

AUG 12 2021

~~[TENTATIVE]~~ RULINGS/ORDERS

Sherri R. Carter, Executive Officer/Clerk  
By Pedro Martinez, Deputy

Gilberto Rodriguez v. Cardinal Paint and Powder, Inc., Case  
No.: 20STCV14711

The Parties' Motion for Preliminary Approval of class action settlement is GRANTED as the settlement is fair, adequate, and reasonable.

The essential terms are, among other things:

- A. The Gross Settlement Amount ("GSA") is \$765,000.
- B. The Net Settlement Amount ("Net") \$442,750 is the GSA minus the following:
  - Up to \$255,000 (33 1/3%) for attorney fees;
  - Up to \$30,000 for litigation costs;
  - Up to \$5,000 for a service award to the proposed class representative;
  - Up to \$9,750 for settlement administration costs;
  - \$22,500 (75% of \$30,000 PAGA penalty) to the LWDA; and
- C. Plaintiffs release of Defendants from claims described herein.

The Parties' Motion for Final Approval of Class Action Settlement must be filed by May 11, 2022. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and the parties must email the [Proposed] Judgment in Word format to Dept. 9 staff at [sscdept9@lacourt.org](mailto:sscdept9@lacourt.org).

Nonappearance case management review is set for May 18, 2022, 8:30 a.m., Dept. 9.

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I.  
BACKGROUND

Plaintiff Gilberto Rodriguez sues his former employer, Defendants Cardinal Paint and Powder, Inc., and Cardinal Industrial Finishes (collectively, "Cardinal" or "Defendants"), for alleged wage and hour violations. Defendants manufacture and sell liquid and powder coating systems. Defendant Cardinal Paint and Powder, Inc. manufactures the powder coating, while Defendant Cardinal Industrial Finishes is the liquid paint portion of the business operations. Plaintiff seeks to represent a class of Defendants' current and former non-exempt employees.

On April 15, 2020, Plaintiff filed a class action complaint against Defendant Cardinal Paint and Powder, Inc. Pursuant to the terms of the Settlement, the Parties stipulated to allow Plaintiff to file a First Amended Complaint ("FAC") adding affiliate company Cardinal Industrial Finishes, one of the legal entities that employed the Class Members in California, as a named Defendant.

On July 26, 2021, Plaintiff filed the FAC, which alleges causes of action for: (1) failure to pay all minimum wages owed (Labor Code §§ 1194, 1194.2, 1197); (2) failure to pay all overtime wages owed (Labor Code §§ 204, 510, 558, 1194, 1198); (3) failure to provide meal periods (Labor Code §§ 226.7, 512, 558); (4) failure to authorize and permit all paid rest periods (Labor Code §§ 226.7, 516, 558); (5) failure to timely pay all wages due during employment and upon separation of employment (Labor Code §§ 201-204); (6) failure to provide accurate, itemized wage statements (Labor Code § 226, et seq.); (7) unfair competition (Bus. & Prof. Code § 17200, et seq.); and (8) civil penalties under the Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.)

On March 25, 2021, the Parties participated in a full-day mediation before Jeffrey Krivis, Esq. and reached agreement, executing a Memorandum of Understanding. The Parties subsequently finalized the Stipulation of Settlement ("Settlement Agreement"), a copy of which is attached to the Declaration of Elizabeth Nguyen ("Nguyen Decl.") as Exhibit 1.

Now before the Court is Plaintiff's motion for preliminary approval of the settlement agreement.

