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

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individually and on behalf of similarly situated employees

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

JUAN RUIZ, individually and on behalf of all
other similarly situated employees,

Plaintiff,

vs.

CTE CAL, INC., a California Corporation; and
DOES 1 to 100, inclusive,

Defendant.

Case No. 34-2020-00289168

CLASS ACTION

**PROPOSED ORDER GRANTING
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: February 16, 2022

Time: 9:00 a.m.

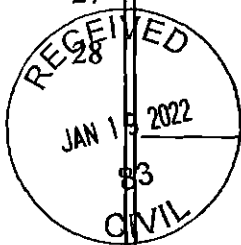
Dept.: 54

Judge: Hon. Christopher E. Krueger

Filed: November 18, 2020

FAC Filed: March 29, 2021

Trial Date: None Set



[PPSD] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Final Approval of Class Action and PAGA Settlement ("Motion") in the above
3 referenced case came before this Court, on February 16, 2022 at 9:00 a.m., in Department 54 before
4 Hon. Christopher E. Krueger, presiding. Named Plaintiff Juan Ruiz ("Plaintiff") filed this putative
5 class action on November 18, 2020. The operative Complaint alleges that Defendant CTE Cal, Inc.,
6 ("Defendant") violated California law by failing to pay overtime, failing to pay minimum wages,
7 failing to provide meal periods, failing to provide rest periods, failing to provide accurate wage
8 statements, failing to pay final wages, failing to pay reimbursements for expenses, and engaging in
9 unfair competition. Plaintiff has also alleged Defendant is liable for a civil penalties under the Private
10 Attorneys General Act ("PAGA") based on these violations as well as failing to provide paid sick
11 leave, untimely payment of wages, violation of Labor Code section 558, failing to pay prevailing
12 wages, and failing to maintain accurate records. Plaintiff sought attorneys' fees and costs as part of
13 this Action. Defendant denied all of Plaintiff's claims and denied that this case was appropriate for
14 class treatment. No class has been certified. The class settlement was preliminarily approved by this
15 Court on October 13, 2021.

16 The parties have agreed to settle the class and PAGA claims. Defendant will provide monetary
17 consideration in exchange for a release of claims consistent with the terms of the proposed settlement
18 as set forth in the Joint Stipulation Regarding Class Action and PAGA Settlement and Release
19 ("Agreement"). Any capitalized terms herein shall have the same meaning as set forth in the
20 Agreement. The Court, having received and considered Plaintiff's Motion for Final Approval of Class
21 Action and PAGA Settlement, the declarations in support, the Agreement, the proposed Notice of
22 Settlement, and other evidence, HEREBY ORDERS AND MAKES DETERMINATIONS AS
23 FOLLOWS:

24 **1. CERTIFYING A SETTLEMENT CLASS; APPOINTMENT OF CLASS**
25 **REPRESENTATIVES; APPOINTMENT OF CLASS COUNSEL**

26 The Court finds that certification of the following class for settlement purposes only is
27 appropriate under the California Code of Civil Procedure and related case law:

28 All individuals who have, or continue to, perform work for Defendant in

1 California as hourly, non-exempt employees from to November 18, 2016
2 up to August 29, 2021.

3 The Court recognizes that the foregoing definition is for Class Member identification purposes
4 only and is not intended to capture the claims at issue or limit or alter the released claims under the
5 Agreement.

