

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Aliza Avalos et al Plaintiff/Petitioner(s) VS. HR Support Defendant/Respondent (s)	No. RG21111584 Date: 09/12/2024 Time: 10:00 AM Dept: 23 Judge: Michael Markman ORDER re: Hearing on Motion - Other Motion for Preliminary Approval of Class and PAGA Settlement; filed by Aliza Avalos (Plaintiff) +; Case Management Conference filed by Aliza Avalos (Plaintiff); Krizia Astrid Dela Cruz Coombes (Plaintiff) on 08/30/2024
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The Motion for Preliminary Approval of Settlement filed by Krizia Astrid Dela Cruz Coombes, Aliza Avalos on 07/08/2024 is Granted.

Hearing on Motion for Final Approval of Settlement is scheduled for 01/16/2025 at 10:00 AM in Department 23 at Rene C. Davidson Courthouse.

BACKGROUND FACTS

This is a wage-and-hour class action and PAGA representative action. Plaintiffs Krizia Coombes and Aliza Avalos have reached a settlement with Defendant HR Support. The gross settlement amount of \$525,000.00 includes: attorney's fees of not more than \$175,000.00; litigation expenses of not more than \$25,000.00; class representative service awards of not more than \$10,000.00 each; PAGA penalties of \$20,000.00 (75% to California Labor and Workforce Development Agency and 25% to aggrieved employees; and administrator expenses of not more than \$10,000.00; the remaining amount is to be distributed on a pro-rata basis based on the

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number of workweeks to class member who do not opt out.

LEGAL STANDARD

To prevent “fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800.) The Court “must determine the settlement is fair, adequate, and reasonable.” (*Id.* at p. 1801.) “The well-recognized factors that the trial court should consider in evaluating the reasonableness of a class action settlement agreement include ‘the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.’” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128 [quoting *Dunk, supra*, at p. 1801].)

Similarly, a “trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77 [noting overlap of factors in class action analysis, “including the strength of the plaintiff’s case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount”].)

PRELIMINARY APPROVAL

Plaintiffs’ counsel conducted an investigation and obtained information from Defendant, including information on employment policies and time and pay data for the class members. (See Cordero Decl., ¶¶ 33–44.) The parties negotiated at arm’s length and participated in mediation. (See *id.*, ¶ 46–48.) Plaintiffs’ counsel provided an adequate *Kullar* analysis, providing a reasonable estimate of the number of class members, the total estimated possible recovery, and an explanation why the settlement was reasonable in light thereof. (See *id.*, ¶¶ 49–75.) The court gives “considerable weight to the competency and integrity of counsel and the involvement of a neutral mediator in assuring itself that a settlement agreement represents an arm’s length transaction entered without self-dealing or other potential misconduct.” (*Kullar, supra*, p. 129.) The terms of the settlement and notice procedures appear generally fair, reasonable and adequate. At the court’s request, the parties revised the scope of the PAGA release and clarified the court’s address in the notice. (See Supp. Cordero Decl., filed Aug. 30, 2024.)

SERVICE AWARD, FEES, & COSTS

The court will not rule on a service award for the representative, fees, or costs until final approval but provides the following preliminary guidance:

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Any incentive or service award must be supported with “quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs.” (*Clark v. Am. Residential Servs. LLC* (2009) 175 Cal.App.4th 785, 807.) This court is unlikely to approve an award of more than \$7,500.00 absent special circumstances.

This court’s benchmark for attorney’s fees is 30%. (See *Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495; *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn 13; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn 11.) A “court approving a settlement that includes a negotiated fee [] is required to decide if the fee negotiated by the parties closely approximates the value of the attorneys’ work.” (*Robbins v. Alibrandi*, 127 Cal.App.4th 438, 452.) Counsel must address the value of the attorneys’ work, as well as the justification for any deviation from this court’s benchmark. Ten percent of the attorney’s fee award must be kept in the administrator’s trust fund until the completion of the distribution process and court approval of a final accounting.

The settlement agreement authorizes reimbursement of litigation costs. Counsel must provide evidentiary support for the actual costs incurred at the time of final approval.

The court’s preference is for Plaintiffs to move for final approval, including approval of attorneys’ fees, costs, and any service award, in a single motion.

ORDER

Plaintiffs’ motion for preliminary approval of class action settlement is GRANTED. The court will sign the amended proposed order filed on August 30, 2024. A final approval hearing is SET for January 16, 2025 at 10:00 am in Department 23. The reservation number for the final approval motion is A-21111584-006.

The Case Management Conference scheduled for 09/12/2024 is continued to 01/16/2025 at 10:00 AM in Department 23 at Rene C. Davidson Courthouse .

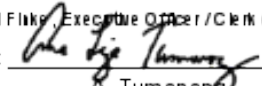
Dated : 09/12/2024



Michael Markman / Judge

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	FILED Superior Court of California County of Alameda 09/13/2024
PLAINTIFF/PETITIONER: Aliza Avalos et al	Chad Finke, Executive Officer / Clerk of the Court By:  Deputy
DEFENDANT/RESPONDENT: HR Support	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: RG21111584

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Hearing on Motion - Other Motion for Preliminary Approval of Class and PAGA Settlement; filed by Aliza Avalos (Plaintiff) +; Case Management Conference filed by Aliza Avalos (Plaintiff); Krizia Astrid Dela Cruz Coombes (Plaintiff) on 08/30/2024 entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Dustin S Delp
GrahamHollis APC
ddelp@grahamhollis.com

Nancy Rader Whitehead
Scott & Whitehead
nwhitehead@employerlaw.com

Vilmarie Cordero
GrahamHollis APC
vcordero@grahamhollis.com

Dated: 09/13/2024

Chad Finke, Executive Officer / Clerk of the Court

By:



A. Tumonong, Deputy Clerk