 2021, I electronically served the attached document via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: January 11, 2021

T. Michael Yuen, Clerk

By: _____


Ericka Larnauti, Deputy Clerk