SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Taylor, Joshua et al Plaintiff/Petitioner, vs. **U.S. Dairy Systems, Inc.** Defendant/Respondent.	Jud. Officer: **Nathan Ide** Clerk: **Martha Gomez** Bailiff: CSR: **Naomi Johnson** Interpreter: Language:
Minutes: **Motion for Final Approval Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and Claims Administration** Date: **March 20, 2023**	**Case No. VCU286113** **Department 02** Related Cases:

Appearances: ☐ No Appearances

☐ Party: _____
☐ Remote Appearance
☐ Party: _____
☐ Remote Appearance
☐ Party: _____
☐ Remote Appearance
☐ Other: _____
☐ Remote Appearance

☒ Attorney: Arrash Fattahi for plaintiff via Court Call
☒ Remote Appearance
☒ Attorney: Doug Leach for defendant via Zoom
☒ Remote Appearance
☐ Attorney: _____
☐ Remote Appearance

☐ Court makes interpreter findings on the record pursuant to GC 68561(g)/GC 68561(f)
☐ The Court noted that no court reporter was available for today's proceedings.

Motion: Motion for Final Approval Class Action and PAGA Settlement, Attorneys' Fees, Costs, Service Awards and Claims Administration

No requests for oral argument presented.

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

To grant the motion, approve the final class action and PAGA settlement including fees, costs and service awards. Final Compliance Hearing is set for September 18, 2023, 8:30 am in Department 2.

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 March 20, 2023. The Court finds and rules as follows:

On February 24, 2023, the settlement administrator Phoenix Settlement Administrators, through its Case Manager, filed a declaration detailing the following events.

On November 21, 2022 the administrator received a mailing list of 61 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information and processed the list through the National Change of Address Database, updating it with any addresses located.

On December 1, 2022, the administrator sent class notice by mail. Some 2 notices were returned undeliverable and only 1 updated address was found and notice was promptly remailed.

Class members had sixty (60) days, until January 30, 2023, to submit objections, disputes and/or requests for exclusions. Zero (0) requests for exclusion and zero (0) valid objections have been received from class members. There are no outstanding disputes according to the administrator. A total of 61, or 100% of the class members will participate in the settlement, with zero objections or requests for exclusion.

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 no objections by any party or class members. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

A net settlement amount of $84,074.28 is available to pay to the class members in accordance with the terms of settlement, with an average individual share of at least $1,378.26 per class member, the lowest estimated payment is $36.78 and the highest estimate payment is $5,388.73

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 Plaintiffs' 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 $187,500 gross settlement amount or $62,500. 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 negative multiplier of .66. 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 represents that Wilshire Law Firm, PC, has spent 170.1 hours at rates ranging from $850 per hour to $450 per hour for attorney work and $150 per hour for paralegal, resulting in a lodestar of $93,045. Counsel therefore seeks negative .66 multiplier.

Counsel has additionally provided sufficient cost information indicating actual costs incurred by Wilshire Law Firm, PC, in the amount of $14,950.72, under the $15,000 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 of $5,975, which is the 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 Los Angeles Trial Lawyers' Charities as recipient of unclaimed settlement proceeds. (Code Civ. Proc. § 384.)

In support of the request for enhancement award to the class representatives, each has provided a declaration describing their participation. The class representatives engaged in efforts in connection with this case, including gathering documents, providing guidance regarding worked performed by other employees, communicating with other employees, answering questions, reviewing documents, attending mediation and discussing potential settlement. The Court previously approved a representative payment of $5,000 each and believes that the requested class representative payments of $5,000 each are appropriate under the circumstances.

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, with the distribution of the gross settlement amount of $187,500 as follows:

Court Approved Attorney Fees (33 1/3%):	$ 62,500.00
Court Approved Attorney Costs	$14,950.72
Enhancement Payment to Plaintiff – Taylor:	$ 5,000.00
Enhancement Payment to Plaintiff – Lomonaco:	$ 5,000.00
Settlement Administrator Costs	$ 5,975.00
PAGA Payment to the LWDA	$ 7,500.00
PAGA Distribution to Aggrieved Employees	$ 2,500.00
Net Settlement Amount	**$ 84,074.28**

The court shall enter its order of final approval in this case on the proposed form submitted by Plaintiffs February 24, 2023, and orders that notice of entry of judgment be given as provided in the judgment following entry thereof.

Final Compliance Hearing is set for September 18, 2023, 8:30 am in Department 2.

If no one requests oral argument, under Code of Civil Procedure section 1019.5(a) and California Rules of Court, rule 3.1312(a), no further written order is necessary. The minute order adopting this tentative ruling will become the order of the court and service by the clerk will constitute notice of the order.

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

Taylor, Joshua et al
Plaintiff/Petitioner,

vs.

U.S. Dairy Systems, Inc.
Defendant/Respondent.

Case No. **VCU286113**

CLERK'S CERTIFICATE OF SERVICE

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

I certify that I caused the minute order dated March 20, 2023 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 March 20, 2023.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE

By
Martha Gomez, Deputy Clerk

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

JUSTIN MARQUEZ
WILSHIRE LAW FIRM
3055 WILSHIRE BLVD 12TH FL
LOS ANGELES, CA 90010

DOUGLAS LEACH
MEDINA MCKELVEY LLP
925 HIGHLAND POINTE DR STE 300
ROSEVILLE, CA 95678

TULARE COUNTY SUPERIOR COURT
221 S MOONEY BLVD RM 303
VISALIA CA 93291-4593

RETURN SERVICE REQUESTED

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US POSTAGE $001.26⁰

FIRST-CLASS MAIL

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MAR 23 2023
BY: Arrash

JUSTIN MARQUEZ
WILSHIRE LAW FIRM
3055 WILSHIRE BLVD 12TH FL
LOS ANGELES, CA 90010

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