

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE Civil Complex Center 751 W. Santa Ana Blvd Santa Ana, CA 92701	
SHORT TITLE: Balderrama vs. Omni Enterprise Inc.	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 30-2022-01256174-CU-OE-CXC

I certify that I am not a party to this cause. I certify that that the following document(s), dated , was transmitted electronically by an Orange County Superior Court email server on March 21, 2025, at 8:01:19 AM PDT. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

ADLI LAW GROUP P.C.
ADLI@ADLILAW.COM

ADLI LAW GROUP P.C.
DOCKETING@ADLILAW.COM

ADLI LAW GROUP P.C.
JAMIE.WRIGHT@ADLILAW.COM

MELMED LAW GROUP, P.C.
JM@MELMEDLAW.COM

MELMED LAW GROUP, P.C.
KRIKOR@MELMEDLAW.COM

Clerk of the Court, by: Lorena Mendez , Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

MINUTE ORDER

DATE: 03/20/2025 TIME: 02:00:00 PM DEPT: CX104
JUDICIAL OFFICER PRESIDING: Melissa R. McCormick
CLERK: L. Mendez
REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: I. Olivares

CASE NO: **30-2022-01256174-CU-OE-CXC** CASE INIT.DATE: 04/22/2022
CASE TITLE: **Balderrama vs. Omni Enterprise Inc.**
CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 74419865

EVENT TYPE: Motion for Approval of Class Settlement
MOVING PARTY: JUSTINA BALDERRAMA
CAUSAL DOCUMENT/DATE FILED: Motion - Other For Order Granting Preliminary Approval of Class Action Settlement, 11/06/2024

APPEARANCES

AnneLeith Matlock, from ADLI LAW GROUP P.C., present for Defendant(s) remotely.

Hearing held, all participants appearing remotely.

Tentative Ruling posted on the Internet.

The Court confirms the tentative ruling which is attached hereto and incorporated herein by reference.

Court orders clerk to give notice to plaintiff. Plaintiff to give notice as stated in the order.

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	Balderrama v. Omni Enterprise Inc. 2022-01256174	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers filed in support of plaintiff's motion for preliminary approval of a \$325,000 class action and PAGA settlement. The court has the following questions and comments: 1. Plaintiff should not file overlong briefs without leave of court obtained in advance of filing. <u>As to the settlement:</u> 2. Plaintiff should provide the named plaintiff's anticipated total amount to be received (including for any individual claims and excluding any enhancement payment). 3. The settlement agreement states class members and aggrieved employees have 45 days to opt out, object or dispute the workweek and pay period calculations. The court prefers 60 days. Do unique circumstances warrant a shorter period in this case? 4. Absent unique circumstances, the court is unlikely to approve an enhancement payment in excess of \$5,000. If unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings. 5. Absent unique circumstances, the court is unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount. Plaintiff's counsel should address in the supplemental filing whether any such unique circumstances exist here. 6. Plaintiff states the settlement administrator seeks up to \$15,000 in costs. The settlement administrator's invoice (Melmed Decl. (ROA 136) Ex. D) states the settlement administrators' fees will not exceed \$6,950. The settlement agreement, notice and proposed order should be modified accordingly. 7. The parties (including defendant) should advise, in declarations filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case. 8. What is the average individual class payment? Plaintiff's counsel states it is \$554.59 (Melmed Decl. (ROA 136) ¶ 47) and \$526.19 (Melmed Decl. (ROA 136) ¶ 54).
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9. The parties should provide the high, low and average PAGA payments.
10. The "Released Claims" provision is overbroad. Settlement Agreement ¶ 1.37. The release of the class members' claim must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint.
11. The "PAGA Released Claims" provision is overbroad. Settlement Agreement ¶ 1.32. Releases for aggrieved employees other than plaintiff should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter to the LWDA.
12. Paragraph 5.3 of the settlement agreement states: "Each Class Participant, including Plaintiff, shall be responsible for the payment of the Employee's Taxes and Required Withholding with respect to his or her Individual Settlement Amount and shall hold Defendant harmless from any and all liability with regard thereto." The court will not require unnamed class members to agree to "hold Defendant harmless from any and all" potential tax liability.
13. The settlement agreement should be revised to make clear that the class members' and aggrieved employees' releases are not effective until defendant has fully funded the settlement. See Settlement Agreement ¶¶ 11.1, 11.2.
14. Paragraphs 7.2 and 8.9 of the settlement agreement should be revised to state: (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute.
15. The phrase "irrespective of whether they have filed a written objection" should be added to the end of the last sentence of paragraph 7.4 of the settlement agreement.
16. Paragraph 13.18 of the settlement agreement should be revised to state that the prevailing party attorneys' fees provision does not apply to unnamed class member or aggrieved employees.
17. Plaintiff's counsel should submit evidence substantiating the amount of not-to-exceed litigation costs (e.g., itemized litigation costs incurred to date).

As to the notice:

18. The notice should be revised consistent with the above.
19. The notice should be substantially shortened. The notice should not include any commentary on the settlement.
20. The notice should be revised throughout to state a specific end date for the Class Period.
21. The court prefers that the notice be accompanied by a separate form to be completed by a class member seeking to be excluded, and a separate form to be completed by a class member wishing to object. In addition, while plaintiff submitted a separate exclusion form (Melmed Decl. Ex. F), section 6.2 of the notice does not refer to the form.
22. The settlement administrator's invoice includes a charge for a Spanish-language translation. Melmed Decl. Ex. D. Should the notice be translated into Spanish or any other languages? If so, a copy of the certified translation(s) should be submitted to the court and attached as an exhibit to the proposed order.
23. Section 4 regarding the settlement administrator's resolution of disputes should be revised consistent with the above.
24. Section 6.3 of the notice states that objecting parties must file their objections with the court. This provision should be removed. Any objections should be submitted to the court as a packet with the motion for final approval.
25. The "class action share" form and the exclusion form should be revised consistent with the above.
26. The methods of submitting the exclusion form should be consistent with the methods set forth in the settlement agreement. In addition, the exclusion form should be reformatted to fit on one page.
27. Section 10 of the notice should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notice letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for at least 180 days.

As to the proposed order (ROA 130):

28. The proposed order should be revised consistent with the above.
29. The title of the notice and text throughout should include "and PAGA" after "class action."

30. Counsel's information should be removed from the caption page.

31. The gross settlement amount on page 2 line 11 of the proposed order is inconsistent with the gross settlement amount in the settlement agreement.

32. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing.

The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to July 24, 2025 at 2:00 p.m. in Department CX104 to permit the parties to address and respond to the above issues. See also Department CX104 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review. The parties shall also provide redlined copies of any revised documents.

Plaintiff is ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.