6 The Court finds that Class Members meet the ascertainability and numerosity requirements since
7 the parties can identify with a matter of certainty, based on payroll records, individuals who fall within
8 the definition and the number of Class Members would make joinder impractical. The commonality and
9 predominance requirements are met for settlement purposes since there are questions of law and fact
10 common to Class Members. The common questions of law or fact in this case all stem from Plaintiff's
11 contentions that Defendant caused the violations outlined above by 1) failing to pay putative class
12 members for all compensable drive time between its lab/office and job sites; 2) failing to correctly
13 calculate putative class members' regular rates of pay due to its failure to incorporate the value of all
14 remuneration paid to putative class members under its drive time policy; 3) failing to authorize and
15 permit putative class members to take all meal and rest periods; 4) failing to pay putative class members
16 all prevailing wages owed for work on public works jobs; 5) failing to pay putative class members all
17 overtime wages owed on public works jobs; 6) failing to incorporate the value of prevailing wage rates
18 into putative class members' regular rates of pay for the purpose of calculating overtime wages on non-
19 public works jobs where putative class members worked on public works and non-public works jobs in
20 the same workweek; and 7) failing to reimburse putative class members for gas, mileage, and the use of
21 their personal cellphones for work. The PAGA, waiting time penalty, wage statement violation, and
22 unfair competition claims also derive from these violations. Additionally, Class Members seek the
23 same remedies under state law. The typicality requirement for settlement purposes is also satisfied since
24 the claims of the Class Representative is based on the same facts and legal theories as those applicable to
25 the class members.

26 The Court also finds that certifying the settlement class is required to avoid each Class Member
27 from litigating similar claims individually. This settlement will achieve economies of scale for Class
28 Members with relatively small individual claims and conserve the resources of the judicial system.

1 The Court finds that Plaintiff Juan Ruiz and Plaintiff's counsel, Galen T. Shimoda
2 and Justin P. Rodriguez of the Shimoda Law Corp., to be adequate representatives of the settlement
3 class. The Court appoints them as class representative and class counsel, respectively.

4 2. APPROVING CLASS ACTION AND PAGA SETTLEMENT

5 The Court has reviewed the Agreement, which was submitted with Plaintiff's Motion as Exhibit
6 A. The Court finds that final approval is warranted as the Agreement falls within the range of
7 reasonableness and is fair, reasonable, and adequate for the class. The Court also acknowledges that
8 Class Members were able to object to the settlement through the administration process and at a fairness
9 hearing approved by this Court or opt-out of being bound by the preliminarily approved Agreement. No
10 such objections were made by class members and no class members opted out of the settlement.

11 Because the Court finds the Parties' settlement to have been agreed upon only after an extensive
12 investigation and arms-length negotiations, and in an attempt to avoid further delays and costs, the Court
13 grants final approval of the Agreement and all terms therein as if stated here in full, including the
14 \$450,000 Gross Settlement Amount.

15 The Court orders that Plaintiff Juan Ruiz will receive \$15,000 as a Class Representative
16 Enhancement Payment in addition to any amount Plaintiff may be entitled to under the Agreement's pro
17 rata distribution formula for Plaintiff's time and effort on behalf of Class Members.

18 The Court orders and approves Simpluris, Inc. to act as the Claims Administrator in this case.
19 The Claims Administrator will take its fees out of the Gross Settlement Amount, which are not to exceed
20 \$5,000. The difference between the actual cost of the Claims Administrator and the originally allocated
21 \$10,000 will be redistributed to Qualified Claimants on a pro-rata basis.

22 The Court finds that an award of fees under the common fund doctrine is appropriate in this case
23 because there is a sufficiently identifiable class of beneficiaries (*i.e.* Class Members), the benefits can be
24 accurately traced as set forth in the Agreement, Plaintiff and Class Counsel were able to negotiate on
25 behalf of Class Members, and the fee can be shifted with exactitude to those benefiting as the fee request
26 is a specific, lump-sum percentage of the Gross Settlement Amount. *See Paul, Johnson, Alston & Hunt*
27 *v. Graulity*, 886 F.2d 268, 271 (9th Cir. 1989); *Serrano v. Priest*, 20 Cal.3d 25, 34-35 (1977); *Laffitte v.*
28 *Robert Half Internat., Inc.*, 1 Cal.5th 480, 506 (2016). The Court finds the attorneys' fees request of

1 Thirty-five percent (35%) of the Gross Settlement Amount, *i.e.*, \$157,500, to be appropriate
2 compensation for Class Counsel. The attorneys' fees request is within the range that has been approved
3 by other Courts in similar cases and is reasonable in light of the circumstances of this case, the
4 substantial and beneficial results obtained on behalf of Class Members, and the contingent nature of the
5 recovery over the course of this case, which included potential loss at summary judgment, certification,
6 and/or trial proceedings. Additionally, the Court orders that \$8,397.43 of the settlement proceeds will
7 be paid to Class Counsel for reasonable costs incurred in this case. The difference between the actual
8 costs incurred and the originally allocated \$12,500 shall be paid to the Qualified Claimants on a pro-rata
9 basis.