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II.  
SETTLEMENT AGREEMENT

A. Definitions

Class: all current and former hourly-paid or non-exempt employees who worked for Cardinal Paint and Powder, Inc. and/or Cardinal Industrial Finishes in the state of California at any time during the Class Period. (§2.2)

Class Period: April 15, 2016 through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first. (§2.4)

Aggrieved Employees: All Class Members who worked for Cardinal any time during the PAGA Period. (§2.22)

PAGA Period: April 15, 2019 through the date of Preliminary Approval, or the date on which the Workweeks are equal to or do not exceed 51,750, whichever comes first. (§2.21)

The Parties stipulate to class certification for settlement purposes only. (§3.5)

B. Terms of Settlement Agreement

The essential terms are as follows:

- The Total Settlement Amount ("TSA") is \$765,000, non-reversionary. (§2.33)
- The Net Settlement Amount ("Net") (\$442,750) is the TSA minus the following:
  - Up to \$255,000 (33 1/3%) for attorney fees (§2.6);
  - Up to \$30,000 for litigation costs (Ibid.);
  - Up to \$5,000 for a service award to the Named Plaintiff (§2.29);
  - Up to \$9,750 for settlement administration costs (§2.32);and
- Payment of \$22,500 (75% of \$30,000 PAGA penalty) to the LWDA (§2.20).
- Non-Monetary Relief: Defendants shall implement written wage-and-hour policies, to the extent they have not done so yet, to comply with California law. (§4.2)
- Defendants' share of payroll taxes will be paid separate and apart from the TSA. (§2.33)

- No Claim Form. Class Members will not have to submit a claim form in order to receive their settlement payment. (Notice pg. 1)
- Response Deadline. "Response Deadline" means the date by which a Class Member may (i) request to be excluded from the Settlement, (ii) object to the Settlement, and/or (iii) dispute the number of Workweeks credited to him or her. The Response Deadline shall be forty-five (45) calendar days after the Mailed Notice Date, and shall be specifically identified and set forth in the Preliminary Approval Order and the Class Notice. (§2.28)
  - o If more than ten percent (10%) of Class Members opt out of the Settlement, CARDINAL at its sole and absolute discretion may elect to rescind and revoke the entire Settlement Agreement. (§7.3)
- Individual Settlement Payment Calculation. The Settlement Administrator shall calculate the Individual Settlement Shares based on the Class Information provided to the Settlement Administrator by CARDINAL. Payment of Individual Settlement Shares to Settlement Class Members will be made from the Net Distribution Fund on a pro-rata basis, based on Workweeks during the Class Period. Specifically, the Net Distribution Fund shall be divided by the total of all Workweeks of Settlement Class Members during the Class Period in order to establish the value of each Workweek. The Individual Settlement Share to each Settlement Class Member shall be calculated by multiplying the value of a Workweek by the number of Workweeks worked by the Settlement Class Member during the Class Period. (§4.8)
  - o PAGA Employees will receive a pro-rata share of 25% of the PAGA Payment ("Individual PAGA Payment") based on workweeks during the PAGA Period. Specifically, 25% of the PAGA Payment shall be divided by the total of all workweeks worked by PAGA Employees during the PAGA Period in order to establish the value of each workweek. The Individual PAGA Payment to be made to each PAGA Employee shall be calculated by multiplying the value of a workweek by the number of workweeks worked by the PAGA Employee during the PAGA Period. (§4.9)
  - o Tax Allocation. Each individual settlement payment will be allocated as 33% to wages, 67% to penalties and interest. (§4.11)
- Funding of Settlement. Within ten (10) calendar days of the Effective Date, CARDINAL will transfer the TSA to the Settlement Administrator provided the Settlement Administrator provides valid transmission instructions, which shall include the amount of additional employer-side payroll taxes to be paid by CARDINAL as calculated by the Settlement Administrator. (§4.1)



- Uncashed Checks. "Void Date" means the date by which any checks issued to Settlement Class Members shall become void, i.e. on the 181st day after mailing. (¶2.34) If any Individual Settlement Payments are not cashed, deposited, or negotiated on or before the Void Date, then within thirty (30) calendar days of the Void Date, the Settlement Administrator shall void the uncashed checks and shall transmit such funds to the California State Controller's Office's Unclaimed Property Fund division in the name of the Settlement Class Member who did not negotiate his or her check. (¶10.4)
- Phoenix Settlement Administrators will perform notice and settlement administration. (¶2.31)
- The Settlement Agreement was submitted to the LWDA on June 23, 2021. (Supp. Proof of Service Re: Motion for Preliminary Approval filed 6/23/21)
- Notice of Entry of Judgment will be posted on the Settlement Administrator's website. (Notice pg. 7)
- Participating class members and the named Plaintiff will release certain claims against Defendants. (See further discussion below)

