

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO**

DIEN TRUONG

Case No. **FCS054399**

VS.

MINUTE ORDER – CIVIL

DS SERVICES OF AMERICA, INC A DELAWARE CORPORATION

Date: **29-MAR-2021**

Judge: **E. BRADLEY NELSON**

APPEARANCES:

**JUDGE - E. BRADLEY NELSON
COURT REPORTER - SARAH MARTINEZ
COURTROOM CLERK - JESSICA DEARMON**

On Calendar for: **MOTION**

Minutes:

Case is called.

Attorney Dennis Hyun appears via Zoom on behalf of Plaintiff.
Attorney Eric Hill appears via Zoom on behalf of Defendant.

The court Modifies the Tentative Ruling of March 29, 2021 as the official order of the court as follows;

Motion for Preliminary Approval of Class Action and PAGA Settlement

TENTATIVE RULING

The motion is denied. The court appreciates that the gross settlement amount was arrived at as the result of a full day of mediation. However, the prospective attorneys' fees of 35% seem excessive. There was no lodestar comparison submitted, nor was a copy of any contingent fee agreement. The proposed payment of \$15,000.00 to the only named class representative is also unsupported by his declaration that he spent 20 hours assisting class counsel. He gives but one example of one point in time during his 15 years of employment with defendant where he was not paid minimum wage, but otherwise the reasonableness of a \$15,000.00 payment to him is unsupported. The proposed PAGA payment appears to be reasonable, as does the proposed notice to class members. For the most part, class counsel appear to be experienced, but aside from their opinions and conclusions that the proposed settlement amount is reasonable, their collective declarations give the court very little information from which to conclude that approval of a gross settlement amount the functional equivalent of 25% of Defendant's prospective liability is fair and reasonable.

Upon request, rather than denying the motion, the court will consider continuing the hearing to allow Plaintiff to supplement it.

PLAINTIFF'S COUNSEL APPEARS IN HOPES OF COMMENTING ON THE TENTATIVE RULING.

PARTIES ARGUE THE MOTION.

THE COURT, AFTER HEARING ALL ARGUMENTS GRANTS THE MOTION.

FINAL APPROVAL HEARING IS SET FOR JULY 29, 2021 AT 9:00 IN DEPARTMENT 4.

MOTION FOR FINAL APPROVAL IS TO BE FILED BY JULY 8, 2021.

ORDER SIGNED AND ROUTED TO THE CLERK'S OFFICE FOR PROCESSING.

MOTION