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August 28, 2023
Clerk of the Court
Superior Court of CA
County of Santa Clara
21CV383516
By: rwalker

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

ANTHONY SANCHEZ, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

JSR MICRO, INC.; JSR NORTH
AMERICA HOLDINGS, INC.; JSR
LIFE SCIENCES, LLC; and DOES 1
through 20, inclusive,

Defendants.

Case No. 21CV383516
Related Case No.: 21CV386334

Assigned for all purposes to
Hon. Judge Theodore C. Zayner
Dept. 19

**FURTHER REVISED ~~{PROPOSED}~~ ORDER
GRANTING FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND ENTERING
JUDGMENT**

1 The above-entitled action comes on for hearing before the Honorable Theodore C.
2 Zayner on August 2, 2023, at 1:30 p.m. in Department 19. The court now issues its tentative
3 ruling as follows:

4 **I. INTRODUCTION**

5 This is a consolidated action arising out of various alleged Labor Code violations. On
6 June 23, 2021, plaintiff Anthony Sanchez (“Plaintiff”) filed a putative class action Complaint
7 against defendants JSR Micro, Inc., JSR North America Holdings, Inc., and JSR Life Sciences,
8 LLC (collectively, “Defendants”) alleging causes of action for: (1) Failure to Pay Minimum
9 Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to
10 Permit Rest Breaks; (5) Failure to Reimburse Business Expenses; (6) Failure to Provide
11 Accurate Itemized Wage Statements; (7) Failure to Pay All Wages Due Upon Separation of
12 Employment; and (8) Violation of Business and Professions Code §§ 17200, et seq.

13 On August 30, 2021, Plaintiff filed a Complaint against Defendants alleging a single
14 cause of action for Enforcement of Labor Code §§ 2698, et seq. (“PAGA”) for failure to pay
15 minimum and overtime wages, failure to provide meal periods, failure to permit rest breaks,
16 failure to timely pay final wages, failure to provide accurate itemized wage statements, and
17 failure to reimburse for business expenses.

18 The parties attended mediation on April 22, 2022, and agreed to settle both cases.

19 On August 11, 2022, the court approved the parties’ Joint Stipulation to Consolidate
20 Class and PAGA Actions, which consolidated the two cases for all purposes.

21 On August 18, 2022, the court granted preliminary approval of the class and
22 representative action settlement subject to approval of the amended class notice.

23 The court approved the amended class notice on August 23, 2022.

24 Plaintiff subsequently moved for final approval of the settlement.

25 The court’s minute order dated January 18, 2023, continued the hearing on the motion
26 for final approval of the settlement to March 15, 2023. The court explained that it had concerns
27 regarding the adequacy of class notice as Plaintiff previously advised the court in connection
28 with the motion for preliminary approval that there were approximately 135 class members, but
29 notices were only mailed to 120 members. The court directed Plaintiff to file a supplemental

1 declaration clarifying why notices were only mailed to 120 class members. The court also
2 approved the cy pres recipient, incentive award, attorney fees, litigation costs, and settlement
3 administration costs.

4 On January 19, 2023, Plaintiff's counsel filed a supplemental declaration stating that
5 after preliminary approval, Defendants discovered that the original estimate of 135 employees
6 included employees who lived and worked outside of California. (Supplemental Declaration of
7 Kristy R. Connolly in Support of Plaintiff's Motion for Final Approval of Class Action
8 Settlement, ¶ 4.) Defendant informed Plaintiff that 15 employees worked in Oregon and,
9 therefore, were not members of the class, which is limited to California employees. (*Ibid.*)
10 Plaintiff's counsel concluded that the class was, therefore, only comprised of 120 members.
11 (*Ibid.*)

12 The court later continued the hearing on the matter to March 22, 2023.

13 On March 2, 2023, Plaintiff's counsel filed a further supplemental declaration.
14 Plaintiff's counsel declared that on February 23, 2023, the settlement administrator received a
15 request from an employee "seeking to be added to this matter." (Supplemental Declaration of
16 Kristy R. Connolly in Support of Plaintiff's Motion for Final Approval of Class Action
17 Settlement, ¶ 5.) On February 27, 2023, Defendants' counsel confirmed that the subject
18 employee worked in California until June 1, 2020, when he transferred to Oregon. (*Ibid.*)
19 Therefore, the employee was a member of the class and the class actually included 121
20 members. (*Ibid.*) This recitation of events was in accord with the supplemental declaration
21 filed by the settlement administrator. (Declaration of Jennifer Forst (on Behalf of CPT Group,
22 Inc.) With Respect to Notification and Administration ("Forst Dec"), ¶ 8.)

23 The court's minute order dated March 22, 2023, continued the hearing on the motion for
24 final approval of the settlement to June 14, 2023. The court noted that although the
25 supplemental information provided by Plaintiff showed that the class was comprised of 121
26 members, notice packets were only served on 120 class members. The court ordered the parties
27 to promptly serve the remaining class member with the notice packet, advising the class
28 member that he had 60 calendar days after the date of mailing of the notice packet to respond in
accordance with the terms of the settlement agreement. Plaintiff was further ordered to file a

1 supplemental declaration no later than June 5, 2023, detailing the steps taken to provide notice
2 to the remaining employee and any response received.