### III. DISCUSSION

#### A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On March 25, 2021, the Parties participated in a full-day mediation before Jeffrey Krivis, Esq. and reached agreement, executing a Memorandum of Understanding. The Parties subsequently finalized the Settlement Agreement. (Nguyen Decl. ¶12.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Class Counsel represents that after agreeing to participate in early mediation, Defendants informally produced time records and payroll data for the putative class for both Cardinal Paint and Powder, Inc. and Cardinal Industrial Finishes, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged in advance of mediation. Plaintiff conducted an analysis of the payroll data and time records produced by Defendants. (Id. at ¶11.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation,

including wage and hour class actions. (Id. at ¶8; Declaration of Paul K. Haines ¶6.)

4. What percentage of the class has objected? This cannot be determined until the fairness hearing. (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2014) ¶ 14:139.18, ["Should the court receive objections to the proposed settlement, it will consider and either sustain or overrule them at the fairness hearing."].)

The Court concludes that the settlement is entitled to a presumption of fairness.

B. Is the Settlement Fair, Adequate, and Reasonable?

1. Strength of Plaintiff's case. "The most important factor is the strength of the case for plaintiff on the merits, balanced against the amount offered in settlement." (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130.)

Class Counsel has provided information, summarized below, regarding the estimated exposure for each of the claims alleged:

Violation	Maximum Exposure	Realistic Exposure
Unpaid Wages (Rounding)	\$150,736	\$96,471
Unpaid Overtime Wages (Incentive Pay/Bonuses)	\$87,129	\$70,575
Meal Period Violations	\$2,712,663	\$976,559
Rest Period Violations	\$430,575	\$103,338
Wage Statement Violations	\$1,143,400	\$411,624
Waiting Time Penalties	\$600,192	\$294,094
PAGA Penalties	\$1,151,800	\$414,648
Total	\$6,276,495	\$2,367,309

(Nguyen Decl. ¶¶ 16-30.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of



decertification. (Weinstat v. Dentsply Intern., Inc. (2010) 180 Cal.App.4th 1213, 1226 ("Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate.")).)

4. Amount offered in settlement. Plaintiff calculated Defendant's maximum exposure at \$6,276,495 and realistic exposure at \$2,367,309. The \$765,000 settlement amount represents approximately 12.2% of Defendant's maximum potential damages and 32.3% of Defendant's maximum potential damages which, given the uncertain outcomes, and Defendant's financial condition, is within the "ballpark of reasonableness." The \$765,000 settlement amount, after reduced by the requested deductions, leaves approximately \$442,750 to be divided among approximately 414 putative class members. Assuming full participation, the resulting payments will average approximately \$1,069.44 per class member. [ $\$442,750 / 414 = \$1,069.44$ ]

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement. The class members' reactions will not be known until they receive notice and are afforded an opportunity to object, opt-out and/or submit claim forms. This factor becomes relevant during the fairness hearing.

The Court concludes that the settlement can be preliminarily deemed "fair, adequate, and reasonable."

#### C. Scope of the Release

The releases identified herein shall become effective on the date on which Defendants fully fund the Total Settlement Amount "Effective Date of the Release"). (§4.17) In exchange for

the consideration provided by CARDINAL, Settlement Class Members, individually and on behalf of their heirs, estates, trustees, executors, administrators, representatives, agents, successors, and assigns, and anyone claiming through them or acting or purporting to act on their behalf, agree to forever release, discharge, and hold harmless each and all of the Released Parties for the Released Class Claims during the Class Period. (§4.14)

