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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

CHARLES RHYU, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

v.

ATIEVA USA, INC., an unknown entity;
ATIEVA, INC., a California corporation;
Lucid USA, Inc. a Corporation, and DOES
1 through 50, inclusive,

Defendants.

Case No. RG20084138

[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: April 18, 2023

Time: 10:00 a.m.

Dept.: 21

Reservation ID. 602949033645

FILED
Superior Court of California
County of Alameda

04/20/2023

Clad Flake, Executive Officer / Clerk of the Court

By: Nicole Hall Deputy
N. Hall

ORDER

The Motion for Preliminary Approval of Settlement filed by Charles Rhyu on 12/21/2022 is Granted.

The motion of plaintiffs for preliminary approval of class action settlement and PAGA settlement is GRANTED.

The orders of 1/24/23 and 3/1/23 identified certain issues that concerned the court. The filing on 3/9/23 addresses the court's concerns.

The complaint alleges various Labor Code claims. There are approximately 252 members of the class.

The case preliminarily settled for a total of \$90,000.

The settlement agreement states there will be attorneys' fees of up to \$30,000 (33% of \$90,000), costs of up to \$20,000, service awards of \$2,500.00 to plaintiff, settlement administration costs of up to \$5,990, and a net PAGA payment of \$7,500. After these expenses of \$66,000, the amount available to be distributed to the Class would be \$24,000. Assuming that there are an estimated 252 Class Members, the average payment per Class Member would be \$95.24.

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 I ["Class Released Claims"]; III.2.) 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].)

The scope of the PAGA release is appropriate. (Agt para I ["PAGA Released Claims"]; III.3) 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 I ["General Release"]; III.4.)

1 The Court notes and approves of the plan to distribute the settlement funds with no claims
2 process.

3 The unclaimed funds will be distributed to Legal Aid at Work. (Agt, para III(16)(e).) This
4 is consistent with CCP 384. Counsel has provided a declaration in support of the motion that
5 provides the information required by CCP 382.4.

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

8 The Court cannot award attorneys' fees without reviewing information about counsel's
9 hourly rate and the time spent on the case. This is the law even if the parties have agreed that
10 Defendants will not oppose the motion for fees. (Robbins v. Alibrandi (2005) 127 Cal. App. 4th
11 438, 450-451.)

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

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

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

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

28 This court's benchmark for fees is 30% of a total fund. (Laffitte v. Robert Half Internat.

1 Inc. (2016) 1 Cal.5th 480, 495; Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167,
2 1175; Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 557 fn 13; Chavez v. Netflix, Inc.
3 (2008) 162 Cal.App.4th 43, 66 fn 11.)

4 When cross-checking with the lodestar/multiplier, the court will evaluate the lodestar based
5 on reasonable fees that would have been charged at hourly rates and then apply a multiplier. The
6 multiplier includes contingent fee risk and other factors.

7 When considering risk, the court considers there is less risk in a case with fee shifting
8 statutes because counsel's potential fees are not limited by and coupled to the monetary recovery.
9 "The law does not mandate ... that attorney fees bear a percentage relationship to the ultimate
10 recovery of damages in a civil rights case." (Harman v. City and County of San Francisco (2007)
11 158 Cal.App.4th 407, 419.) (See also Heritage Pacific Financial, LLC v. Monroy (2013) 215
12 Cal.App.4th 972, 1006-1007.)

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

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

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

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

26 "Any and all current and former non-exempt employees of any Defendant
27 in the State of California that received overtime and/or double time wages
28 during the Stipulated Settlement Class Period (July 5, 2019 through

November 13, 2020)".

Should for whatever reason the Settlement Agreement not become Final, the fact that the parties were willing to stipulate to certification of a class as part of the Settlement Agreement shall have no bearing on, or be admissible in connection with, the Action or the issue of whether a class should be certified in a non-settlement context.

The Court appoints and designates: (a) Plaintiff CHARLES RHYU as the Class Representative and (b) Larry W. Lee of Diversity Law Group, P.C., Edward W. Choi of Law Offices of Choi & Associates, Dennis S. Hyun of Hyun Legal, APC, and William L. Marder of Polaris Law Group as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to all acts or consents required by, or which may be given, pursuant to the Settlement Agreement, and such other acts reasonably necessary to finalize the Settlement Agreement and its terms. Any Class Member may enter an appearance through his or her own counsel at such Class Member's own expense. Any Class Member who does not enter an appearance or appear on his or her own behalf and who does not opt-out of the Settlement Agreement will be represented by Class Counsel.

A hearing (the "Final Fairness Hearing") shall be held before this Court on September 12, 2023, at 10:00 a.m., at the Superior Court of the State of California, County of Alameda to determine all necessary matters concerning the Settlement Agreement, including whether the proposed settlement of the action on the terms and conditions provided for in the Settlement Agreement is fair, adequate and reasonable and should be finally approved by the Court and whether a Judgment, as provided in the Settlement Agreement, should be entered herein. At this same time, a hearing on Class Counsel's motion for attorneys' fees and reimbursement of litigation costs and the Class Representative's service award shall also be held. The Motion for Final Approval shall be filed by the Class Representative no later than sixteen (16) court days before the Final Fairness Hearing.

The Court appoints and designates ILYM Group as the Settlement Administrator. The Court hereby directs the Settlement Administrator to provide the approved Class Notice to Class Members pursuant to the procedures set forth in the Settlement Agreement.

1 Any Class Member may choose to opt out of and be excluded from the settlement as
2 provided in the Settlement Agreement and Class Notice and by following the instructions for
3 requesting exclusion. Any person who timely and properly opts out of the settlement will not be
4 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon. Any
5 exclusion request must be in writing and signed by each such Class Member opting-out and must
6 otherwise comply with the requirements delineated in the Class Notice. Class Members who have
7 not requested exclusion by submitting a valid and timely exclusion request, by the Response
8 Deadline, shall be bound by all determinations of the Court, the Settlement Agreement, and
9 Judgment.

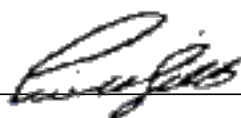
10 Any Class Member may object to the Settlement Agreement or express his or her views
11 regarding the Settlement Agreement, and may present evidence and file briefs or other papers that
12 may be proper and relevant to the issues to be heard and determined by the Court as provided in
13 the Class Notice.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

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

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

25 IT IS SO ORDERED.

26
27 DATED: 04/20/2023



Honorable Evelio Grillo
Judge of the Superior Court
Evelio Grillo / Judge

PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of 18 years and not a party to the within action; my business address is 515 S. Figueroa St. Suite 1250, Los Angeles, California 90071.

On April 19, 2023, I served the foregoing document(s) described as: **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

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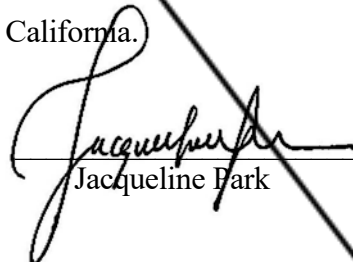
 X **BY ELECTRONIC SERVICE**

 X I caused such document to be served on the offices of the addressees via electronic transmission.

 X **(State)** I declare under penalty of perjury that the foregoing is true and correct.

 (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 19, 2023, at Los Angeles, California.



Jacqueline Park