

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Tanya Savidis
Plaintiff/Petitioner(s)
VS.
Lumber Liquidators, Inc.
Defendant/Respondent(s)

No. RG20057480

Date: 01/24/2022

Time: 3:00 PM

Dept: 19

Judge: Stephen Kaus

ORDER re: Hearing on Motion - Other
Motion for Final Approval of
Class Settlement

Matter was not contested and the tentative is affirmed.

The Motion for Final Approval of Settlement filed by Tanya Savidis on 01/05/2022 is Granted.

The motion of Plaintiff for final approval of the class action settlement is GRANTED.

APPROVAL OF THE SETTLEMENT

This is a wage and hour class action with additional PAGA claims.

The class covers approximately 359 class members. The case preliminarily settled for \$916,175. The settlement agreement states that there will be attorney's fees of approximately \$274,853 (30%), litigation expenses of up to \$16,000, PAGA payment of \$20,000 (75% to the LWDA, and 25% to the net settlement amount for distribution to PAGA employees), and settlement administration expenses of \$8,750. (Agmt. at pp. 4-5.)

The proposed class notice form and procedure was adequate. There were no opt-outs and no objections.

The proposed class is appropriate for class certification.

The motion makes adequate analysis as required by Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, because it provides a reasonable estimate of the number of class members, the total recovery, and an explanation of why the settlement is fair and reasonable in light thereof.

The scope of release for the class is appropriate. It is properly limited to the claims that were alleged or could have been alleged based on Plaintiff's factual allegations.

The Court notes and approves of the plan to distribute the settlement funds with no claims

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process.

The unclaimed funds are paid to Legal Aid at Work, and the parties have declared that they have no relationship or connection to Legal Aid at Work. (See CCP §§ 382.4, 384.)

APPROVAL OF FEES, COSTS, AND SERVICE AWARD

The Court awards fees of \$274,852.50, which is 30% of the total fund.

“Because absent class members are not directly involved in the proceedings, oversight to ensure settlements are fair and untainted by conflict is the responsibility of both the class representative and the court.” (Mark v. Spencer (2008) 166 Cal.App.4th 219, 227 [emphasis in original].)

“In any class action there is always the temptation for the attorney for the class to recommend settlement on terms less favorable to his clients because a large fee is part of the bargain. . . . [T]horough judicial review of fee applications is required in all class action settlements and the fairness of the fees must be assessed independently of determining the fairness of the substantive settlement terms. . . . The court has a duty, independent of any objection, to assure that the amount and mode of payment of attorneys' fees are fair and proper, and may not simply act as a rubber stamp for the parties' agreement.” (Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 555.)

When using the percentage of recovery approach, the court's benchmark for fees is 30% of the total fund. (Laffitte v. Robert Half International, Inc. (2016) 1 Cal.5th 480, 495; In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935, 942-943; Chavez v. Netflix, Inc. (2008) 162 Cal.App.4th 43, 66 fn 11.) The percentage approach suggests fees of \$274,852.

Counsel spent approximately 490 hours on this case. (Campbell decl. ¶ 40; Lebe decl. ¶¶ 9, 12.) The case involved exchange of discovery and then mediation. The Court finds that 490 hours was reasonable. The Court finds that a blended rate of \$500 is appropriate for this case. (Meridian Financial Services, Inc. v. Phan (2021) 67 Cal.App.5th 657, 708-709 [blended rate of \$550; Espejo v. The Copley Press, Inc. (2017) 13 Cal.App.5th 329, 383 [blended rate of \$500]; 569 East County Boulevard, LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426, 438-440 fn. 14, 16 [blended rate of \$275].) In evaluating the blended rate, a court considers both the evidence as well as its knowledge of and familiarity with the legal market. (Meridian Financial, 67 Cal. App.5th at 709.) This results in a lodestar of \$245,000.

In considering the risk, the Court applies a 1.2 risk multiplier because there is less risk in a case with a fee-shifting statute. This results in \$294,000.

Considering the percentage analysis fees of \$274,852 and the multiplier-adjusted lodestar star fees of \$294,000, the court will award fees of \$274,852. This is the requested amount.

The Court approves litigation costs of \$15,877.23.

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The Court approves a PAGA payment of \$20,000, with a net payment of \$15,000 to the LWDA.

The Court approves settlement administration costs of \$8,750.

The Court approves a service award of \$7,500 to the named plaintiff. Plaintiff provided evidence regarding the nature of her participation in the action , including a description of specific actions and the amount of time committed to the prosecution of the case. (Clark v. American Residential Services, LLC (2009) 175 Cal.App.4th 785, 804-807.)

The Court ORDERS that 10% of any fee award be kept in the administrator's trust fund until completion of the distribution process and Court approval of a final accounting.

The Court sets a compliance hearing for October 10, 2022. After completion of the distribution process and the expiration of time to cash checks, Plaintiff's counsel and the administrator will comply with CCP § 384(b) and submit a preliminary accounting as to how the funds have been distributed to the class members, as well as the status of any unresolved issues. If the distribution is completed, the Court will at that time release any hold-back of attorney fees.

The Court will sign the proposed order.

HOW DO I CONTEST A TENTATIVE RULING?

THROUGH ECOURT

Notify the Court and all the other parties no later than 4:00 PM one court day before the scheduled hearing, and briefly identify the issues you wish to argue through the following steps:

1. Log into eCourt Public Portal
2. Case Search
3. Enter the Case Number and select "Search"
4. Select the Case Name
5. Select the Tentative Rulings Tab
6. Select "Click to Contest this Ruling"
7. Enter your Name and Reason for Contesting
8. Select "Proceed"

BY EMAIL

Send an email to the DEPARTMENT CLERK and all the other parties no later than 4:00 PM one court day before the scheduled hearing. This will permit the department clerk to send invitations to counsel to appear remotely.

BOTH ECOURT AND EMAIL notice are required.

Dated: 01/24/2022

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A handwritten signature in black ink, appearing to read "Kaus", with a stylized initial.

Stephen Kaus / Judge