

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
Rene C. Davidson Courthouse

Luis Miranda
Plaintiff/Petitioner(s)
VS.
New Pride Tire, Inc. et al
Defendant/Respondent(s)

No. RG20063513
Date: 11/01/2022
Time: 6:28 PM
Dept: 19
Judge: Stephen Kaus

ORDER re: Ruling on Submitted Matter

The Court, having taken the matter under submission on 10/31/2022, now rules as follows:

The Motion for Final Approval of Settlement filed by Luis Miranda on 10/04/2022 is Granted.

Plaintiff Luis Miranda's ("Plaintiff" or "Miranda") Motion for Final Approval of Class Action and PAGA Settlement is GRANTED.

BACKGROUND

Plaintiff Luis Miranda, individually, and on behalf of other class members ("Plaintiffs") move for entry of an order granting final approval of the Class Action Settlement Agreement between Plaintiffs and Defendants New Pride Tire, Inc., Flexi-Van Leasing, LLC, and NPT Ventures, LLC ("Defendants").

Plaintiffs assert Labor Code violations on behalf of current or former hourly-paid, non-exempt workers, whether direct hires of Defendants or through a staffing company who were assigned to Defendants' Rancho Dominguez or Oakland locations from August 18, 2018 to June 27, 2022 ("Class Members").

The Court-approved Class Notice was successfully delivered to 229 Class Members. (Declaration of Cassandra Polites ("Polites Decl.") ¶¶ 5-9.)

The Court granted preliminary approval on June 27, 2022. The case preliminarily settled for a total of \$300,000.00.

The final settlement agreement states that there will be attorneys' fees of \$100,000.00, attorneys' costs of \$14,772.31, class representative enhanced payments of \$10,000, settlement administrator payment of \$7,350, and \$20,000.00 as the PAGA payment. (Declaration of Douglas Han ("Han Decl.") ¶¶ 8, 22; Polites Decl. ¶¶ 13-16.) After these expenses and payments, the net settlement amount would be approximately \$147,877.69, with an average net payment of \$667.59. (Polites Decl. ¶¶ 14-15.)

The proposed class notice form and procedure are adequate. There were no objections or written disputes, and one (1) request for exclusion. (Polites Decl. ¶ 9.)

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DISCUSSION

The settlement was mediated with the assistance of an experienced mediator, Deborah Saxe, Esq. The court gives “considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in [concluding] that [the] settlement agreement represents an arm’s length transaction entered without self-dealing or other potential misconduct.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129; see also *In re Sutter Health Uninsured Pricing Cases* (2009) 171 Cal.App.4th 495, 504.)

The Court **APPROVES** the Settlement Agreement. The Court has considered (1) the relative strength of the Plaintiffs’ case; (2) the high risk, expense, complexity, and likely duration of further litigation of this dispute; (3) the high risk of maintaining class status through trial; (4) the relatively generous amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel that settlement is reasonable; and (7) the lack of written disputes, objections, and exclusion requests from any Class Members. (See *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801.) Under the circumstances, a presumption of fairness exists because there are no objectors to this settlement agreement, which was reached through arm’s length bargaining by experienced counsel before an experienced neutral mediator (Deborah Saxe, Esq.) with sufficient discovery proceedings to allow counsel and the Court to act intelligently. (See *In re Microsoft I-V Cases* (2006) 135 Cal. App. 4th 706, 723.)

The Court **APPROVES** Simpluris, Inc. as the settlement administrator and administration costs of \$7,350.00.

The Court **APPROVES** the settlement payment of \$300,000.00.

The Court **APPROVES** the litigation costs of \$14,772.31.

The Court **APPROVES** payment of residual settlement funds to *cy pres* recipient, Legal Aid At Work.

Plaintiff’s counsel requests an attorneys’ fee of \$100,000.00, representing 1/3 (33%) of the gross settlement amount. The Ninth Circuit’s benchmark is 25%. (*Lafitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495.) When suing the percentage of recovery approach, the court’s benchmark for fees is 30% of a total fund. (*Laffitte v. Robert Half Internat. Inc.*, *supra*; *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn 13; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn 11.) The percentage approach suggests fees of \$90,000.00.

The court has reviewed the submission by Plaintiffs’ counsel of documentation of the time spent working on the case. The timekeeping and rates appear to be reasonable. Class Counsel’s documented base lodestar fees are \$296,360. When cross-checked with the requested Attorney Fee Award, it results in a negative multiplier of 0.34.

On this basis, as well as the other factors listed in Plaintiff’s motion, the court awards the

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requested attorneys' fees of \$100,000.00. This reflects adequate compensation for the risks undertaken and appropriate in circumstances resulting in the efficient resolution of an action where less litigation as required. (See *Lealao v. Beneficial Cal. Inc.* (2000) 82 Cal.App.4th 19, 52.)

The Court has reviewed and **APPROVES** a service payment of \$10,000 to Plaintiff/Class Representative Miranda. The evidence shows that Plaintiff dedicated significant time to assisting counsel in this case. Miranda spent 2.5 years and approximately 88 hours researching class action and PAGA lawsuits, consulting with counsel, gathering and reviewing pertinent employment documentation for discovery, consulting with other class members, identifying other putative class members, reviewing case documents including pleadings and the settlement agreement, and participation in mediation and subsequent settlement negotiations. (Declaration of Luis Miranda, ¶¶ 4, 6-11, 13.) Given the effort devoted to this litigation, a total incentive award of \$10,000 to Plaintiff Miranda is warranted under the circumstances.

The Court **ORDERS** that 10% of the fee award (\$10,000.00) shall be kept in the settlement administrator's trust fund until the completion of the distribution process and Court approval of a final accounting. The Administrator shall not release these funds to counsel until the Court determines that these conditions have been met.

A compliance hearing is **SET** for May 31, 2023 at 3:00 p.m., in Department 19, Administration Building (Third Floor), 1221 Oak Street, Oakland, at which time the Court will consider evidence that the distribution process is complete and that a final accounting may be approved.

Dated: 11/01/2022



Stephen Kaus / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp FILED Superior Court of California County of Alameda 11/02/2022 Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	
PLAINTIFF/PETITIONER: Luis Miranda	
DEFENDANT/RESPONDENT: New Pride Tire, Inc. et al	
CERTIFICATE OF MAILING	CASE NUMBER: RG20063513

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Douglas Han
Justice Law Corporation
751 N. Fair Oaks Avenue, Suite 101
Pasadena, CA 91103-

Ellen M. Bronchetti
McDermott Will & Emery LLP
415 Mission Street
Suite 5600
San Francisco, CA 94105-

Greg S Labate
Sheppard, Mullin, Richter & Hampton LLP
650 Town Center Drive
4th Floor
Costa Mesa, CA 92626-1993

Chad Finke, Executive Officer / Clerk of the Court

Dated: 11/02/2022

By:

Nicole Hall

N. Hall, Deputy Clerk

CERTIFICATE OF MAILING

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PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is manderson@justicelawcorp.com

On November 10, 2022, I served the foregoing document described as

ORDER REGARDING RULING ON SUBMITTED MATTER

for the following case: **Miranda v. New Pride Tire, Inc.**
LWDA/Court Case No.: **LWDA Case No.: LWDA-CM-771390-20**
Court Case No.: RG20063513
Alameda Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 10, 2022, at Pasadena, California.



Mariah Anderson