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Attorneys for Plaintiff
JOEY REYES

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

JOEY REYES, individually, and on behalf of
other members of the general public similarly
situated,

Plaintiff,

vs.

VALLEY CHROME PLATING, INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 22CECG01415

*Assigned for all purposes to the Honorable
Kristi Culver Kapetan, Dept. 502*

**NOTICE OF ENTRY OF ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS ACTION AND PAGA
SETTLEMENT**

Complaint Filed: May 9, 2022
FAC Filed: May 11, 2023
Trial Date: Not Set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on December 21 2023, the Court entered an order granting
3 preliminary approval of the Parties' Joint Stipulation of Class Action and PAGA Settlement. A true
4 and correct copy of the order entered by the Court on December 21, 2023 is attached hereto as Exhibit
5 1.

6
7 Dated: December 21, 2023

PARKER & MINNE, LLP

8
9 By:



S. Emi Minne

Attorneys for Plaintiff

EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department - Non-Limited	Entered by:
TITLE OF CASE: Joey Reyes vs. Valley Chrome Plating, Inc. / COMPLEX / CLASS ACTION	
LAW AND MOTION MINUTE ORDER	Case Number: 22CECG01415

Hearing Date:	December 21, 2023	Hearing Type:	Motion - Prelim Approval Class Settlement
Department:	502	Judge:	Culver Kapetan, Kristi
Court Clerk:	Gonzalez, Estela	Reporter:	Not Reported

Appearing Parties:	
Plaintiff:	Defendant:
Counsel:	Counsel:

☐ Off Calendar

☐ Continued to ☐ Set for ___ at ___ Dept. ___ for ___

☐ Submitted on points and authorities with/without argument. ☐ Matter is argued and submitted.

☐ Upon filing of points and authorities.

☐ Motion is granted ☐ in part and denied in part. ☐ Motion is denied ☐ with/without prejudice.

☐ Taken under advisement

☐ Demurrer ☐ overruled ☐ sustained with ___ days to ☐ answer ☐ amend

☒ No Oral Argument requested as required per Local Rule 2.2.5 & CRC 3.1308(a)(1).

☒ Pursuant to CRC 3.1312(a) and CCP 1019.5(a), no further order is necessary. The minute order adopting the tentative ruling serves as the order of the court. See attached copy of the Tentative Ruling.

☒ Any party intending to appear remotely for future hearings is required to submit a request to and obtain approval by the Court utilizing forms RA-010 & RA-020. Personal appearances are mandatory for trial dates pursuant to CRC 3.672 & Fresno Superior Court Local Rule 1.1.19.

☒ Service by the clerk will constitute notice of the order.

☐ Judgment debtor ___ sworn and examined.

☐ Judgment debtor ___ failed to appear.
Bench warrant issued in the amount of \$ ___

JUDGMENT:

☐ Money damages ☐ Default ☐ Other ___ entered in the amount of:
Principal \$___ Interest \$___ Costs \$___ Attorney fees \$___ Total \$___
☐ Claim of exemption ☐ granted ☐ denied. Court orders withholdings modified to \$___ per ___

FURTHER, COURT ORDERS:

☐ Monies held by levying officer to be ☐ released to judgment creditor. ☐ returned to judgment debtor.
☐ \$___ to be released to judgment creditor and balance returned to judgment debtor.
☐ Levying Officer, County of ___, notified. ☐ Writ to issue
☐ Notice to be filed within 15 days. ☐ Restitution of Premises
☐ Other: ___

(20)

Tentative Ruling

Re: **Joey Reyes v. Valley Chrome Plating, Inc.**
Superior Court Case No. 22CECG01415

Hearing Date: December 21, 2023 (Dept. 502)

Motion: Motion for Preliminary Approval of Class Settlement

****If timely requested, oral argument will be heard on Tuesday, January 2, 2024 at 3:30 p.m. in Department 502****

Tentative Ruling:

To grant.

Explanation:

1. Class Certification

Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected, although there is less scrutiny of manageability issues. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240; see *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1803, fn. 9.) The trial court has a "fiduciary responsibility" as the guardian of the absentee class members' rights to decide whether to approve a settlement of a class action. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.)

A precertification settlement may stipulate that a defined class be conditionally certified for settlement purposes. The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Cal. Rules of Court, rule 3.769(d).) Before the court may approve the settlement, however, the settlement class must satisfy the normal prerequisites for a class action. (*Amchem Products, Inc. v. Windsor* (1997) 521 US 591, 625-627.)

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal.4th 298, 313.)

Plaintiff bears the burden of establishing the propriety of class treatment with admissible evidence. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470 [trial court's ruling on certification supported by substantial evidence generally not disturbed on appeal]; *Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1107-1108 [plaintiff's burden to produce substantial evidence].)

Here there are approximately 2,305 class members identifiable through defendant's business and personnel records. The numerosity and ascertainability criteria are satisfied.

Under the community of interest requirement, the class representative must be able to represent the class adequately. (*Caro v. Procter & Gamble* (1993) 18 Cal.App.4th 644, 669.) "[I]t has never been the law in California that the class representative must have identical interests with the class members . . . The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

Usually, in wage and hour class actions or PAGA class claims, the distinctive feature that permits class certification is that the employees have the same job title or perform similar jobs, and the employer treats all in that discrete group in the same allegedly unlawful fashion. In *Brinker Restaurant v. Superior Court* (2012) 53 Cal.4th 1004, 1017, "no evidence of common policies or means of proof was supplied, and the trial court therefore erred in certifying a subclass."

