

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

JOCELYN TRIGUEROS,

Plaintiff,

v.

STANFORD FEDERAL CREDIT UNION, et
al.,

Defendants.

Case No.: 21CV375168

**ORDER CONCERNING: PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT,
ATTORNEY FEE AWARD, COST
AWARD, AND CLASS
REPRESENTATIVE ENHANCEMENT
PAYMENT**

I. INTRODUCTION

This is a putative class and Private Attorneys General Act ("PAGA") action. Plaintiff Jocelyn Trigueros alleges that Defendants Stanford Federal Credit Union, Cardtronics USA, Inc., and ATM National, LLC failed to pay non-exempt employees minimum and overtime wages, failed to provide compliant meal and rest breaks or pay associated premiums, and committed other wage and hour violations. Before the Court is Plaintiff's unopposed motion for final approval of the settlement, attorney fees award, cost award, and incentive payment. As discussed below, the Court GRANTS final approval.

1 **II. BACKGROUND**

2 Defendants employed Plaintiff in Santa Clara County as an hourly paid, non-exempt
3 employee from April 2019 to February 2020. (Class Action Complaint for Damages, ¶ 20.)

4 Plaintiff alleges that she and other employees did not receive overtime wages and required meal
5 and rest periods or premium pay. (*Id.*, ¶¶ 27–30.) Plaintiff and other employees did not receive
6 minimum wages for all hours worked, and did not receive all wages due upon separation,
7 including overtime and minimum wages and meal and rest period premiums. (*Id.*, ¶¶ 31–32.)

8 Employees did not receive complete and accurate wage statements because their statements
9 failed to include the total number of hours worked, among other deficiencies. (*Id.*, ¶ 33.)

10 Finally, employees were not reimbursed for necessary expenses, and Defendants failed to keep
11 complete and accurate payroll records. (*Id.*, ¶¶ 34–35.)

12 Based on these allegations, Plaintiff asserts putative class claims for: (1) violation of
13 Labor Code sections 510 and 1198 by failing to pay overtime; (2) violation of Labor Code
14 sections 226.7 and 512(a) by failing to provide compliant meal periods or associated premiums;
15 (3) rest period violations under Labor Code section 226.7 by failing to provide compliant rest
16 periods or premiums; (4) failure to pay minimum wages in violation of Labor Code sections
17 1194 and 1197; (5) failure to timely pay wages upon discharge in violation of Labor Code
18 sections 201 and 202; (6) failure to provide accurate wage statements per Labor Code Section
19 226(a); and (7) failure to reimburse business expenses under Labor Code sections 2800 and
20 2802. Plaintiff also brings (8) a representative claim for PAGA penalties and (9) a claim for
21 unlawful business practices in violation of Business & Professions Code section 17200 et seq.

22 The parties reached a settlement, and the Court gave preliminary approval in a _____
23 2023 order. Plaintiff now seeks final approval. The Court held a hearing on August 31, 2023,
24 and no one opposed the Court’s tentative ruling granting final approval. The Court now issues
25 its final order.

III. DISCUSSION

A. Legal Standard for Settlement Approval

Generally, “questions whether a [class action] settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234–235 (*Wershba*), disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.

(*Wershba, supra*, 91 Cal.App.4th at pp. 244–245, internal citations and quotations omitted.)

In general, the most important factor is the strength of the plaintiffs’ case on the merits, balanced against the amount offered in settlement. (See *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130 (*Kullar*).) But the trial court is free to engage in a balancing and weighing of relevant factors, depending on the circumstances of each case. (*Wershba, supra*, 91 Cal.App.4th at p. 245.) The trial 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 by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.” (*Ibid.*, citation and internal quotation marks omitted.) The trial court also must independently confirm that “the consideration being received for the release of the class members’ claims is reasonable in light of the strengths and

1 weaknesses of the claims and the risks of the particular litigation.” (*Kullar, supra*, 168
2 Cal.App.4th at p. 129.) Of course, before performing its analysis the trial court must be
3 “provided with basic information about the nature and magnitude of the claims in question and
4 the basis for concluding that the consideration being paid for the release of those claims
5 represents a reasonable compromise.” (*Id.* at pp. 130, 133.)

6 **B. Terms and Administration of Settlement**

7 The case has been settled on behalf of the following class:

8
9 All employees who are or previously were employed by Defendant within the
10 State of California and who were classified as non-exempt employees during the
11 period of July 17, 2016 to November 23, 2022.

12
13 The non-reversionary gross settlement amount is \$1,125,000. Plaintiff will also seek
14 attorney fees not to exceed \$375,000 (one-third of the gross settlement) and litigation costs of up
15 to \$20,000. Administration costs of up to \$7,750 will be paid from the gross settlement.
16 Plaintiff will seek an incentive award of \$10,000. One hundred thousand dollars will be
17 allocated to PAGA penalties, 75 percent of which (\$75,000) will be paid to the California Labor
18 and Workforce Development Agency, leaving 25 percent (\$25,000) for the aggrieved employees.
19 Employer-side payroll taxes will also be deducted from the settlement in the amount of
20 \$30,366.79.

21 The class portion of the settlement will be allocated to the settlement class members pro
22 rata, with the average share being approximately \$2,846.50 and the highest share \$5,433.85.
23 Class members will not be required to submit a claim to receive their payments. Funds
24 associated with checks uncashed after 180 days will be tendered to the State Controller’s
25 Unclaimed Property Fund.

