

FILED

JAN 11 2023

SAN LUIS OBISPO SUPERIOR COURT
BY Alyssa F. Goriesky
Alyssa F. Goriesky, Deputy Clerk

Rost v. Hanson, 20CV-0225

Hearing: Motion for Final Approval of Class Action Settlement

Date: January 11, 2023

Leroy Rost (Plaintiff), individually and on behalf of other members of the general public similarly situated, filed this wage and hour class action on April 24, 2020. On November 10, 2021, Plaintiff filed a First Amended Complaint (FAC), adding a ninth cause of action for penalties Pursuant to Labor Code section 2699, et seq. (PAGA).

Plaintiff reached a settlement with Lehigh Hanson, Inc., Hanson Aggregates, LLC, and Hanson Aggregates Mid-Pacific, LLC (formerly known as Hanson Aggregates Mid-Pacific, Inc.) (HAMP) (collectively, Defendants), and sought preliminary approval of the class action settlement.¹ Plaintiff's motion for preliminary approval was granted on June 1, 2022.

Now before the Court is Plaintiff's unopposed motion for final approval of the class action settlement.

Plaintiff moves the Court for an order approving the Joint Stipulation and Settlement Agreement (Settlement Agreement, Settlement, or Agreement; Ex. 3 to Declaration of Douglas Han in Support of Plaintiff's Motion for Preliminary Approval) on the grounds that it is fair, adequate and reasonable, and approving: 1) the attorney fee award of \$297,500 to Justice Law Corporation (Class Counsel) for 513.7 hours of attorney time spent working on the case through the final fairness hearing; 2) the cost award of \$12,996.13 to Class Counsel; 3) the class representative enhancement payment of \$10,000 to Plaintiff; 4) the administration costs of \$9,814.10 to the settlement administrator ILYM Group, Inc. (ILYM); and, 5) the payment of \$60,000 for Private Attorneys General Act of 2004 (PAGA) penalties, of which 75% shall be paid to the California Labor and Workforce Development Agency (LWDA), and 25% shall be distributed to the Class Members.

The motion was served on Defendants and is unopposed.

There are three stages to the Court's settlement approval process: (1) preliminary approval of the proposed settlement at an informal hearing; (2) notice of the settlement to all affected class members; and (3) final approval after a formal hearing. As noted above, the Court preliminarily approved the settlement on June 1, 2022. That approval included the proposed notice.

¹ As previously set forth in its order granting preliminary approval, the Court must review and approve any settlement of any civil action filed pursuant to PAGA, and the proposed settlement shall be submitted to the Labor and Workforce Development Agency (LWDA) at the same time that it is submitted to the Court. (Lab. Code, § 2699, subd. (1)(2).) Plaintiff submitted the Settlement Agreement and the motion for preliminary approval to the LWDA on April 26, 2022. (Anderson Declaration in Support of Motion for Preliminary Approval, ¶ 3; Ex. 1.) No objection or opposition by the LWDA has been filed with the Court.

ILYM was appointed settlement administrator and has been responsible for, amongst other tasks, preparing, translating into Spanish, printing, and mailing the Notice of Class Action Settlement (Class Notice) and Election Not To Participate In (Opt-Out Form) (collectively, known as the Notice Packet) to Class Members, and keeping track of any objections or requests for exclusion from Class Members. (Declaration of Makenna Snow (Snow Dec.), ¶ 3.) A toll-free telephone number was included in the Notice Packet for the purpose of allowing the class members to call ILYM and to make inquiries regarding the Settlement. (*Id.*, ¶ 4.)

On June 15, 2022, ILYM received the Court-approved Notice Packet in English and Spanish. (Snow Dec., ¶ 5; Ex. 1.) The Notice Packet includes the time, date and place of the final fairness hearing. (*Ibid.*) On June 17, 2022, Defendants delivered to ILYM an electronic database that listed each of the 252 Class Member's relevant information. (*Id.*, ¶ 6.) On July 6, 2022, ILYM Group mailed Notice Packets to those Class Members via first-class regular U.S. Mail. The Notice Packets informed Class Members that the Response Deadline was September 6, 2022. (*Id.*, ¶ 7.)