Here, plaintiff presents evidence that all potential class members – whether hired directly by defendant or indirectly through a staffing agency – were required to adhere to the same employment policies, practices, and procedures (Minne Decl., ¶ 61; Reyes Decl., ¶ 5), which give rise to common questions of law and fact including: (i) whether Defendant failed to pay employees wages owed for all time worked; (ii) whether Defendant failed to provide legally compliant meal and rest periods and associated premium wages; (iii) whether Defendant failed to reimburse employees for the costs of cell phones and steel toed boots; and (iv) derivative claims such as wage time penalties, wage statement penalties, record keeping violations, and unfair business practices (Minne Decl., ¶ 62).

The adequacy of representation component of the community of interest requirement for class certification comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit. " 'The adequacy inquiry ... serves to uncover conflicts of interest between named parties and the class they seek to represent.' [Citation.] '... To assure "adequate" representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class. [Citation.]' [Citation.]" (*J.P. Morgan & Co., Inc. v. Superior Court* (2003) 113 Cal.App.4th 195, 212.)

"[T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal.App.4th 644, 669.) Counsel has substantial class action experience, and the declaration from plaintiff shows there are no conflicting interests with the class.

The class may be certified for settlement purposes.

2. Settlement Approval

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished ... [therefore] the factual record must be before the ... court must be sufficiently developed." (*Id.* at p. 130.)

Settlement was reached after arm's length negotiation at mediation and after counsel reviewed and analyzed a significant sampling of class time and pay data produced by defendant and with the assistance of an expert.

Plaintiff's counsel determined that the total potential best-case-scenario liability is \$12,566,836.82 for the class claims, and \$3,742,759.85 for PAGA penalties. Counsel believe, however, that the realistic recovery would be around \$1,774,035.79. Counsel discusses each claim alleged in the complaint, showing the math as to how these maximum potential liability figures were reached. (Minne Decl., ¶¶ 31-39.) Counsel then adjusted the potential maximum liability for each claim based on risk-based analysis. The risk-adjusted assessment addresses defenses raised by defendant, including opposition to class certification. Moreover, a significant number of potential class members had signed arbitration agreements with defendant, which could pose a significant risk. The law governing the legality of neutral rounding practices is currently in a state of flux, creating uncertainty as to the ultimate viability of the rounding claim. The off-the-clock claim may face manageability issues if it were to go to trial or class certification. Meal and rest period claims face potential certification hurdles as well, in addition to the fact that defendant had facially compliant written policies. The other claims receive similar discussion of the weaknesses that informed counsel's discounts to reach a realistic value. (Minne Decl., ¶¶ 40-59.)

Plaintiff's counsel seeks up to \$420,000 (35% of the gross settlement) in attorneys' fees, and actual costs of up to \$30,000. The agreement on fees is within the range of fees that have been approved by other courts in class actions, which frequently approve fees based on a percentage of the common fund. (*City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11; *Quinn v. State* (1975) 15 Cal.3d 162, 168; see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26.)

While it is true that courts have found fee awards based on a percentage of the common fund are reasonable, the California Supreme Court has also found that the trial court has discretion to conduct a lodestar "cross-check" to double check the reasonableness of the requested fees. (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503-504 [although class counsel may obtain fees based on a percentage of the class settlement, courts may also perform a lodestar cross-check to ensure that the fees are

reasonable in light of the number of hours worked and the attorneys' reasonable hourly rates].) With the final approval motion, counsel shall submit a fully supported lodestar analysis, including full and complete billing records and evidence supporting the hourly rates charged. Evidence of actual costs incurred shall also be documented.

The motion seeks preliminary approval of a \$7,500 "enhancement payments" to plaintiff. Preliminary approval may be granted at this time, though a lower amount is likely to be awarded at final approval. With the final approval motion plaintiff shall submit a declaration clearly describing the work actually performed on behalf of the class and time spent.

The parties agreed to use Phoenix Class Action Administration Solutions as settlement administrator. Phoenix submitted the lowest bid of four settlement administrators, at \$22,500. Jodey Lawrence of Phoenix provides a declaration detailing the tasks that will be performed by the administrator, and estimate of the administration costs. The administrator shall provide an update of the expected total actual costs with the final approval motion.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: KCK on 12/21/23
(Judge's initials) (Date)

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-2000	<i>FOR COURT USE ONLY</i>
TITLE OF CASE: Joey Reyes vs. Valley Chrome Plating, Inc. / COMPLEX / CLASS ACTION	
CLERK'S CERTIFICATE OF MAILING	CASE NUMBER: 22CECG01415

I certify that I am not a party to this cause and that a true copy of the:

[Minute Order and Tentative Ruling, dated 12/21/23]

was placed in a sealed envelope and placed for collection and mailing on the date and at the place shown below following our ordinary business practice. I am readily familiar with this court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

Place of mailing: **Fresno, California 93724-0002**

On Date: **12/21/2023**

Clerk, by , Deputy
E. Gonzalez

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☐ Clerk's Certificate of Mailing Additional Address Page Attached