

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE**

Tapia, Jose Luis
Plaintiff/Petitioner,

vs.

Sierra Forest Products
Defendant/Respondent.

Jud. Officer: **Gary Johnson**
Clerk: **Perla Montemayor**
Bailiff: **A Gonzales**
CSR: **Julie VanEs**
Interpreter:
Language:

Minutes: **Motion Hearing**
Other

Date: **April 15, 2024**

Case No. **VCU288833**
Department 07

Related Cases:

Appearances: ☐ No Appearances

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☒ Attorney: Charlotte Mikat-Stevens for Plaintiff
via CourtCall

☒ Remote Appearance

☐ Attorney: _____

☐ Remote Appearance

☐ Attorney: _____

☒ Case called at 8:30 a.m. No appearance by defendant.

☒ No requests for oral argument presented.

ORDER: The Court adopts the Tentative Ruling as the Order of the Court as follows:

TENTATIVE RULING: To grant the motion, approve the final class action settlement including fees, costs and service awards, as modified herein. Final Compliance Hearing is set for **October 28, 2024**, 8:30 am in Department 7.

Plaintiff's motion for final approval of class action and PAGA settlement, attorneys' fees, costs, enhancement award, LWDA payment and class certification for settlement purposes came on for hearing on April 15, 2024. The Court finds and rules as follows:

On March 21, 2024, the settlement administrator Apex, through its Case Manager, filed a declaration detailing the following events.

On November 27, 2023, the administrator received a mailing list of 400 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information. On December 13, 2023, after the administrator processed the names through the National Change of Address Database and updated the list with any updated addresses located, the administrator sent class notice by mail. Of the fifty (50) returned notices, one (1) notice had a forwarding address and twenty-eight (28) updated addresses were obtained. Therefore, twenty-one (21) notice packets have been deemed undeliverable.

Class members had sixty (60) days, until February 12, 2024, to submit objections, disputes and/or requests for exclusions. Zero (0) request for exclusion and zero (0) valid objections have been received from class members. Therefore, four hundred (400) class members or 100% of the class will participate in the settlement.

The Court presumes the settlement is fair and reasonable given (a) that it was reached through arms-length bargaining at mediation, (b) that there was sufficient time for investigation and discovery since commencement of litigation on February 26, 2021 (c) class counsel have particularized experience with the claims at issue in the

case, and (d) there appear to be zero disputes and zero objections. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

A net settlement amount of \$292,829.59 is available to pay to the class members in accordance with the terms of settlement, with an average individual share of at least \$732.07 per class member, the lowest estimated share of \$7.71 and the highest estimated share of \$2,701.48. The Court believes basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise under the circumstances, in accordance with *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133. This case involved extensive informal discovery and investigation of disputed claims, including review and analysis by Plaintiff's expert. The settlement avoids significant risks and delay that would result from further litigation of the case, which would include, amongst other matters, certification proceedings, trial, and the possibility of further delay and cost resulting from appeals.

Class counsel has provided a declaration in support of the requests for attorney fees representing 33.3% of the \$550,000 gross settlement amount or \$183,315. Adequate information has been provided for a lodestar analysis of the attorneys' fees request, and class counsel represents the requested fee award is justified under that analysis with a multiplier of 1.29. Counsel represents that Moon Law Group, PC, has spent 268.5 hours at \$375 to \$725 per hour, resulting in a lodestar of \$141,597.50. Counsel has provided a total number of hours in support of the fee request and explained why the fee request is reasonable given the time spent and value of the legal work performed.

Counsel has additionally provided sufficient cost information indicating actual costs incurred in the amount of \$16,065.41, nearly all of the \$20,000 the Court preliminarily approved.

The Court believes the requested attorney fees and costs appear reasonable under the circumstances. Additionally, counsel has provided a sufficient declaration to demonstrate adequate previous experience with class actions to further support the reasonableness of the award.

The settlement administrator has provided, in the declaration describing the work it has performed on the case, a value of services totaling \$7,790, which is amount that was estimated in the motion for preliminary approval. The Court believes the amount requested as compensation for the administrator appears reasonable.

The settlement agreement designates Valley Children's Hospital as recipient of unclaimed settlement proceeds. (Code Civ. Proc. § 384.)

The Court previously approved a representative payment of \$5,000 each and believes that the requested class representative payment is appropriate under the circumstances. Enhancement payments "are fairly typical in class action cases." (*Cellphone Termination Fee Cases* (2010) 180 Cal.App.4th 1110, 1393.) Enhancement payments "are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general." (*Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958-959.) "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that he or she should be compensated for the expense or risk he has incurred in conferring a benefit on other members of the class." (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806.)

The Court's review of the declarations of Plaintiffs indicates justification for the \$5,000 award, but no amount higher.

Finally, the Court confirms its conditional certification of the settlement class. The Court finds no significant events have occurred that would cause it to change its prior determination that the settlement class met all requirements under Code of Civil Procedure section 382 for certification for settlement purposes at the time it granted Plaintiff's motion for preliminary approval.

On review of the declarations and pleadings submitted, the Court finds, given the established presumption that the settlement is fair and reasonable under the circumstances of this case, and, particularly, given the absence of

any objection or opposition following the class notice, that the settlement is fair and reasonable and that the motion for final approval should be, and is hereby, granted.

The approved deductions from the gross settlement amount of \$550,000 are approved as follows:

Approved Attorney Fees (33 1/3%):	\$183,315.00
Approved Attorney Costs:	\$16,065.41
Approved Enhancement Payment to Plaintiff Tapia:	\$5,000.00
Approved Enhancement Payment to Plaintiff Castillo:	\$5,000.00
Approved Settlement Administrator Costs	\$7,790.00
Approved PAGA Payments	\$40,000.00
Approved Net Settlement Amount	\$292,829.59

The Court shall enter its order of final approval and judgment in this case on the proposed form, modified as to the above, submitted by Plaintiff on March 21, 2024, and orders that notice of entry of judgment be given as provided in the judgment following entry thereof. Final Compliance Hearing is set for October 28, 2024, 8:30 am in Department 7.

☒ Clerk to provide notice to parties by mail.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE**

Visalia Division
221 S Mooney Blvd, Room 201
Visalia, CA 93291
559.730.5000

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

04/15/2024

STEPHANIE CAMERON, CLERK
Perla Montemayor, Deputy

Tapia, Jose Luis
Plaintiff/Petitioner,

vs.

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Defendant/Respondent.

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CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause.

I certify that I caused the copy of the minute order dated April 15, 2024, to be served on the persons listed below in the following manner:

☒ BY MAIL: I placed the documents for collection and mailing on the date shown, so as to cause it to be mailed in a sealed envelope with postage fully prepaid on that date following standard court practices to the persons and addresses shown. The mailing and this certification occurred at Visalia, California on April 15, 2024.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE

By 
Perla Montemayor, Deputy Clerk

Names and Mailing/E-Mail Address of Person(s) Served:

KANE MOON
1055 W SEVENTH ST SUITE 1880
LOS ANGELES, CA 90017

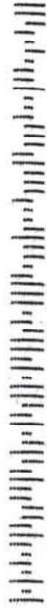
IAN WEILAND
SAGASER, WATKINS & WIELAND, PC
5260 N PALM AVE STE 400
FRESNO, CA 93704

TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION
221 S MOONEY BLVD RM 201
VISALIA CA 93291-4593

RETURN SERVICE REQUESTED

KANE MOON
1055 W SEVENTH ST SUITE 1880
LOS ANGELES, CA 90017

CEANSEB 90017



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