

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 05/12/2022

TIME: 02:00:00 PM

DEPT: CX102

JUDICIAL OFFICER PRESIDING: Peter Wilson

CLERK: V. Harting

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: . None

CASE NO: **30-2020-01149340-CU-OE-CJC** CASE INIT.DATE: 06/25/2020

CASE TITLE: **Fukumoto vs. Laguna Overhead LTD**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73730731

EVENT TYPE: Motion - Other

MOVING PARTY: Taylor Fukumoto

CAUSAL DOCUMENT/DATE FILED: Motion - Other For Approval PAGA Settlement, 04/01/2022

EVENT ID/DOCUMENT ID: 73731010

EVENT TYPE: Status Conference

APPEARANCES

No Appearance by all parties

Tentative Ruling posted on the Internet .

The Court confirms the tentative ruling as follows:

The hearing on the Motion for Approval of PAGA Settlement is CONTINUED to June 23, 2022 at 2:00 p.m. in department CX102 to permit the parties to respond to the following issues. A supplemental briefing shall be filed at least 9 days before the continued hearing and respond where necessary to each of the points raised below. If required, an amendment to the settlement agreement is directed, rather than 'amended settlement agreement', to avoid use of limited Court time and resources. The parties shall also provide redline copies of the revised notice and proposed order.

A judgment in a PAGA action "binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government." (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 986.) Thus, "PAGA settlements are subject to trial court review and approval, "to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws. (See *Moniz v. Adecco USA, Inc.* (2021) 72 Cal. App. 5th 56.)

As to the Settlement

1. The Release includes failure to pay meal and rest periods but these claims are not included in Plaintiff's PAGA Notice letter or the Complaint.

2. Do any of the parties know of any other action pending in any other court that this Settlement may

impact? If yes, please identify the case, the court in which it is pending, and provide a brief summary of the procedural posture of that case.

As to the Notice

1. The moving papers did not include a notice to the aggrieved employees. The notice must be provided for the Court's approval.

As to the Proposed Order

1. The proposed order is to be revised consistent with the issues addressed above.

2. The Settlement and Notice should be attached to the proposed order as an exhibit.

3. Paragraph (a) should be revised to state that the settlement is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.

4. The first sentence of paragraph (b) should be deleted.

5. Paragraph (c) must be revised to reflect that the net settlement amount, not the gross settlement amount, is being split 75%/25%, with the 25% allocated equally among the 36 alleged aggrieved employees. The gross amount and all proposed deductions/disbursements should be included in paragraph (c).

6. A definition for Aggrieved Employees should be included in the proposed Order.

7. The first sentence of paragraph (d) should be revised to reflect that the Court will dismiss the action with prejudice after the final accounting hearing.

8. The proposed order should include a date for the final accounting. The final accounting should occur after the deadline to cash checks has expired. The Court holds final accounting hearings on Fridays at 9:00 AM. The proposed order shall also state that Plaintiff will submit to the Court a final report at least 5 court days prior to the final accounting, including the actual amounts paid to aggrieved employees and the other amounts distributed under the settlement, including uncashed checks.

As to the Disbursements

1. Will Plaintiff's counsel be paid any other amount for attorney fees or costs from the individual settlement?

2. The Lawrence Declaration indicates a CV for Phoenix Settlement Administrators and a quote are attached as exhibits, but these exhibits were not attached.

Plaintiff is ordered to give notice, including to the LWDA, and file a proof of service. Any amendments to the Settlement or supplemental briefing made pursuant to this order must also be served on the LWDA, and a proof of service must be filed.

The status conference is off calendar.