

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE**

Taylor, Joshua et al
Plaintiff/Petitioner,

vs.

U.S. Dairy Systems, Inc.
Defendant/Respondent.

Jud. Officer: **Nathan Ide**
Clerk: **Martha Gomez**
Bailiff:
CSR: **Naomi Johnson**
Interpreter:
Language:

Minutes: **Motion for Preliminary Approval**

Case No. **VCU286113**
Department 02

Date: **September 19, 2022**

Related Cases:

Appearances: ☐ No Appearances

☐ Party: _____

☐ Remote Appearance

☒ Attorney: Benjamin Habor for plaintiff via court call

☒ Remote Appearance

- ☐ Court makes interpreter findings on the record pursuant to GC 68561(g)/GC 68561(f)
☐ The Court noted that no court reporter was available for today's proceedings.

Motion: Continued Motion for Preliminary Approval

No requests for oral argument presented.

ORDER: The Court adopts the Tentative Ruling as the Order of the Court as follows:

To grant the continued motion for preliminary approval, modified as to the awards to the class representative as stated below. Final approval hearing is set for **March 20, 2023**, 8:30 am in Department 2.

1. Class Notice

The settlement agreement provides no claim form will be required of class members to participate in distributions. Only those wishing to object or opt out must file notice with the settlement administrator. Objections or opt out notices are to be made within 60 days.

The Court regularly approves notice periods of 60 days or longer. The class notice period is approved.

With respect to the content of the Notice, the Court previously found the Class Notice to be reasonable.

2. Enhancement Awards to Class Representatives

The court preliminarily approved Plaintiffs Joshua Taylor and Frank Lomonaco as the Class Representatives for settlement purposes.

The proposed enhancement award to Plaintiff Taylor is \$7,500 and is \$5,000 to Plaintiff Lomonaco. The Court has, in past cases, approved enhancement awards of \$5,000 routinely. In this case, Plaintiff Lomonaco's award is approved.

Plaintiff Taylor has submitted a declaration in support of the enhanced award request of \$7,500. In support, Taylor states he has spent approximately 40 hours in this case gathering documents, reviewing documents, assisting

counsel with guidance regarding the duties of hourly-paid and non-exempt employees, hours identifying potential witnesses, providing attorneys with documents and information concerning the case, describing Defendant's policies, practices, and procedures, being available for mediation and reviewing the settlement agreement.

The Court does not find this sufficient to support an award over the typical \$5,000 the Court preliminarily approves. The Court, therefore, approves an enhancement payment of \$5,000 to Plaintiff Taylor.

3. Attorneys' Fees and Costs

Attorneys' fees of 33.3% of the gross settlement fund of \$187,500 or \$62,500 and costs not to exceed \$15,000 are sought by Plaintiff's counsel.

Although the Court recognizes the utilization of the percentage of the common fund methodology to award attorneys' fees, the Court requires a declaration from counsel that provides an estimate as to what the lodestar would be in this case. The ultimate goal of the Court is to award reasonable attorneys' fees irrespective of the method of calculation. As such, the court needs to know the estimate of the approximate lodestar supported by declarations for preliminary approval.

Here, Counsel Justin F. Marquez indicates that Wilshire Law Firm, PLC has expended a total of 146.5 hours at rates ranging from \$850 to \$150 for a lodestar of \$80,605. (Declaration of Marquez ¶14.) This results in a negative multiplier of .77.

The Court therefore preliminarily approves the fees not to exceed \$62,500 based upon this information.

Counsel Marques has also provided the current costs expended in an amount of \$13,574.27 (Declaration of Marquez ¶17.)

The Court previously found that Plaintiffs' counsel are experienced class action attorneys through the declaration of counsel.

4. Unclaimed Settlement Proceeds

The court preliminarily approves the distribution of unclaimed settlement proceeds to Los Angeles Trial Lawyers' Charities, in accordance with Code of Civil Procedure section 384. Defendant's counsel has provided a supplemental declaration attesting to a lack a conflict of interest. The Court preliminarily approves Los Angeles Trial Lawyers' Charities.

Therefore, the Court's preliminarily approved deductions from the gross settlement of \$187,500 are as follows:

Court Approved Attorney Fees (33 1/3%):	\$ 62,500.00
Attorney Costs (up to):	\$ 15,000.00
Enhancement Payment to Plaintiff – Taylor:	\$ 5,000.00
Enhancement Payment to Plaintiff – Lomonaco:	\$ 5,000.00
Settlement Administrator Costs	\$ 5,975.00
<u>PAGA payment to the LWDA</u>	<u>\$ 10,000.00</u>

Net Settlement Amount	\$ 84,025.00
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Therefore, the Court grants the motion, as modified. Final approval hearing is set for **March 20, 2023, 8:30 am** in Department 2.

Clerk to provide notice to parties by mail.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Visalia Division
221 S Mooney Blvd, Room 201
Visalia, CA 93291
559.730 5000

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CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause.

I certify that I caused the minute order dated September 19, 2022 to be served on the persons listed below in the following manner:

☒ BY MAIL: I placed the documents for collection and mailing on the date shown, so as to cause it to be mailed in a sealed envelope with postage fully prepaid on that date following standard court practices to the persons and addresses shown. The mailing and this certification occurred at Visalia, California on September 22, 2022.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE


By
Martha Gomez, Deputy Clerk

Names and Mailing/E-Mail Address of Person(s) Served:

BRANDON MCKELVEY
MEDINA MCKELVEY LLP
925 HIGHLAND POINTE DR STE 300
ROSEVILLE, CA 95678

BENJAMIN HABER
WILSHIRE LAW FIRM
3055 WILSHIRE BLVD 12TH FL
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