

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 39

20STCV47565

ROBERT SCHEFF vs THE HARTFORD GOLD GROUP, LLC

February 14, 2023

8:30 AM

Judge: Honorable Stephen I. Goorvitch

Judicial Assistant: A. Gonzalez

Courtroom Assistant: M. Jimenez

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Glenn A Danas; Kevin Isaac Shenkman

For Defendant(s): David Fishman via LA CourtConnect

NATURE OF PROCEEDINGS: Hearing on Motion - Other Motion for preliminary approval hearing

The matter is called for hearing.

The Court, having considered the moving papers and oral argument of counsel, rules as follows:

Plaintiff Robert Scheff ("Plaintiff") filed this action against Defendant the Hartford Gold Group, LLC ("Defendant") for wage and hour violations. Plaintiff filed a Complaint on December 11, 2020, asserting a single cause of action: Enforcement under the Private Attorneys General Act, California Labor Code sections 2698, et seq. ("PAGA"). Then, Plaintiff filed a first Amended Complaint on November 4, 2022, asserting individual and class action claims, as well as the PAGA claim. Now, the parties seek approval of the class action and PAGA claims against Defendant.

Plaintiffs propose a settlement class of "[a]ll persons who are or were employed by Defendant as nonexempt, hourly-paid employees at any of Defendant's locations within the State of California within four years of the filing of this complaint until the date of final court approval." (Declaration of Glenn A. Danas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement, Exhibit 1.) The class consists of approximately 191 individuals. (Memorandum of Points and Authorities in Support of Motion for Preliminary Approval of Class Action Settlement, p. 10.) This settlement class is ascertainable, and its members have a community of interest that makes class treatment appropriate. (See *Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905, see also *Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

The settlement provides that members of the settlement class may request exclusion from the class, or object to the settlement. If a member of the settlement class takes no action upon receiving the notice of the settlement, the member will receive a payment. (Class Action Settlement Agreement and Release, §§ 2.3, 2.12.) The members of the class will receive

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payments “pro rata . . . according to their respective weeks employed by Defendant during the Class Period.” (Declaration of Glenn A. Danas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement, Exhibit 1.)

The total settlement amount is \$550,000. The parties propose to divide the proceeds as follows:

Settlement of Plaintiff’s individual claims: \$400,000

Settlement of PAGA claims: \$10,000

Settlement of class action claims: \$140,000

Incentive payment for Plaintiff: - \$5,000

Attorney’s fees: - \$49,000

Costs: - \$15,000

Total for class action members: \$71,000

(Declaration of Glenn A. Danas in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement, Exh. #1.)

The Court held a hearing on November 15, 2022, and ordered supplemental briefing. The Court held a further hearing on December 12, 2022, after which the Court took the motion under submission. At the hearing, the Court ordered Plaintiff’s counsel to provide notice to the California Labor and Workforce Development Agency (the “LWDA”). Plaintiff’s counsel’s memorandum of points and authorities states that notice was provided. (See Memorandum of Points & Authorities, p. 2:2-10.) However, this representation was not made in a declaration or in a proof of service, and there are no confirmation emails from the LWDA in the record.

The Court held a further hearing on February 14, 2023. The Court denies the request for any incentive payment for Plaintiff as the class action representative. However, the Court grants preliminary approval of the PAGA and class action settlement for the following reasons. First, the Court finds that the proposed class action is narrow in scope. There is no dispute that employees received rest breaks. Rather, the dispute is over the requirement that employees take their breaks on-premises and whether these on-premises rest breaks comply with the Labor Code. Given the narrow scope, transfer to the Complex Court is not necessary, and the settlement appears to be fair and appropriate, given the narrow scope of the claim. Second, there is litigation risk, because the employees did, in fact, receive their rest breaks. Third, the settlement was reached through an arms-length negotiation using a neutral mediator with substantial experience. Fourth, the Court accepts Plaintiffs’ counsel’s representation that the case was investigated and

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litigated as a class action after they substituted into the case. Finally, the State was given notice and has not objected, and the individual employees will be given an opportunity to object. The Court will afford the State another opportunity to object in advance of the hearing on the motion for final approval of the settlement.

Based upon the foregoing, the Court orders as follows:

1. The Court Strikes all Requests for Incentive Payments for Plaintiff as the class action representative.
2. The Court Grants preliminary approval of the settlement for the reasons discussed in this order.
3. The Court shall hold a hearing on the Motion for Final Approval of the Settlement on June 29, 2023, at 8:30 a.m.
4. Plaintiff's counsel shall provide notice to all interested parties, including the State of California.