If a Notice Packet was returned, within ten days from receipt of the returned packet, ILYM conducted a search for a more current address for the subject Class Member and remailed it. (Snow Dec., ¶ 8.) Ultimately, only two Notice Packets were left undelivered. (*Id.*, ¶ 9.)

Pursuant to the Settlement Agreement, the entire net settlement amount was used to calculate the individual settlement share for each participating Class Member. The net settlement amount is \$459,689.77 and was calculated as set forth below:

Gross Settlement Amount	\$850,000.00
Less Attorney Fee Award (Requested)	-\$297,500.00
Less Cost Award (Requested)	-\$12,996.13
Less Class Representative Enhancement Payment	-\$10,000.00
Less Administration Costs	-\$9,814.10
Less PAGA Payment	-\$60,000.00
Net Settlement Amount	\$459,689.77
(Snow Dec., ¶ 14.)	

The average individual settlement share to be paid is approximately \$1,898.76, and the highest individual settlement share to be paid is approximately \$4,600.52, prior to the deduction of taxes. (Snow Dec., ¶ 15.)

As of November 1, 2022, ILYM received no written disputes from Class Members, no objections from Class Members, and only two requests for exclusion. (Snow Dec., ¶¶ 10-12.) No objections are on file with the Court.

The Court finds that notice was properly given.

Even without an objection to the requested attorney fees and costs, the Court has a duty to protect

the rights of all parties, and to prevent abuses which might undermine the proper administration of justice. (*Howard Gunty Profit Sharing Plan v. Superior Court* (2001) 88 Cal.App.4th 572, 581.) Here, Class Counsel seeks a significant fee award in the amount of \$297,500, which is 35% of the gross settlement amount. Class Counsel declares that he has routinely been awarded at least 35% in fee requests in similar actions. (Declaration of Douglas Han (Han Dec., ¶ 14.)

Class Counsel's declaration and attorney task and time chart show that a significant amount of work was put into this case from the investigation through to this final fairness hearing. (Han Dec., ¶¶ 4-13, 22; Ex. 1 [attorney time], Ex. 3 [costs].) The lodestar analysis of the total hours worked by Class Counsel equals \$392,305, more than the amount of the award sought. (*Id.*, ¶ 11.) Class Counsel has also demonstrated significant experience in this area of law. (*Id.*, ¶¶ 15-20; Exs. 4-5.) The Court therefore finds that the requested attorneys' fees and costs are reasonable.

The Court likewise approves the payment to ILYM of \$9,814.10 for its services as the Class Administrator. (Snow Dec., ¶ 17.)

The Court previously found that the Class should be certified for purposes of settlement in its ruling on the Plaintiffs' request for preliminary approval. (Order, 06/1/22.) The Court likewise noted in that ruling that it agreed the matter was appropriate for class treatment. (*Ibid.*)

The Court finds based on the unopposed motion and the declarations and exhibits submitted in support, that the settlement (including the PAGA settlement and Plaintiff's enhancement payment (see the Declaration of Leroy Rost)) is fair, adequate and reasonable and in the best interests of the Class Members. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

Plaintiff's motion for final approval is granted.

**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 Ave., Ste. 101 Pasadena, California 91103. My electronic service address is manderson@justicelawcorp.com

On January 11, 2023, I served the foregoing document described as

**ADOPTED TENTATIVE RULING REGARDING JANUARY 11, 2023 MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

for the following case: **Rost v. Lehigh Hanson, Inc., et al.**
LWDA/Court Case No.: **LWDA-CM-783988-20**
Case No. 20CV-0225
San Luis Obispo County 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 January 11, 2023, at Pasadena, California.



Mariah Anderson