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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 FOR THE COUNTY OF ALAMEDA

16 TSCHERA ECHEVERRIA, individually and on
17 behalf of all others similarly situated,

18 Plaintiff,

19 vs.

20 TRITON GLOBAL SERVICES, INC., a
21 California corporation; and DOES 1 through 50,
22 inclusive,

23 Defendants.

Case No. RG20068526

[Assigned for all purposes to the Hon. Evelio
Grillo, Dept. 21]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: July 27, 2023

Time: 9:00 a.m.

Dept.: 21

Reservation ID. 471048857557

ORDER

The Motion for Preliminary Approval of Settlement filed by Plaintiff Tschera Echeverria (“Plaintiff”) on ****, 2023, is Granted.

The complaint alleges various Labor Code claims. There are approximately 1,300 members of the class.

The case preliminarily settled for a total of \$200,000. The Court finds that Defendant Triton Global Services, Inc.’s (“Defendant”) financial condition justifies the installment payment plan of approximately four (4) years.

The settlement agreement states there will be attorneys' fees of up to \$66,666.67 (33% of \$200,000), costs of up to \$30,000, service award of \$7,500.00 to Plaintiff, settlement administration costs of up to \$14,000, and a net PAGA payment of \$5,000. After these expenses of \$133,166.67, the amount available to be distributed to the Class would be \$ \$66,833.33. Assuming that there an estimated 1,300 Class Members, the average payment per Class Member would be \$51.41.

The proposed class notice form and procedure are adequate.

The proposed class is appropriate for class certification.

The scope of the class release is appropriate. (Agt para 2.6(a) (“Released Claims”).) The scope of the class release must be limited to the claims arising out of the claims in the complaint where the named plaintiffs are typical and can adequately represent the class. The release of claims by the class is limited by the "factual predicate rule." (Hesse v. Sprint Corp. (9th Cir. 2010) 598 F.3d 581, 590.) (See also Hendricks v. Starkist Co (N.D. Cal. 2016) 2016 WL 692739, at * 2-4 [Denying motion for final approval of class settlement because scope of release overbroad].) This Court previously approved Plaintiff’s filing of the First Amended Complaint (“FAC”) and the release is tailored to the claims alleged in the FAC.

The scope of the PAGA release is appropriate. (Agt para § 2.6(a)(1).) The agreement releases the claims of the LWDA.

The scope of the named plaintiff release is appropriate. The agreement for the named plaintiff may include a Civil Code 1542 waiver. (Agt para § 2.6(b).)

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

1 process.

2 The unclaimed funds will be distributed to Legal Aid at Work. (Agt, para § 2.4(f)(1).) This is
3 consistent with CCP 384. Counsel has provided a declaration in support of the motion that provides the
4 information required by CCP 382.4.

5 The Court will not approve the amount of attorneys' fees and costs until final approval hearing.

6 The Court cannot award attorneys' fees without reviewing information about counsel's hourly
7 rate and the time spent on the case. This is the law even if the parties have agreed that Defendants will
8 not oppose the motion for fees. (Robbins v. Alibrandi (2005) 127 Cal. App. 4th 438, 450-451.)

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

12 "In any class action there is always the temptation for the attorney for the class to recommend
13 settlement on terms less favorable to his clients because a large fee is part of the bargain. ... [T]horough
14 judicial review of fee applications is required in all class action settlements and the fairness of the fees
15 must be assessed independently of determining the fairness of the substantive settlement terms.' ... " 'The
16 evil feared in some settlements-unscrupulous attorneys negotiating large attorney's fees at the expense of
17 an inadequate settlement for the client-can best be met by a careful ... judge, sensitive to the problem,
18 properly evaluating the adequacy of the settlement for the class and determining and setting a reasonable
19 attorney's fee....' " (Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 555-556.)

20 The court sets out its standard analysis below. Counsel may address that analysis in the fee
21 application.

22 The Ninth Circuit's benchmark is 25%. (Laffitte v. Robert Half Internat. Inc. (2016) 1 Cal.5th
23 480, 495.)

24 This court's benchmark for fees is 30% of a total fund. (Laffitte v. Robert Half Internat. Inc.
25 (2016) 1 Cal.5th 480, 495; Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167, 1175;
26 Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 557 fn 13; Chavez v. Netflix, Inc. (2008) 162
27 Cal.App.4th 43, 66 fn 11.)

28 When cross-checking with the lodestar/multiplier, the court will evaluate the lodestar based on

1 reasonable fees that would have been charged at hourly rates and then apply a multiplier. The multiplier
2 includes contingent fee risk and other factors.

3 When considering risk, the court considers there is less risk in a case with fee shifting statutes
4 because counsel's potential fees are not limited by and coupled to the monetary recovery. "The law does
5 not mandate ... that attorney fees bear a percentage relationship to the ultimate recovery of damages in a
6 civil rights case." (Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407, 419.) (See
7 also Heritage Pacific Financial, LLC v. Monroy (2013) 215
8 Cal.App.4th 972, 1006-1007.)

