

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Coordination Proceeding
Special Title (Rule 3.550)

**INFINITY ENERGY WAGE AND
HOUR CASES**

Infinity Energy, Inc. v. Jeffery

Bucio v. Infinity Energy, Inc.

Aznoe v. Infinity Energy, Inc.

AND RELATED CROSS-ACTIONS.

**JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 5139**

~~[proposed]~~ **FINAL APPROVAL ORDER
AND JUDGMENT**

*Infinity Energy, Inc. v. Jeffery and related
cross-complaint only*

Originally filed in Superior Court of California
County of Riverside, **NO. MVC1907343**

Date: October 21, 2022
Time: 8:30 am
Dept: C-74
Judge: Hon. Keri G. Katz

This matter came for hearing on October 21, 2022, at 8:30 a.m. in Department C-74 of the above-captioned court on Cross-complainants' Motion for Final Approval of Class Action Settlement, upon the terms and conditions set forth in the Joint Stipulation of Class Action Settlement (the "**Settlement Agreement**" or "**Settlement**") between Cross-Complainants LUKAS JEFFERY, JOHN LYMAN, and LOUIS CISNEROS (referred to for simplicity as "**Plaintiffs**") and Cross-Defendant INFINITY ENERGY, INC. (referred to for simplicity as "**Defendant**").

1 The Court, having fully reviewed the Motion for Final Approval, the Memorandum of Points and
2 Authorities and Declarations and Exhibits filed in support thereof, the Settlement Agreement, and the
3 Notice Packet, and in recognition of the Court’s duty to make a final determination as to the good faith,
4 fairness, adequacy and reasonableness of any proposed settlement and to ensure proper notice was
5 provided to the Class Members in accordance with due process requirements, it is hereby **ORDERED,**
6 **ADJUDGED AND DECREED AS FOLLOWS:**

- 7 1. Capitalized terms used but not defined herein shall have the same meanings as those set forth
8 in the Joint Stipulation of Class Action Settlement (the “**Settlement Agreement**”) filed in
9 support of the Motion for Preliminary Approval [ROA 47 & 48].
- 10 2. This Court has jurisdiction over the subject matter of this Action and over all Parties to this
11 Action, including all members of the Settlement Class.
- 12 3. For the reasons set forth in the Order for Preliminary Approval of Class Action Settlement
13 entered May 6, 2022 [ROA 72], this Court finds that the applicable requirements of California
14 Rules of Court, Rules 3.769 and Section 382 of the California Code of Civil Procedure have
15 been satisfied with respect to the Settlement.
- 16 4. The Court hereby makes final its earlier provisional certification of the Settlement Class, as set
17 forth in the Order for Preliminary Approval of Class Action Settlement [ROA 72].
- 18 5. The Court further finds that Class Notice fully and accurately informed the Settlement Class of
19 all material elements of the Settlement including that the amounts to be paid to Class Members
20 were based on estimates that may change before final distribution. The Class Notice fairly and
21 adequately described the Settlement, allocation of the Gross Settlement Fund and provided the
22 Settlement Class adequate instructions and means to obtain additional information. The Class
23 Notice accurately informed the Settlement Class of their opportunity to object or comment
24 thereon; was the best notice practicable under the circumstances; was valid, due and sufficient
25 notice to the Settlement Class; and fully complied with the laws of the State of California. A
26 full opportunity has been afforded to the Settlement Class to participate in the hearing, and all
27 persons wishing to be heard have been heard.

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1 6. Further, the Court has considered there were no objections filed to the Settlement and no
2 Requests for Exclusion submitted by any Class Members.

3 7. It further appears to the Court that significant investigation, research and litigation has been
4 conducted such that counsel for the Parties at this time are able to reasonably evaluate their
5 respective positions. It further appears to the Court that the proposed Settlement has been
6 reached as a result of the intensive, serious and non-collusive negotiations between the Parties.
7 The Court finds that Settlement at this time will avoid additional substantial costs, as well as
8 avoid the delay and risks that would be presented by the further prosecution of the Action. The
9 Court has reviewed the benefits that are being granted as part of the Settlement and recognizes
10 the significant value obtained for the Settlement Class.

11 8. The Court hereby approves the Settlement set forth in the Settlement Agreement and finds that
12 the Settlement is, in all respects, fair, adequate and reasonable, and directs the Parties to
13 effectuate the Settlement according to its terms. Final approval of the Settlement is GRANTED.
14 Accordingly, all members of the Settlement Class are bound by this Final Approval Order and
15 Judgment.

16 9. The Court finds the following Class has been certified and is subject to the Settlement:

17 All persons currently and formerly employed by Infinity Energy, Inc. in the State
18 of California conducting door-to-door sales or door-to-door sales lead generation,
19 including managers, whether classified as an employee or independent contractor,
between June 12, 2015 and April 22, 2022.

20 10. It appears to the Court that the Gross Settlement Fund increase from \$3,000,000 to
21 \$3,454,409.70 because of an increase in the Settlement Class is fair, adequate and reasonable
22 for the Settlement Class when balanced against the probable outcome of further litigation
23 relating to maintaining class certification, liability and damages issues and potential appeals.

24 11. Defendant shall deposit the Gross Settlement Fund within the timeframe required by the
25 Settlement Agreement.

26 12. Upon the Effective Date, Defendant shall fully and finally release and forever discharge the
27 Settlement Class for unpaid wage advances and post-termination employee non-solicitation
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1 restrictions as provided for in Section 5.04 of the Settlement Agreement, which is incorporated
2 herein by reference.