3 Plaintiff's counsel filed a supplemental declaration one day late on June 6, 2023. First,
4 Plaintiff's counsel states that the parties mailed a notice packet to the remaining employee
5 discussed in the March 22, 2023 minute order. Second, Plaintiff's counsel declares that on
6 March 6, 2023, the settlement administrator received a second request from an employee
7 "seeking to be added to the class." (Supplemental Declaration of Kristy R. Connolly in Support
8 of Plaintiff's Motion for Final Approval of Class Action Settlement, ¶ 6.) Plaintiff's counsel
9 states that "Defendants confirmed that he should have been included in the class and [the
10 settlement administrator] mailed him his class notice." (*Ibid.*) Third, Plaintiff's counsel states
11 that "[o]n May 4, 2023, Defendants reviewed their internal records to determine how they
12 missed these two class members" and, "[i]n doing so, Defendants identified an issue that
13 resulted in four other employees who previously worked in California during the class period
14 being omitted from the class list." (*Id.* at ¶ 7.) Defendants purportedly represent that "these
15 should be the last additions." (*Ibid.*) Plaintiff's counsel declares that the settlement
16 administrator sent class notices to "these four class members" on May 5, 2023. (*Id.* at ¶ 8.)
17 Plaintiff's counsel states that "[p]roviding a 60-day response deadline, these class members
18 have until July 5, 2023, to decide whether to opt-out of the class." (*Ibid.*) Plaintiff proposes
19 "submitting a newly Revised Proposed Order to reflect 126 class members (should none of the
20 additional class members opt-out of the class) on July 14, 2023." (*Id.* at ¶ 9.)

21 The court's minute order dated June 15, 2023, explained that the supplemental
22 information provided by Plaintiff did not adequately address the court's concerns regarding
23 notice to the class. Specifically, Plaintiff's counsel did not provide the court with details
24 regarding the notice provided to the two employees who requested to be added to the class. For
25 example, Plaintiff's counsel did not identify the date on which notice was mailed to those two
26 employees, provide the court with a copy of the notices sent to the employees, demonstrate that
27 the employees were notified of the June 14, 2023 hearing date, or address whether any response
28 was received from the employees. Additionally, with respect to the four additional employees
identified by Defendants, Plaintiff's counsel did not provide the court with a copy of the notices

1 sent to the employees. Finally, the time for those four employees to respond in writing to the
2 class notice has not elapsed and those employees must also be provided an opportunity to
3 appear at the final approval hearing. The court ordered the parties to promptly provide notice of
4 the continued hearing date (i.e., August 2, 2023) to the six individuals whom were recently
5 added to the class. In addition, the court ordered Plaintiff to file a supplemental declaration
6 identifying the date on which notice was mailed to those employees, providing the court with a
7 copy of the notices sent to the employees, and addressing whether any response was received
8 from the employees.

9 On July 19, 2023, Plaintiffs filed supplemental declarations in support of the motion for
10 final approval of settlement.

11 **II. LEGAL STANDARD**

12 Generally, “questions whether a settlement was fair and reasonable, whether notice to
13 the class was adequate, whether certification of the class was proper, and whether the attorney
14 fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v.*
15 *Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford*
16 *Motor Co.* (1996) 48 Cal.App.4th 1794 (*Dunk*).)

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

24 (*Wershba, supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1801
25 and *Officers for Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688 F.2d 615, 624
26 (*Officers*).)

27 “The list of factors is not exclusive and the court is free to engage in a balancing and
28 weighing of factors depending on the circumstances of each case.” (*Wershba, supra*, 91
Cal.App.4th at p. 245.) The 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.*, quoting *Dunk, supra*, 48

Cal.App.4th at p. 1801 and *Officers, supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

The burden is on the proponent of the settlement to show that it is fair and reasonable. However “a presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.”

(*Wershba, supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1802.)

III. DISCUSSION

The Supplemental Declaration of Kristy R. Connolly in Support of Plaintiff’s Motion for Final Approval of Class Action Settlement and the Declaration of Jennifer Forst (On Behalf of CPT Group, Inc.) With Respect to Notification and Administration filed on July 19, 2023, adequately address the court’s concerns regarding notice to the class. The declarations demonstrate that all 126 class members have now been provided with sufficient notice. Furthermore, there are no objections or requests for exclusion. In light of the foregoing, the court finds the proposed settlement to be fair for purposes of final approval.

Accordingly, the motion for final approval of the settlement is GRANTED.

The prevailing party shall prepare the order and judgment in accordance with California Rules of Court, rule 3.1312.

The court will set a compliance hearing for April 3, 2024, at 2:30 p.m. in Department 19. At least ten court days before the hearing, class counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein, the number and value of any uncashed checks, amounts remitted to Defendants, the status of any unresolved issues, and any other matters appropriate to bring to the court’s attention. Counsel may appear at the compliance hearing remotely or in person.

DATED: August 28, 2023


Honorable Theodore C. Zayner
JUDGE OF THE SUPERIOR COURT