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LAW AND MOTION DEPT. 53/54
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

KEVIN LOR, individually, on behalf of other
members of the general public similarly
situated, and on behalf of aggrieved employees
pursuant to the Private Attorneys General Act
("PAGA");

Plaintiff,

v.

ANTECH DIAGNOSTICS, INC., a California
corporation; and DOES 1 through 100,
inclusive;

Defendants.

Case No.: 34-2020-00282790

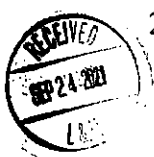
Honorable Shama H. Mesiwala
Department 53

CLASS ACTION

**[PROPOSED] ORDER OF FINAL
APPROVAL AND JUDGMENT**

Hearing Date: October 20, 2021
Hearing Time: 1:30 p.m.
Hearing Place: Department 53

Complaint Filed: August 4, 2020
FAC Filed: March 2, 2021
Jury Trial: None Set



1 The Court, having read the papers filed regarding Plaintiff Kevin Lor's ("Plaintiff") motion for
2 final approval of a class action settlement and award of Attorney's Fees and Litigation Costs,
3 Enhancement Award, and Settlement Administrator's expenses, and after hearing argument regarding
4 the motion on October 20, 2021 at 1:30 p.m., hereby FINDS AND ORDERS as follows:

5 This is a putative class action. Plaintiff is a former employee of Antech Diagnostics, Inc.
6 ("Defendant"). The operative complaint in the action asserts nine (9) causes of action for wage and
7 hour violations. Plaintiff has brought this action on behalf of all persons who are or have been
8 employed by Defendant in the State of California as hourly workers from August 4, 2016 through
9 April 30, 2021. There are nine hundred three (903) Class Members.

10 On July 19, 2021, the Court preliminary approved the Proposed Order Granting Preliminary
11 Approval of Class Action Settlement ("Preliminary Approval"). Plaintiff now moves for Final
12 Approval and Judgment.

13 Generally, "questions whether a settlement was fair and reasonable, whether notice to the class
14 was adequate, whether certification of the class was proper, and whether the attorney fee award was
15 proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.*
16 (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794.)

17 In determining whether a class settlement is fair, adequate and reasonable, the
18 trial court should consider relevant factors, such as "the strength of plaintiffs'
19 case, the risk, expense, complexity and likely duration of further litigation, the
20 risk of maintaining class action status through trial, the amount offered in
21 settlement, the extent of discovery completed and the stage of the proceedings,
22 the experience and views of counsel, the presence of a governmental
23 participant, and the reaction of the class members to the proposed settlement.
24 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, *supra*, 48
25 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com'n, etc.* (9th Cir. 1982) 688 F.2d
26 615, 624.)

27 "The list of factors is not exclusive and the court is free to engage in a balancing and weighing
28 of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.*, *supra*, 91
Cal.App.4th at p. 245.) The court must examine the "proposed settlement agreement to the extent
necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching

1 by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair,
2 reasonable and adequate to all concerned.” (*Ibid.*, quoting *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and
3 *Officers for Justice v. Civil Service Com’n, etc.*, *supra*, 688 F.2d at p. 625, internal quotation marks
4 omitted.)

5 The burden is on the proponent of the settlement to show that it is fair and
6 reasonable. However “a presumption of fairness exists where: (1) the
7 settlement is reached through arm’s-length bargaining; (2) investigation and
8 discovery are sufficient to allow counsel and the court to act intelligently; (3)
counsel is experienced in similar litigation; and (4) the percentage of objectors
is small.”

9 (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk*, *supra*, 48
10 Cal.App.4th at p. 1802.)

11 Although [t]here is usually an initial presumption of fairness when a proposed
12 class settlement ... was negotiated at arm’s length by counsel for the class, ...
13 it is clear that the court should not give rubber-stamp approval. Rather, to
14 protect the interests of absent class members, the court must independently and
objectively analyze the evidence and circumstances before it in order to
15 determine whether the settlement is in the best interests of those whose claims
will be extinguished. To make this determination, the factual record before the
16 ... court must be sufficiently developed... . The proposed settlement cannot be
judged without reference to the strength of plaintiffs’ claims. The most
17 important factor is the strength of the case for plaintiffs on the merits, balanced
against the amount offered in settlement. The court must stop short of the
18 detailed and thorough investigation that it would undertake if it were actually
trying the case, but nonetheless it must eschew any rubber stamp approval in
19 favor of an independent evaluation.

20 (*Kullar*, *supra*, 168 Cal.App.4th at p. 130, internal citations and quotation marks omitted.)

21 Under the terms of the settlement, Defendant will pay up to \$850,000, which includes (1)
22 attorneys’ fees in the amount of \$323,000; (2) litigation costs in the amount of \$19,972.21; (3)
23 Enhancement Award in the amount \$10,000 to Plaintiff; (4) payment in the sum of up to \$9,600 to
24 Simpluris, Inc. (“Simpluris”) as the Settlement Administrator’s expenses; and (5) payment in the
25 amount of \$37,500 to the California Labor and Workforce Development Agency (“LWDA”) for its
26 portion of the Private Attorney General Act (“PAGA”) civil penalties.