"Released Class Claims" means all claims actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of himself and the Settlement Class Members, based on the facts alleged in the Action including but not limited to: (1) Violation of California Labor Code §§ 510, 1194 and 1198, and IWC Wage Order 4-2001, § 3 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7, 510, 512, 1194, 1197, and IWC Wage Order 4-2001, § 11 (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7, 512 and IWC Wage Order 4-2001, § 12 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1, and IWC Wage Order 4-2001, § 4 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201, 202, and 203 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) and IWC Wage Order 4-2001, § 7 (Non-Compliant Wage Statements); (8) Violation of California Business & Professions Code §§ 17200, et seq.; (9) failure to pay all minimum and overtime wages due under the Fair Labor Standards Act (29 U.S.C. §201, et seq.); and (10) attorneys' fees and costs of litigation associated with this Action. (§2.26)

"Action" means the operative First Amended Complaint filed in Los Angeles County Superior Court Case No. 20STCV1471. (§2.1)

In exchange for the consideration provided by CARDINAL, PAGA Employees, individually and on behalf of their heirs, estates, trustees, executors, administrators, representatives, agents, successors, and assigns, and anyone claiming through them or acting or purporting to act on their behalf, agree to forever release, discharge, and hold harmless each and all of the Released Parties for the PAGA Release during the PAGA Period. (§4.15)

"PAGA Release" means PAGA Employees will release and discharge the Released Parties from civil penalties under



California Labor Code Private Attorneys General Act of 2004, Labor Code section 2698 et seq., as asserted in the operative complaint that arose during the PAGA Period premised on the facts, claims, causes of action or legal theories that were asserted in the operative complaint and disclosed in the LWDA letter including: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Failure to Provide Meal Periods and Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Failure to Provide Rest Periods and Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements); and (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records). (§2.19)

The Parties agree there is no statutory or other right for any PAGA Employee to opt out or otherwise exclude himself or herself from the settlement and release of the PAGA Claims. (§7.6)

Only those Settlement Class Members who cash, deposit, or negotiate an Individual Settlement Payment check will be deemed to have opted into the Settlement and release of the Released Class Claims that arise under the Fair Labor Standards Act ("FLSA"). The Class Notice and Individual Settlement Payment checks will apprise Class Members of this. (§4.16)

"Released Parties" means (i) Cardinal Paint and Powder, Inc. and Cardinal Industrial Finishes, and their past, present, and future parents, subsidiaries, affiliates, divisions, joint ventures, licensees, franchisees, and any other legal entities, whether foreign or domestic, and (ii) the past, present, and future shareholders, officers, directors, members, investors, agents, employees, consultants, representatives, fiduciaries, insurers, attorneys, legal representatives, predecessors, successors, and assigns of the entities listed in (i). (§2.27)

Named Plaintiff will additionally provide a general release and §1542 waiver. (§§ 2.9, 4.13)

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D. May Conditional Class Certification Be Granted?

A detailed analysis of the elements required for class certification is not required, but it is advisable to review each element when a class is being conditionally certified (Amchem Products, Inc. v. Winsor (1997) 521 U.S. 620, 622-627.) The trial court can appropriately utilize a different standard to determine the propriety of a settlement class as opposed to a litigation class certification. Specifically, a lesser standard of scrutiny is used for settlement cases. (Dunk at 1807, fn 19.) Finally, the Court is under no "ironclad requirement" to conduct an evidentiary hearing to consider whether the prerequisites for class certification have been satisfied. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 240, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.)

1. Numerosity. There are approximately 414 Class Members. (Nguyen Decl. ¶14.) This element is met.

2. Ascertainability. The proposed class is defined above. The class definition is "precise, objective and presently ascertainable." (Sevidal v. Target Corp. (2010) 189 Cal.App.4th 905, 919.) All Class Members are identifiable through a review of Defendant's employment records. (Nguyen Decl. ¶14.)

3. Community of interest. "The community of interest requirement involves three factors: '(1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435.)

Regarding commonality, Class Counsel represents that Class Members' claims arise from Defendants' common, uniform policies and practices that applied to Class Members during the class period. Specifically, Plaintiff alleged that Defendant's common and uniform policies and practices resulted in the following violations: (1) failure to pay all minimum wages owed; (2) failure to pay all overtime wages owed; (3) failure to provide all legally required meal periods; (4) failure to authorize and permit all legally required rest periods; (5) failure to timely pay all wages upon separation; (6) failure to provide accurate, itemized wage statements; (7) unlawful business practices; and (8) liability for civil penalties under PAGA. (Nguyen Decl. ¶15.)



