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FILED
San Diego Superior Court

AUG 06 2025
Clerk of the Superior Court
By: V. Secaur, Deputy

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Attorneys for Plaintiff and Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

ZACHARY THOMPSON, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

D & K ENGINEERING, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 37-2022-00026832-CU-OE-CTL

[Assigned for all purposes to the Hon. Marcella O.
McLaughlin, Dept. C-72]

**REVISED ~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
RECONSIDERATION AND AWARDED
SERVICE PAYMENT TO PLAINTIFF**

Date: August 1, 2025
Time: 9:30 a.m.
Dept.: C-72

Action Filed: July 8, 2022
Trial Date: None Set

~~PROPOSED~~ ORDER

In advance of the hearing on August 1, 2025, the Court issued a tentative ruling on Plaintiff Zachary Thompson's ("Plaintiff") Motion for Reconsideration of the February 20, 2025 Order Denying Service Payment, which is attached hereto as **Exhibit A**. The Parties submitted on the Court's tentative, which became the final ruling of the Court. Accordingly, the Court hereby GRANTS Plaintiff's Motion for Reconsideration.

ACCORDINGLY, IT IS HEREBY ORDERED AS FOLLOWS:

1. After considering the additional evidence submitted and for good cause shown, the Court hereby reconsiders its February 20, 2025 Order and APPROVES the proposed settlement, as follows:

- a. Litigation costs of \$2,010.50, payable to Plaintiff's counsel;
- b. Attorney's fees in the amount of \$58,333.33;
- c. Claims administration costs of \$4,500.00, payable to Phoenix Settlement Administrators;
- d. Plaintiff's service payment of \$7,500.00 as part of the Parties' PAGA settlement and in exchange for the general release of all claims;

IT IS SO ORDERED.

DATED: Aug. 6, 2025


HONORABLE MARCELLA MCLAUGHLIN
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL COURTHOUSE**

TENTATIVE RULINGS - July 31, 2025

HEARING DATE: 08/01/2025 HEARING TIME: 9:30 AM DEPT.: C-72

JUDICIAL OFFICER: Marcella O. McLaughlin

CASE NO.: 37-2022-00026832-CU-OE-CTL

CASE TITLE: Thompson vs D & K Engineering [IMAGED]

CASE TYPE: (U) Other Employment

HEARING TYPE:

1. MOTION FOR RECONSIDERATION

Plaintiff Zachary Thompson's unopposed motion for reconsideration is GRANTED.

"Trial courts always have discretion to revisit interim orders in service of the paramount goal of fair and accurate decisionmaking." *Minick v. City of Petaluma* (2016) 3 Cal.App.5th 15, 34. However, in order to grant reconsideration, the change in ruling must be based on evidence submitted with the original motion being reconsidered. *In re Marriage of Barthold* (2008) 158 Cal.App.4th 1301, 1314.

In this case, after reconsidering the evidence originally submitted in support of plaintiff's motion to approve PAGA settlement, the court finds that the proposed "service" payment to plaintiff is being made in exchange for a general release of all claims. Accordingly, the court grants the request to reconsider its earlier order approving the PAGA settlement, but denying a service award. See ROA 61.

2. MOTION TO APPROVE PAGA SETTLEMENT

Plaintiff's unopposed motion for approval of PAGA settlement is GRANTED.

A. PAGA settlements are subject to trial court review and approval. Lab. Code § 2699(l)(2). "[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. The court must "scrutinize whether, in resolving the action, a PAGA plaintiff has adequately represented the state's interests, and hence the public interest." *Id.* at 89.

Here, the court finds that the PAGA settlement is fair, adequate, and reasonable in light of PAGA's policies and purposes. The court therefore approves the parties' proposed settlement as set forth below.

B. The litigation costs of \$2,010.50, payable to plaintiff's counsel, and the claims administration costs of \$4,500 payable to Phoenix Settlement Administrators, are reasonable for a case of this type. The requested costs are therefore approved.

C. The individual settlement payment to plaintiff in exchange for a general release of all claims is approved in the reduced amount of \$7,500. The court finds that the requested payment of \$10,000 is disproportionate when considering that the average recovery for each aggrieved employee is just \$100. The remainder (\$10,000 minus \$7,500 equals \$2,500) will be poured over into the net settlement fund for distribution to the LWDA and the aggrieved employees in accordance with the statutory 75/25 split.

D. Finally, the attorney's fees proposal of \$58,333.33 represents one-third of the gross settlement amount. This is not out of line with class action fee awards calculated using the percentage-of-the-benefit method. See *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn. 11. Moreover, according to supporting declarations submitted with the moving papers, plaintiff's attorneys expended a total of 95.4 hours prosecuting this action. (Gavron Decl., ¶ 34; Marder Decl., ¶ 8.) This results in a blended hourly rate of approximately \$611.46 (\$58,333.33 divided by 95.4), which is reasonable for similar work in San Diego County during the relevant time period. The requested fee award is also less than counsel's theoretical lodestar of \$65,470. (See Gavron Decl., ¶ 36.) Thus, the requested fees represent, in effect, a negative multiplier.

In sum, the court finds that the requested fee award of \$58,333.33 is reasonable under the circumstances and hereby approved. See *Nemecek & Cole v. Horn* (2012) 208 Cal.App.4th 641, 651 ("The amount to be awarded as attorney fees is left to the sound discretion of the trial court, which is in the best position to evaluate the services rendered by an attorney in his courtroom.").

E. Counsel must prepare and submit a revised proposed order consistent with the foregoing. After it is revised and signed, plaintiff must submit the signed order to the LWDA within 10 days. See Lab Code § 2699(s)(3).

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

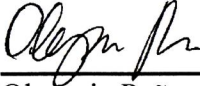
I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On August 1, 2025, I served the following document(s) described as: **REVISED [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR RECONSIDERATION AND AWARDED SERVICE PAYMENT TO PLAINTIFF** on the interested parties in this action as follows:

Jennifer N. Lutz	<i>Attorneys for Defendant D&K Engineering</i>
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Kim Wood	jlutz@pettitkohn.com
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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the One Legal E-Filing System at the website www.onelegal.com, addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 1, 2025, at Los Angeles, California.



Olympia Peña