

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Civil Complex Center
751 W. Santa Ana Blvd
Santa Ana, CA 92701

SHORT TITLE: Gentile vs. Homeside Financial, LLC

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE**

CASE NUMBER:
30-2021-01217575-CU-OE-CXC

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 04/27/23, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on May 4, 2023, at 2:45:12 PM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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Clerk of the Court, by: Richard B. S., Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 04/27/2023

TIME: 02:00:00 PM

DEPT: CX101

JUDICIAL OFFICER PRESIDING: Peter Wilson

CLERK: R. Burns

REPORTER/ERM:

BAILIFF/COURT ATTENDANT: I. Olivares

CASE NO: **30-2021-01217575-CU-OE-CXC** CASE INIT.DATE: 08/24/2021

CASE TITLE: **Gentile vs. Homeside Financial, LLC**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73932887

EVENT TYPE: Motion for Approval of Class Settlement

MOVING PARTY: Ryan Gentile

CAUSAL DOCUMENT/DATE FILED: Motion - Other For Preliminary Approval of Class Action
Representative Action Settlement, 01/19/2023

APPEARANCES

No Appearance by all parties

By telephone, all parties submit to the Court's tentative ruling as posted on the internet. The Court's tentative ruling is adopted as the final ruling as follows:

The hearing on the Motion for Preliminary Approval is CONTINUED to June 8, 2023 at 2:00 p.m. in department CX101 to permit the parties to respond to the following issues. A supplemental briefing shall be filed at least 9 days before the continued hearing and respond where necessary to the points raised below. Redlined versions of the revised proposed Class Notice and proposed order are to be provided. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement", to avoid use of limited Court time and resources.

As to the Settlement

1. Were the moving papers served on the LWDA? The proof of service of the moving papers on the LWDA must be filed with the Court.
2. All PAGA Notice letters to the LWDA must be submitted to the Court.
3. How will the individual PAGA Payments be calculated? How will the individual PAGA Payments be allocated for tax purposes?
4. The Class Release should include a time frame and be limited to the Released Parties. See Settlement, ¶4.01.
5. There is no valuation provided for the claim for failure to pay all wages to piece-rate workers. If no value was placed on this claim, then Plaintiff should explain why. Also, the calculations for the valuation for each claim should be provided so the Court can understand the assumptions / data that supports the valuation.

6. Typically, the Court prefers 60 days for the Response Deadline. What circumstances make this matter different?
7. Are disputes due by the Response Deadline, and does the extension for re-mailed notices apply? May disputes be submitted by mail and fax?
8. Although Section I.gg indicates exclusion requests can be submitted by mail or fax, the more specific Section 3.04.b indicates exclusions requests may be submitted by mail only.
9. The Settlement Administrator's website should post the key documents in this case, including the operative Complaint, Settlement and any amendments, Class Notice, Orders for Preliminary and Final Approval, as well as the Final Judgment. How long with the Final Judgment be posted on the Settlement Administrator's website? The Court favors at least 180 days.

Issues re Class Notice

1. The Class Notice is to be revised consistent with the issues addressed above.
2. In Section 1 "Why did I get this notice" only Case No. 30-2021-01217575 is mentioned. Since the Settlement encompasses Case No. 30-2021-01217575 and Case No. Case No. 30-2021-01230333 both case numbers and matters should be referenced in the Class Notice.
3. The Class Notice should refer to the settlement as a Class and PAGA Action Settlement.
4. The Class Notice should advise that Class Members who are also PAGA Members cannot exclude themselves from the PAGA settlement.
5. Section 2 "What is this Lawsuit about?" does not refer to the claim for failure to pay all piece-rate wages. This section also includes reimbursement of business expenses as a claim but that claim is not alleged in this action.
6. Section 5 "What are the terms of the proposed Settlement?" incorrectly states that \$5,000 of the PAGA penalties will be distributed to the aggrieved employees. The amount should be \$6,250. An explanation of what a PAGA action is should be provided.
7. Additionally, Section 5 explains how the individual class settlement payment is calculated and how it is allocated for tax purposes. The same information should be provided for the individual PAGA payments.
8. Section 8 "What is my approximate Individual Settlement Payment?" should include an estimate of the individual PAGA payment, if applicable. This section should also advise that the Court may review the Settlement Administrator's decision on disputes, provide the deadline for submitting disputes and the method(s) for submitting disputes.
9. Section 9 "What rights am I releasing if I participate in the Settlement?" should include a time frame for the Class Release and the PAGA Release consistent with the Settlement. Additionally, the explanation of the PAGA Release fails to accurately state what claims are being released. For example, there is no reference to civil penalties. This section also inaccurately implies the releases are in favor of Defendant only when they actually apply to the Release Parties, which includes more than just Defendant.
10. Section 10 "How do I object to the Settlement?" indicates that written objections should be submitted by mail. However, the Settlement permits written objections to be submitted by mail or fax.

11. Section 11 "Why would I ask to be excluded?" does not advise that Class Members who are PAGA Members cannot exclude themselves from the PAGA settlement.

12. Section 12 "How do I ask to be excluded from the Class?" inaccurately states Class Members must submit the exclusion request by mail. The Settlement permits exclusions requests to be submitted by mail or fax.

13. The department should be updated in Section 17 "When is the Final Fairness and Approval Hearing ad do I have to attend?".

14. Section 18 "Are more details available?" incorrectly states the Settlement is attached to the Bekam Declaration. If the parties elect to refer to a pleading, the ROA # should be included. This section should advise that the Settlement Administrator will post the key documents on its website along with the Final Judgment.

Issues re Proposed Order

1. The proposed order is to be revised consistent with the issues addressed above.
2. The caption should reference the related action.

Motion for Approval of Class Settlement continued to 06/08/2023 at 02:00 PM in this department pursuant to Court's motion.

The Court directed the courtroom clerk to give electronic notice.