9 The Court will not decide the amount of any service award until final approval hearing. Plaintiff
10 must provide evidence regarding the nature of his participation in the action, including a description of
11 his specific actions and the amount to time he committed to the prosecution of the case. (Clark v.
12 American Residential Services LLC (2009) 175 Cal.App.4th 785, 804-807.) The court's standard service
13 award is \$7,500.

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

16 The Court will set a compliance hearing after the completion of the distribution process and the
17 expiration of the time to cash checks for counsel for plaintiff and the Administrator to comply with CCP
18 384(b) and to submit a summary accounting how the funds have been distributed to the class members
19 and the status of any unresolved issues. If the distribution is completed, the Court will at that time
20 release any hold-back of attorney fees.

21 The Court hereby conditionally certifies the following Class for settlement purposes only:

22 "all current and former non-exempt hourly paid employees of Triton Global
23 Services, Inc. who were employed in California to perform security guard
24 services at any time between April 6, 2016 through [INSERT date that the Court
grants preliminary approval of this settlement]."

25 Should for whatever reason the Settlement Agreement not become Final, the fact that the parties
26 were willing to stipulate to certification of a class as part of the Settlement Agreement shall have no
27 bearing on, or be admissible in connection with, the Action or the issue of whether a class should be
28

1 certified in a non-settlement context.

2 The Court appoints and designates: (a) Plaintiff as the Class Representative and (b) Dennis S.
3 Hyun of Hyun Legal, APC, and William L. Marder of Polaris Law Group as Class Counsel for the
4 Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents
5 required by, or which may be given, pursuant to the Settlement Agreement, and such other acts
6 reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member may enter
7 an appearance through his or her own counsel at such Class Member's own expense. Any Class
8 Member who does not enter an appearance or appear on his or her own behalf and who does not opt-out
9 of the Settlement Agreement will be represented by Class Counsel.

10 A hearing (the "Final Fairness Hearing") shall be held before this Court on _____ at
11 _____ at the Superior Court of the State of California, County of Alameda to determine all
12 necessary matters concerning the Settlement Agreement, including whether the proposed settlement of
13 the action on the terms and conditions provided for in the Settlement Agreement is fair, adequate and
14 reasonable and should be finally approved by the Court and whether a Judgment, as provided in the
15 Settlement Agreement, should be entered herein. At this same time, a hearing on Class Counsel's
16 motion for attorneys' fees and reimbursement of litigation costs and the Class Representative's service
17 award shall also be held. The Motion for Final Approval shall be filed by the Class Representative no
18 later than sixteen (16) court days before the Final Fairness Hearing.

19 The Court appoints and designates Phoenix Settlement Administrators as the Settlement
20 Administrator. The Court hereby directs the Settlement Administrator to provide the approved Class
21 Notice to Class Members pursuant to the procedures set forth in the Settlement Agreement and, in
22 connection with its due diligence declaration for the Final Fairness Hearing, the names of any persons
23 making requests for exclusion or otherwise opting-out of the Settlement Agreement.

24 Any Class Member may choose to opt out of and be excluded from the settlement as provided in
25 the Settlement Agreement and Class Notice and by following the instructions for requesting exclusion.
26 Any person who timely and properly opts out of the settlement will not be bound by the Settlement
27 Agreement or have any right to object, appeal, or comment thereon. Any exclusion request must be in
28 writing and signed by each such Class Member opting-out and must otherwise comply with the

1 requirements delineated in the Class Notice. Class Members who have not requested exclusion by
2 submitting a valid and timely exclusion request, by the Notice Period, shall be bound by all
3 determinations of the Court, the Settlement Agreement, and Judgment.

4 Any Class Member may object to the Settlement Agreement or express his or her views
5 regarding the Settlement Agreement, and may present evidence and file briefs or other papers that may
6 be proper and relevant to the issues to be heard and determined by the Court as provided in the Class
7 Notice. Settlement Class Members will also have the right to appear and be heard orally at the Final
8 Approval hearing, without submitting a written objection. Any Class Member who does not make his or
9 her objection in the manner provided for in the Settlement Agreement and Class Notice, including by the
10 Notice Period, shall be deemed to have waived such objection and shall forever be foreclosed from
11 making any objection to the Settlement Agreement.

12 In the event that the Effective Date occurs, all Settlement Class Members and Class
13 Representative will be deemed to have forever released and discharged the Released Claims applicable
14 to them.

15 The Court reserves the right to adjourn or continue the date of the Final Fairness Hearing and all
16 dates provided for in the Settlement Agreement without further notice to the Class, and retains
17 jurisdiction to consider all further applications arising out of or connected with the Settlement
18 Agreement.

19 IT IS SO ORDERED.

20 DATED: _____
21 _____
22 Honorable Evelio Grillo
23 Judge of the Superior Court
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