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1 Uncashed Settlement award checks will not be re-issued, except for good cause and as
2 mutually agreed upon by the Parties in writing. Any checks that remain uncashed after one hundred
3 eighty (180) days of issuance will be sent to the State of California State Controller's Unclaimed
4 Wages Fund.

5 As noted in the Preliminary Approval, the Settlement Agreement is entitled to a presumption
6 of fairness. In their moving papers, Plaintiff contends that the proposed Settlement Agreement was the
7 product of arms-length negotiations following extensive litigation and following extensive discovery
8 and exchange of documentation relating to the claims made by Plaintiff. Moreover, the negotiations
9 were facilitated with the assistance of a skilled and experienced mediator, David A. Rotman, Esq.

10 Plaintiff has explained the risks and costs associated with continuing with the litigation and the
11 benefits conferred upon Class Members in the form of immediate compensation. Plaintiff has
12 satisfactorily assessed the maximum value of the claims and of the reasonableness of the discount
13 accepted in the settlement when considering these risks. Finally, the Declaration of the Settlement
14 Administrator, Cassandra Polites, states that Notice of Proposed Class Action Settlement and Claim
15 Form (collectively, known as the "Notice Packet") were sent to nine hundred three (903) Class
16 Members, and there were no objections to the Settlement Agreement. This is further proof of the
17 fairness of the Settlement Agreement. The Declaration of Douglas Han provides sufficient information
18 about counsel's experience in litigating class action lawsuits.

19 The Court also has an independent right and responsibility to review the requested attorneys'
20 fees and only award so much as it determines reasonable. (*See Garabedian v. Los Angeles Cellular*
21 *Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) The amount of attorney's fees requested by
22 Class Counsel is in the sum of \$323,000 is thirty-eight percent (38%) of the Maximum Settlement
23 Amount created for the benefit of the Class Members and are supported by use of the percentage-fee
24 method and the lodestar method. According to the Declaration of Douglas Han, Class Counsel
25 collectively expended 511.4 hours with a total lodestar figure of \$336,945. Even under the lodestar
26 cross-check the requested fee is less than the lodestar. Considering the contingent nature of the
27 representation and the ongoing monitoring of the settlement administration, the requested fee and
28 hourly rates requested is justified. The Court finds the fee request is reasonable, and it is approved.

1 The Court has also reviewed the Declaration of Douglas Han regarding the costs expended in
2 the prosecution of this litigation. Under the terms of the settlement, Plaintiff may seek reimbursement
3 of up to \$25,000 in costs. The Court finds that Plaintiff has expended \$19,972.21 in costs, and that
4 such costs were reasonable. Therefore, the Court approves the payment of \$19,972.21 in costs from
5 the Maximum Settlement Amount for the reimbursement of Class Counsel's litigation costs.

6 The rationale for making an Enhancement Award to Plaintiff is that he should be compensated
7 for the expense or risk he has incurred in conferring a benefit on other members of the Settlement
8 Class. Such enhancement payments are appropriate if they are necessary to induce an individual to
9 participate in the suit. Criteria courts may consider in determining whether to make an incentive award
10 include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the
11 notoriety and personal difficulties encountered by the class representative; 3) the amount of time and
12 effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or
13 lack thereof) enjoyed by the class representative because of the litigation.

14 The Court has reviewed Plaintiff's declaration, which outlines his involvement in the lawsuit.
15 Given the risks inherent in service as a Class Representative, the duration of the case and time
16 involved, and the benefits created for the Settlement Class, the Court approves the Enhancement
17 Award in the amount of \$10,000 to Plaintiff.

18 The Court has reviewed the Declaration of Cassandra Polites, the Settlement Administrator
19 from Simpluris, the Court-approved Settlement Administrator. The Court finds that notice was
20 provided to the Settlement Class pursuant to the preliminary approval order, and that notice was
21 sufficient and that it satisfies due process. Simpluris has discharged its duties to provide notice to the
22 Settlement Class and approves a payment of \$9,600 for its services in administering this settlement,
23 including the mailing and remailing of settlement awards according to the terms of the Settlement.

24 For the reasons set forth above, the Motion for Final Approval of Class Action Settlement and
25 Approval of Attorneys' Fees and Litigation Costs, Enhancement Award, and Settlement
26 Administrator's expenses are GRANTED. The Settlement Administrator is directed to carry out the
27 terms of the settlement agreement forthwith.

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1 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF THE
2 SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT 3.769, THE
3 COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS OF THIS ORDER
4 AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE FINALITY OF THIS
5 MATTER, RETAINS EXCLUSIVE AND CONTINUING JURISDICTION TO ENFORCE THIS
6 ORDER, THE SETTLEMENT AGREEMENT, AND THE JUDGMENT THEREON.

7 IT IS SO ORDERED.

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10 DATED: OCT 21 2021



SHAMA H. MESIWALA
HONORABLE SHAMA H. MESIWALA
SUPERIOR COURT JUDGE

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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 aokada@justicelawcorp.com

On October 25, 2021, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Lor v. Antech Diagnostics, Inc.**
LWDA/Court Case No.: **LWDA Case No.: CM- 791119-20**
Court Case No.: 34-2020-00282790
Sacramento 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 October 25, 2021, at Pasadena, California.



Anna Okada