3 13. Plaintiffs LUKAS JEFFERY, JOHN LYMAN, and LOUIS CISNEROS are each confirmed
4 and appointed as a class representative. Each Plaintiff shall receive an Enhancement Award to
5 be paid by the Settlement Administrator from the Gross Settlement Fund for the work
6 performed as class representative in the amount of \$20,000 each.

7 14. The Court finds that 2% of the Gross Settlement Fund, or \$69,088.19 to be allocated to PAGA
8 Penalties is fair, reasonable and appropriate considering the robust relief provided to the
9 Settlement Class. The Court also finds that under Labor Code §2699(i), 75% of the PAGA
10 Penalties shall be paid to the California Labor & Workforce Development Agency and that the
11 remaining 25% shall be paid to the PAGA Represented Employees according to the
12 methodology and terms set forth in the Settlement Agreement.

13 15. The Court approves the Settlement Administrator's increased fee in the total amount of \$22,000
14 to be paid from the Gross Settlement Fund.

15 16. The Court confirms and appoints Jason E. Baker and John J. Weber of Keegan & Baker, LLP,
16 as Class Counsel.

17 17. The Court approves reimbursement of litigation costs of \$10,689.06 payable to Keegan &
18 Baker, LLP from the Gross Settlement Fund.

19 18. The Court approves Class Counsel's request for attorneys' fees of 33.33% of the Gross
20 Settlement Fund, or \$1,151,458.39, to be paid from the Gross Settlement Fund to Keegan &
21 Baker, LLP. The amount of fees is hereby granted pursuant to California law because, *inter*
22 *alia*, it falls within the range of reasonableness under the "percentage of the common fund"
23 methodology. As a lodestar cross check to the common fund methodology, both the reported
24 number of hours and hourly rates sought by Class Counsel are reasonable and fair and would
25 harmonize with the "common fund" method by applying a 1.98 multiplier to Class Counsel's
26 lodestar considering the risks undertaken by Class Counsel, the novel and complex nature of
27 the case, the quality of representation and the exceptional results obtained for the Settlement
28 Class.

- 1 19. The Settlement Administrator shall issue the Individual Settlement Payments to the Settlement
2 Class using the weighted allocation formula in the Settlement Agreement and make the other
3 Court approved payments from the Gross Settlement Fund in accordance with the timelines set
4 forth in the Settlement Agreement, except as modified by this Order.
- 5 20. The Court also hereby approves and orders that any checks distributed from the Gross
6 Settlement Fund remaining un-cashed after one hundred thirty (130) calendar days shall be
7 transferred to the California State Controller's Office pursuant to California Civil Code § 1500
8 and held in trust for such members of the Settlement Class with unclaimed funds. As such, no
9 "unpaid residue" under Code of Civil Procedure § 384 will result from the Settlement.
- 10 21. Neither this Final Approval Order and Judgment, the Settlement, nor any document referred to
11 herein, nor any action taken to carry out the Settlement is, may be construed as, or may be used
12 as an admission by or against Defendant or any of the Released Parties of any fault,
13 wrongdoing, or liability whatsoever for any purpose whatsoever other than to enforce the
14 provisions of this Final Approval Order and Judgment, the Settlement, or any related agreement
15 or release. Notwithstanding these restrictions, any of the Released Parties may file in any action
16 or in any other proceeding this Final Approval Order and Judgment, the Settlement, or any
17 other papers and records on file in the above-captioned action as evidence of the Settlement to
18 support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue
19 preclusion or similar defense as to the Released Claims.
- 20 22. Upon the Effective Date and deposit of the Gross Settlement Fund, the Settlement Class and
21 PAGA Represented Employees, and each of them, shall fully and finally release and forever
22 discharge the Released Parties from the Released Claims as provided for in Section 5.01 of the
23 Settlement Agreement, which is incorporated herein by reference.
- 24 23. Upon the Effective Date and deposit of the Gross Settlement Fund, the Named Plaintiffs, and
25 each of them, shall fully and finally release and forever discharge the Released Parties from the
26 Released Claims as provided for in Sections 5.02 and 5.03 of the Settlement Agreement, which
27 is incorporated herein by reference.
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1 24. Without affecting the finality of this matter, pursuant to California Rules of Court, Rule
2 3.769(h), this Court shall retain exclusive and continuing jurisdiction over this Action and the
3 Parties, including the Settlement Class, for purposes of supervising, administering,
4 implementing, enforcing and interpreting the Settlement and the distribution process hereunder
5 and to resolve any contested challenge to a claim for Settlement benefits, and to supervise and
6 adjudicate any dispute arising from or in connection with the distribution of Settlement
7 benefits.

8 25. Pursuant to California Rules of Court, Rule 3.771(b), the Settlement Administrator shall cause
9 the Notice of Entry of Final Approval Order and Judgment to be posted on the Settlement
10 Administrator's website within three (3) days of Entry of the Final Approval Order and
11 Judgment for a period of ninety (90) days and that Notice of Entry of the Final Approval Order
12 and Judgment need not be additionally mailed to the Settlement Class.

13 26. There being no just reason to delay, the Clerk is directed to enter this Final Approval Order and
14 Judgment forthwith.

15 27. The Complaint filed by Defendant against Lukas Jeffery is hereby dismissed with prejudice
16 with each side to bear their own costs and attorneys' fees on the Complaint.

17 28. If the Settlement does not become final and effective in accordance with the terms of the
18 Settlement, then this Final Approval Order and Judgment, the final judgment, and all orders
19 entered in connection herewith, shall be rendered null and void and shall be vacated.

20 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

21 DATED: **11-08-22**
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Keri Katz

23 **Honorable Keri G. Katz**
24 **Judge of the Superior Court**
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