

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

DOMENIC CIARLANTI, as an individual
and on behalf of all others similarly
situated,

Plaintiff,

vs.

PROVIDENT CREDIT UNION, a
California nonprofit corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 20-CIV-03398

(Assigned to the Honorable V. Raymond Swope,
Dept. 23)

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

Date: December 4, 2023

Time: 2:00 p.m.

Dept.: 23

Complaint Filed: August 11, 2020

FAC Filed: March 25, 2021

SAC Filed: May 20, 2022

Trial Date: None Set

1 Plaintiff Domenic Ciarlanti's Motion for an Order Granting Preliminary Approval of
2 Class Action Settlement was filed with the Court on August 7, 2023, and a hearing was held
3 before this Court on December 4, 2023.

4 After considering the papers and evidence, arguments of counsel, and all other matters
5 presented to the Court, this Court **GRANTS** preliminary approval of the settlement as set forth in
6 the Joint Stipulation of Class Action Settlement ("Settlement Agreement") attached as Exhibit D
7 to the Declaration of Mai Tulyathan.

8 The Court finds the terms to be within the range of reasonableness of a settlement that
9 ultimately could be granted approval by this Court at the final fairness hearing. Plaintiff's
10 counsel is experienced in class litigation, the case was vigorously contested by Defendant and its
11 experienced counsel, the settlement was reached after two mediation sessions with an
12 experienced mediator. Plaintiff has provided some analysis of the strengths and weaknesses of
13 the case, analysis of the law, and potential trends as applied to this case. The Parties note the
14 uncertainties associated with litigation, and this Court agrees. The Court finds the settlement is
15 in the ballpark of reasonableness. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th
16 116, 133.) The Court finds that LWDA received notice of the settlement.

17 Conditional approval of the settlement is appropriate because the proposed class is
18 ascertainable and sufficiently numerous. There are 324 class members identified by Defendant.
19 The putative Class Members appear to share a well-defined community of interest based upon
20 the explanation of counsel of the claims, Plaintiff's claims arising from the same employment
21 practices as alleged to have been suffered by the other putative class members. Based upon
22 Plaintiff's representation, Plaintiff is an adequate class representative as he understands his
23 fiduciary duties and has participated in the litigation. Class certification would be a superior way
24 to resolve these issues rather than joinder of all 324 members of the class.

25 1. Accordingly, for settlement purposes only, this Court grants conditional
26 certification of the following settlement class (the "Class"):

27 All current and former non-exempt employees employed by
28 Defendant in the State of California during the Class Period, who
were paid nondiscretionary incentives and/or different base hourly

1 rates, and in that same workweek, either were paid overtime and/or
2 sick pay wages.

3 2. For purposes of settlement, this Court designates named Plaintiff Domenic
4 Ciarlanti as Class Representative, and Larry W. Lee, Max W. Gavron, and Mai Tulyathan of
5 Diversity Law Group, P.C., and William L. Marder of Polaris Law Group as Class Counsel.

6 3. The Court hereby approves the terms and conditions provided for in the
7 Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement
8 falls within the range of reasonableness of a settlement, including the amount of the PAGA
9 penalties, and appears to be presumptively valid, subject only to any objections that may be
10 raised at the final approval by the Court. It appears to the Court on a preliminary basis that the
11 settlement is fair, adequate, and reasonable as to all potential Class Members when balanced
12 against the probable outcome of further litigation relating to liability, class certification, and
13 damages issues. It also appears that investigation and research into the claims, liability, and
14 damages have been conducted so that counsel for the Parties are able to reasonably evaluate their
15 respective positions. It appears to the Court that settlement at this time will avoid substantial
16 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
17 further prosecution of the action. It also appears that settlement has been reached as a result of
18 intensive, serious, and non-collusive arm's length negotiations.

19 4. A final fairness hearing on the question of whether the settlement should be
20 finally approved as fair, reasonable, and adequate as to the members of the Class is scheduled in
21 Department 23 of this Court, located at 400 County Center, Redwood City, California 94063, on
22 _____ at _____ a.m./p.m. At the final fairness hearing, this Court will
23 consider: (a) whether the settlement should be approved as fair, reasonable, and adequate for the
24 Class; (b) whether a judgment granting approval of the settlement should be entered; and (c)
25 whether Plaintiff's application for an award of attorneys' fees, reimbursement of litigation costs,
26 and class representative enhancement award should be granted. The Motion for Final Approval
27 shall be filed by the Class Representative no later than sixteen (16) court days before the final
28 fairness hearing.

1 5. This Court approves the form and content of the Notice of Proposed Class Action
2 Settlement (“Notice Packet”), which is attached herein as **Exhibit A**. The Court finds that
3 distribution of the Class Notice to Class Members substantially in the manner and form set forth
4 in the Settlement Agreement and this Order meets the requirements of due process and shall
5 constitute due and sufficient notice to all parties entitled thereto.

6 6. The Court approves the procedures and deadlines selected for mailing and
7 distribution of the Notice Packet as set forth in Settlement Agreement.

8 7. This Court further approves the procedures and deadlines for Class Members to
9 participate in, opt out of, or object to the settlement, as set forth in the Settlement Agreement.

10 8. This Court confirms Phoenix Settlement Administrators as the Settlement
11 Administrator for purposes of providing notice and administering the settlement. The Court
12 hereby directs the Settlement Administrator to provide the approved Class Notice to Class
13 Members using the procedures set forth in the Settlement Agreement.

14 9. The procedures and requirements for filing objections in connection with the
15 fairness hearing are intended to ensure the efficient administration of justice and the orderly
16 presentation of any Class Member’s objection to the Settlement Agreement, in accordance with
17 the due process rights of all Class Members.

18 10. Counsel for the parties are hereby authorized to use all reasonable procedures in
19 connection with the administration of the settlement that are not materially inconsistent with
20 either this Order or the terms of the Settlement Agreement.

21 11. The Court reserves the right to adjourn or continue the date of the final fairness
22 hearing and all dates provided for in the Settlement Agreement without further notice to the
23 Class, and retains jurisdiction to consider all further applications arising out of or connected with
24 the Settlement Agreement.

25 **IT IS SO ORDERED.**

26
27 DATED: _____

HON. V. RAYMOND SWOPE
SUPERIOR COURT OF CALIFORNIA

1 Respectfully submitted on August 7, 2023, by:

2 DIVERSITY LAW GROUP, P.C.

3
4 By: _____
5 Mai Tulyathan
6 Attorneys for Plaintiff Domenic Ciarlanti
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28