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United States District Court
Central District of California
Western Division

MARVIN MORALES,

Plaintiff,

v.

HALCORE GROUP, INC., *et al.*,

Defendants.

CV 17-05876 TJH (SKx)

Order
[42]

The Court has considered Plaintiff Marvin Morales’s third renewed motion for conditional class certification and preliminary approval of the proposed class action settlement, together with the moving papers.

Morales filed this putative class action on behalf of himself and approximately 167 other class members against Defendants Halcore Group, Inc. and REV Group, Inc. [collectively, “Halcore”], alleging various claims under the California Labor Code, Cal. Lab. Code §§ 200, *et seq.*, and the Private Attorneys General Act, Cal. Lab. Code §§ 2698, *et seq.* [“PAGA”].

Morales’s previous motions for preliminary approval of the proposed class action settlement were denied due to, *inter alia*, a lack of fairness in the proposed *pro rata* distribution method because it was based on shifts, without taking into account the

1 number of violations each putative class member may have endured during each shift.

2 Morales, now, moves, again, for conditional class certification and preliminary
3 approval of the proposed class action settlement.

4 The parties have reached a new proposed class action settlement agreement with
5 the following key provisions: (1) The putative class will include approximately 168
6 class members; (2) The gross settlement amount is \$900,000.00; (3) The gross
7 settlement amount will be reduced by \$50,000.00 for a PAGA penalty, of which
8 \$37,500.00 will be paid to the California Labor & Workforce Department Agency and
9 the remaining \$12,500.00 will revert back to the settlement fund, *see* Cal. Lab. Code
10 § 2699(I); (4) The gross settlement amount will be, further, reduced for Morales's
11 attorneys' fees, which will not exceed \$225,000.00, for costs of \$24,452.60, for
12 settlement administration costs not to exceed \$15,000.00, and for an incentive award
13 for Morales not to exceed \$5,000.00; (5) The net settlement amount will, then, be
14 distributed to the class members on a *pro rata* basis, based on the number of California
15 Labor Code violations each class member potentially experienced per shift; and (6) Any
16 remaining balance of the settlement amount shall be distributed to *cy pres* designees to
17 be agreed upon by the parties and approved by the Court.

18 A putative class action settlement must be fair, reasonable, and adequate. *See*
19 Fed. R. Civ. P. 23(e). The proponent of a class settlement bears the burden of
20 establishing that the settlement meets these requirements. *See In re First Capital*
21 *Holdings Corp. Fin. Prod. Sec. Litig.*, 1992 WL 226321, *2 (C.D. Cal. 1992). Where
22 a class has not yet been certified, the Court must employ a higher standard of scrutiny
23 when evaluating for fairness a proposed class action settlement. *In re Bluetooth*
24 *Headset Prod. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011).

25 The proposed terms of the instant class action settlement are fair, reasonable, and
26 adequate with one exception. *See* Fed. R. Civ. P. 23(e). The Court, not the parties,
27 shall determine the *cy pres* designee, if necessary.

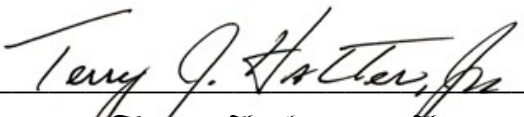
28 The Court, further, finds that the requirements of Fed. R. Civ. P. 23(a) and (b)

1 are met for the purposes of effectuating this settlement.

2
3 Accordingly,

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5 **It is Ordered** that the third renewed motion for conditional class certification
6 and preliminary approval of the proposed class action settlement be, and hereby is,
7 **Granted.**

8
9 Date: December 2, 2020

10 
11 **Terry J. Haller, Jr.**
12 **Senior United States District Judge**