10 The Court approves of the Five Thousand Dollars and No Cents (\$5,000) PAGA Payment, which
11 shall be paid from the Gross Settlement Amount, not in addition to the Gross Settlement Amount, to
12 resolve the alleged PAGA claims. Seventy-Five percent (75%) of the PAGA Payment will be paid to the
13 Labor and Workforce Development Agency ("LWDA") and Twenty-Five percent (25%) will be paid to
14 PAGA Claimants on a pro rata basis as described in the Agreement. The Court also finds that the
15 Agreement provides a recovery that creates an effective substantial deterrent to any potential future non-
16 compliance, furthering the purpose of the Labor Code and LWDA.

17 The Court approves of the identified *cy pres* distribution plan wherein any checks issued to
18 Qualified Claimants and/or PAGA Claimants that are not cashed by the deadline to do so shall be paid
19 out 50/50 to Capital Pro Bono, Inc. and the Center For Workers' Rights Employment Law Clinic.

20 The releases and waivers for Class Members who did not opt out of being bound by the
21 Agreement (*i.e.*, Qualified Claimants), PAGA Claimants, and the Class Representative are also
22 approved by the Court as set forth in the Agreement.

23 **3. APPROVAL OF DISTRIBUTION TO THE CLASS, THE NOTICE OF SETTLEMENT,**
24 **OPPORTUNITY TO OPT OUT OF, AND OBJECT TO, THE SETTLEMENT**

25 The Court finds that the proposed Notice of Settlement, which was submitted with Plaintiff's
26 Motion as Exhibit A to the Declaration of Lindsay Kline, fairly and adequately advised Class Members
27 of the terms of the Agreement, the rights being waived, their right to opt out, the ability to dispute the
28 number of workweeks worked during the Class Period, their pro rata share of the Net Settlement

Amount, how to participate in the settlement, how to file documentation in opposition to the proposed settlement, and when to appear at the fairness hearing to be conducted on the date set forth below. The Court further finds that the Notice of Settlement and distribution of such notice by first class mail to each identified Class Member at his or her most recent address based on a National Change of Address database search from the Class Members' last known address and a skip trace on any Class Members who have the Notice of Settlement returned as "undeliverable" or "not at this address" comported with all constitutional requirements, including those of due process.

4. IMPLEMENTATION SCHEDULE

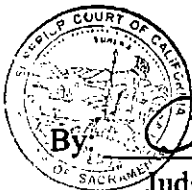
Accordingly, with good cause shown, the Court hereby approves and orders that the following implementation schedule be adhered to:

Last day for Claims Administrator to calculate the final Net Settlement Amount, the final Claim Amounts for Qualified Claimants and/or PAGA Claimants, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendant's Counsel	Within 7 days after the Final Approval Date
Last day for Claims Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Claims Administrator Costs, payment to Qualified Claimants, and payment to PAGA Claimants	Within 14 days after the settlement has been funded
Last day for Qualified Members and PAGA Claimants to cash settlement checks	120 days after issuance of checks to Qualified Members and PAGA Claimants
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline
Last day for Defendant to provide Claims Administrator with Class Member information	Within 14 calendar days after the Preliminary Approval Date

1 IT IS FURTHER ORDERED that this final approval order is effective as a judgment with each
2 party to bear its own fees and costs outside of what has been ordered herein. This matter is subject to
3 the Court's continuing jurisdiction to monitor and enforce the terms of this order and the approved
4 Agreement.

5 **IT IS SO ORDERED.**

6
7 Date: 2-17-2022



By: Christopher E. Krueger

Judge of the Superior Court

CHRISTOPHER E. KRUEGER