

SUPERIOR COURT OF CALIFORNIA COUNTY OF TULARE	
Salazar, Rodolfo Plaintiff/Petitioner, vs. KW Automotive North America, Inc. Defendant/Respondent.	Judicial Officer: David Mathias Clerk: Holly Bilbrey Bailiff: J Devora CSR: Estela Casillas Interpreter: Language:
Minutes: Hearing: Other Date: May 16, 2024	Case No. VCU289988 Department 01 Related Cases:

Appearances: ☐ No Appearances

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☐ Remote Appearance

☐ Other: _____

☐ Remote Appearance

☒ Attorney: Jamie Loos, Counsel for Plaintiff
appearing by Zoom

☒ Remote Appearance

☒ Attorney: Mike Conway, Counsel for
Defendant appearing by Zoom

☒ Remote Appearance

☐ Attorney: _____

☐ Remote Appearance

Case is called at 10:38 AM:

Oral argument heard.

Based on oral argument and further review of the pleadings the Court modifies the Tentative Ruling.

The Court adopts the Tentative Ruling as modified:

Motion: Motion for Final Approval of Class Action and PAGA

Ruling: To grant the motion, approve the final class action settlement including fees, costs and service awards, as modified herein. Final Compliance Hearing is set for November 14, 2024; 8:30 am; D1.

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 May 16, 2024. The Court finds and rules as follows:

On April 3, 2024, the settlement administrator CPT Group, Inc., through its Case Manager, filed a declaration detailing the following events.

On November 7, 2023, the administrator received a mailing list of 129 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information. On November 21, 2023, after the administrator processed the names through the National Change of Address Database and updated the list with any updated addresses located, the administrator sent class notice by mail. No notices were returned as undeliverable.

Class members had sixty (60) days, until January 20, 2024 to submit objections, disputes and/or requests for exclusions. One (1) request for exclusion and zero (0) valid objections have been received from class members. Therefore, 128 class members or 99% of the class will participate in the settlement.

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 January 4, 2022 (c) class counsel have particularized experience with the claims at issue in the case, and (d) there appear to be zero objections. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

A net settlement amount of \$252,498.77 is available to pay to the class members in accordance with the terms of settlement, with an average individual share of at least \$1,972.65, per class member, the lowest estimated share of \$32.90 and the highest estimated share of \$5,227.32. 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 Plaintiff's 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 number of declarations in further support of the requests for attorney fees representing 33% of the gross settlement fund of \$445,130 or \$148,376.67. Here, Counsel indicates that the firm has spent 236 hours on this case, at rates of \$875 to \$400 per hour totaling a lodestar of \$157,097.50 and resulting in essentially no multiplier. (Declaration of Loos – Exhibit 3.)

Counsel has also provided the current costs expended in amounts of \$13,254.56, slightly more than half of the \$25,000 preliminarily approved. (Declaration of Loos – Exhibit 4.)

The Court believes the requested attorney fees, as adjusted, 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 totaling \$6,000, 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 Court previously approved a representative payment of \$5,000 and believes that the requested class representative payment is appropriate under the circumstances. Enhancement payments "are fairly typical in class action cases." (*Cellphone Termination Fee Cases* (2010) 180 Cal.App.4th 1110, 1393.) Enhancement payments "are intended to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, sometimes, to recognize their willingness to act as a private attorney general." (*Rodriguez v. West Publishing Corp.* (9th Cir. 2009) 563 F.3d 948, 958-959.) "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that he or she should be compensated for the expense or risk he has incurred in conferring a benefit on other members of the class." (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806.)

The Court's review of the declaration of Plaintiff indicates justification for the \$10,000 award.

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.

The approved deductions from the gross settlement amount of \$445,130 are as follows:

Approved Attorney Fees (33%):	\$148,376.67
Approved Attorney Costs (Expended):	\$13,254.56
Approved Enhancement Payment to Plaintiff:	\$10,000.00
Approved Settlement Administrator Costs	\$6,000.00
Approved Total PAGA Allocation	\$20,000.00
Approved Net Settlement Amount	\$247,498.77

The Court shall enter its order of final approval and judgment in this case on the proposed form, modified as to the enhancement award to Plaintiff, submitted by Plaintiff on April 3, 2024, and orders that notice of entry of judgment be given as provided in the judgment following entry thereof.

Final Compliance Hearing is set for November 14, 2024; 8:30 am; D1.