26 In exchange for the settlement, the amended release provides that class members who do
27 not opt out release all claims “based on direct or vicarious liability, that are based on, relate to,
28 concern, or arise out of any of the allegations that were asserted or which could have been

1 asserted in the Complaint against the Released Parties based on the factual allegations in the
2 Complaint, whether or not specifically delineated as a claim or cause of action in the Complaint.”
3 This is an appropriate release.

4 The notice process has now been completed. There were no objections to the settlement
5 but there were three requests for exclusion from the class. Of the 220 notices mailed by the
6 administrator, none were remailed or undeliverable. Two hundred seventeen class members are
7 participating in the settlement, resulting in a participation rate of over 98 percent.

8 No objections were made at the final approval hearing.

9 At preliminary approval, the Court found that the settlement was a fair a reasonable
10 compromise of the class claims. It finds no reason to deviate from this finding now, especially
11 considering that there are no objections. The Court thus finds that the settlement is fair and
12 reasonable for purposes of final approval.

13 **C. Attorney Fees and Costs, Administration Costs, and Incentive Award**

14 The benefits achieved by the settlement justify an award of attorney fees to class counsel.
15 Plaintiff seeks an award of attorney fees in the amount of \$375,000, one third of the gross
16 settlement amount. This award is facially reasonable under the “common fund” doctrine, which
17 allows a party recovering a fund for the benefit of others to recover attorney fees from the fund
18 itself.

19 For the purposes of cross-checking this proposed attorney fee award via a lodestar
20 analysis, Plaintiff’s counsel submits that their lodestar in this action is \$431,640 (586.8 hours of
21 attorney time with billing rates ranging from \$500 to \$900 per hour). This results in a negative
22 multiplier of approximately 0.87, as the requested fee award of \$375,000 is below Plaintiff’s
23 counsel’s actual lodestar. This lodestar cross-check supports the percentage fee requested,
24 particularly given the lack of objections to the attorney fee request. (See *Laffitte v. Robert Half*
25 *Intern. Inc.* (2016) 1 Cal.5th 480, 488, 503–504 [trial court did not abuse its discretion in
26 approving fee award of 1/3 of the common fund, cross-checked against a lodestar resulting in a
27 multiplier of 2.03 to 2.13].)
28

1 Plaintiff also requests litigation costs in the amount of \$14,558.55, their actual costs to
2 date. The court preliminarily approved costs in the amount of \$20,000. The fee and cost awards
3 requested by Plaintiff are fair and reasonable and the Court approves them.

4 Plaintiff also requests administration costs in the amount of \$7,750, the amount the Court
5 preliminarily approved. The Court sees no reason to deviate from its prior order. The
6 administration costs are reasonable and are approved.

7 Plaintiff requests a class representative incentive award of \$10,000. The rationale for
8 making enhancement or incentive awards to named plaintiffs is that they should be compensated
9 for the expense or risk they have incurred in conferring a benefit on other members of the class.

10 An incentive award is appropriate if it is necessary to induce an individual to participate in the
11 suit. Criteria courts may consider in determining whether to make an incentive award include: 1)
12 the risk to the class representative in commencing suit, both financial and otherwise; 2) the
13 notoriety and personal difficulties encountered by the class representative; 3) the amount of time
14 and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal
15 benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. These
16 “incentive awards” to class representatives must not be disproportionate to the amount of time
17 and energy expended in pursuit of the lawsuit. (See generally *Cellphone Termination Fee*
18 *Cases* (2010) 186 Cal.App.4th 1380, 1394-1395.)

19 Here, Plaintiff (Ms. Trigueros) has submitted a declaration detailing her participation in
20 the case. She states that she spent over 55 hours on this case, including searching records and
21 emails, sharing documents with and communicating with class counsel, and reviewing and
22 approving documents. In light of the risk inherent in serving as a representative plaintiff and the
23 time spent working on obtaining the settlement, which provides a benefit to the class, the
24 incentive award is reasonable and is approved.

25 **IV. ORDER AND JUDGMENT**

26 In accordance with the above, IT IS HEREBY ORDERED, ADJUDGED, AND
27 DECREED THAT:
28

1 The Court GRANTS the motion for final approval. The following class is certified for
2 settlement purposes:

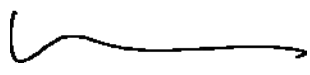
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4 All employees who are or previously were employed by Defendant within the
5 State of California and who were classified as non-exempt employees during the
6 period of July 17, 2016 to November 23, 2022.

7
8 Judgment shall be entered through the filing of this order and judgment. (Code Civ.
9 Proc., § 668.5.) Plaintiff and the members of the class shall take from their complaint only the
10 relief set forth in the settlement agreement and this order and judgment. Under Rule 3.769(h) of
11 the California Rules of Court, the Court retains jurisdiction over the parties to enforce the terms
12 of the settlement agreement and the final order and judgment.

13 The Court sets a compliance hearing for **July 18, 2024 at 2:30 P.M.** in Department 1. At
14 least ten court days before the hearing, class counsel and the settlement administrator shall
15 submit a summary accounting of the net settlement fund identifying distributions made as
16 ordered herein; the number and value of any uncashed checks; amounts remitted to the
17 Unclaimed Property Fund; the status of any unresolved issues; and any other matters appropriate
18 to bring to the Court's attention. Counsel shall also submit an amended judgment as described in
19 Code of Civil Procedure section 384, subdivision (b). Counsel may appear at the compliance
20 hearing remotely.

21 **IT IS SO ORDERED.**

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23 Date: 9/5/2023

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25 The Honorable Sunil R. Kulkarni
26 Judge of the Superior Court
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PROOF OF SERVICE