Regarding typicality, Plaintiff represents that his claims are typical of those held by the members of the proposed Class. First, Plaintiff was employed by Defendants during the Class Period as a non-exempt, hourly employee and alleges that he was subject to Defendants' wage and hour policies at issue in this case. Plaintiff alleges that Defendants utilized the same wage and hour policies and practices at both facilities. Second, Plaintiff was injured by the same challenged policies that injured the Class as a whole. For example, Plaintiff asserts that he, like the members of the Classes, was not provided all legally required minimum wages and overtime wages, was not provided with all required meal periods, was not authorized and permitted to take all required rest periods, did not receive meal and rest period premium wages when he was not provided compliant meal or rest periods, was not provided with accurate, itemized wage statements, and was not paid all of his wages owed upon separation of employment. (Declaration of Gilberto Rodriguez ¶¶ 2-5, 11.)

Finally, as to adequacy, Plaintiff represents that he is aware of the risks of serving as Class Representative, has been actively involved in the litigation, and has no conflicts with any of the other Class Members. (Id. at ¶¶ 7-11.)

4. Adequacy of class counsel. As indicated above, Class Counsel has shown experience in class action litigation, including wage and hour class actions.

5. Superiority. Given the relatively small size of the individual claims, a class action appears to be superior to separate actions by the class members.

The Court finds that the class may be conditionally certified because the prerequisites of class certification have been satisfied.

#### E. Is the Notice Proper?

1. Content of class notice. A copy of the proposed notice to class members is attached to the Settlement Agreement as Exhibit A. Its content appears to be acceptable. It includes information such as: a summary of the litigation; the nature of the settlement; the terms of the settlement agreement; the proposed deductions from the gross settlement amount (attorney fees and costs, enhancement awards, and claims administration costs); the procedures and deadlines for participating in, opting out of, or objecting to, the

settlement; the consequences of participating in, opting out of, or objecting to, the settlement; and the date, time, and place of the final approval hearing. The Notice will be sent in English and Spanish. (§6.2)

2. Method of class notice. No more than fifteen (15) calendar days after Preliminary Approval, Cardinal shall provide the Settlement Administrator with the Class Information for purposes of sending the Class Notice to Class Members. (§6.1) No more than thirty (30) calendar days after Preliminary Approval (i.e., the Mailed Notice Date), the Settlement Administrator shall send the Class Notice to Class Members in English and Spanish via first class U.S. Mail. (§6.2)

Upon receipt of the Class Information, the Settlement Administrator shall make a good-faith attempt to obtain the most-current names and postal mail addresses for those individuals, including cross-checking the names and/or postal mail addresses it received from Cardinal with other appropriate databases (e.g., the National Change of Address Database). If any Class Notice mailed to any Class Member is returned, Settlement Administrator shall make a good-faith attempt to obtain an updated mailing address within three (3) business days of receiving the returned Class Notice and perform further reasonable searches (e.g., through LexisNexis and/or utilizing a "skip trace") for more-current names and/or postal mail addresses for those individuals. All Class Members' names and postal mail addresses obtained through these sources shall be protected as confidential and not used for purposes other than the notice and administration of this Settlement. The address determined by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Members. The Settlement Administrator shall promptly re-mail the Class Notice to any Class Member whose original notice was returned because of a wrong address within three business days of obtaining an updated address and advise the Class Members of the Extended Response Deadline. (§6.6)

If any Class Notice to a Class Member is returned to the Settlement Administrator with a forwarding address, the Settlement Administrator shall forward the postal mailing to that address within three (3) business days. Class Members whose Class Notices are re-mailed shall have an additional ten (10) calendar days from the original Response Deadline to submit a response ("Extended Response Deadline"). The Settlement Administrator will advise Class Members of the Extended Response Deadline where applicable. (§6.7) The Settlement Administrator



shall continue to obtain updated mailing addresses for any undeliverable Class Notices until the Response Deadlines. (§6.8)

3. Cost of class notice. As indicated above, settlement administration costs are estimated to be \$9,750. (§2.32) Prior to the time of the final fairness hearing, the settlement administrator must submit a declaration attesting to the total costs incurred and anticipated to be incurred to finalize the settlement for approval by the Court.

F. Attorney Fees and Costs

CRC rule 3.769(b) states: "Any agreement, express or implied, that has been entered into with respect to the payment of attorney fees or the submission of an application for the approval of attorney fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action."

Ultimately, the award of attorney fees is made by the court at the fairness hearing, using the lodestar method with a multiplier, if appropriate. (PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1095-1096; Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615, 625-626; Ketchum III v. Moses (2000) 24 Cal.4th 1122, 1132-1136.) Despite any agreement by the parties to the contrary, "the court ha[s] an independent right and responsibility to review the attorney fee provision of the settlement agreement and award only so much as it determined reasonable." (Garabedian v. Los Angeles Cellular Telephone Company (2004) 118 Cal.App.4th 123, 128.)

The question of whether Class Counsel is entitled to \$255,000 (33 1/3%) in attorney fees will be addressed at the fairness hearing when class counsel brings a noticed motion for attorney fees. Class counsel must provide the court with billing information so that it can properly apply the lodestar method, and must indicate what multiplier (if applicable) is being sought as to each counsel.

There is a fee split. Class Counsel represents that Plaintiff has provided written approval of the split of attorneys' fees in this action: 48% to Haines Law Group, APC, 32% to Lidman Law, APC, and 20% to Mitchell Law Corporation, APC. Mitchell Law Corporation, APC is the referring attorney. (Nguyen Decl. ¶32.)

Class Counsel must also justify the costs sought (capped at \$30,000) by detailing how they were incurred.

G. Incentive Award to Class Representative

The Settlement Agreement provides for an enhancement award of up to \$5,000 for the class representative, Gilberto Rodriguez (§2.29). In connection with the final fairness hearing, the named Plaintiff must submit a declaration attesting to why he should be entitled to an enhancement award in the proposed amount. The named Plaintiff must explain why he "should be compensated for the expense or risk she has incurred in conferring a benefit on other members of the class." (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with "nothing more than pro forma claims as to 'countless' hours expended, 'potential stigma' and 'potential risk.' Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that an enhancement was 'necessary to induce [the named plaintiff] to participate in the suit . . . .'" (Id. at 806-807, italics and ellipsis in original.)

The Court will decide the issue of the enhancement award at the time of final approval.

IV.  
CONCLUSION

Based upon the foregoing, the Court orders that:

1) The Parties' Motion for Preliminary Approval of class action settlement is GRANTED as the settlement is fair, adequate, and reasonable.

2) The essential terms are, among other things:

A. The Gross Settlement Amount ("GSA") is \$765,000.

B. The Net Settlement Amount ("Net") \$442,750 is the GSA minus the following:

Up to \$255,000 (33 1/3%) for attorney fees;  
Up to \$30,000 for litigation costs;  
Up to \$5,000 for a service award to the proposed class representative;



Up to \$9,750 for settlement administration costs;  
\$22,500 (75% of \$30,000 PAGA penalty) to the LWDA; and

C. Plaintiffs release of Defendants from claims described herein.

3) The Parties' Motion for Final Approval of Class Action Settlement must be filed by May 11, 2022. The parties are ordered to contact the Clerk in Department 9 to obtain a hearing date for their motion.

4) The Parties' Motion for Final Approval of Class Action Settlement must include a concurrently lodged [Proposed] Judgment containing among other things, the class definition, full release language, and names of the any class members who opted out; and the parties must email the [Proposed] Judgment in Word format to Dept. 9 staff at sscdept9@lacourt.org.

5) Nonappearance case management review is set for May 18, 2022, 8:30 a.m., Dept. 9.

CLERK TO GIVE NOTICE TO ALL PARTIES.

IT IS SO ORDERED.

DATED: \_\_\_\_\_  
AUG 12 2021



YVETTE M. PALAZUELOS

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JUDGE OF THE SUPERIOR COURT