

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA
Superior Court of California, County of Ventura, Juvenile Courthouse, Department J4

202200570355CUOE
Cardenas vs. G I Security Inc

September 25, 2025
8:20 AM

Judge: Honorable Charmaine H Buehner
Judicial Assistant: Jerry Ricardez
CSR: None

APPEARANCES:

Tuvia Korobkin, counsel, is not present.

Neil Michael Larsen, counsel, is not present.

Pamela K Tahim, counsel, is not present.

NATURE OF PROCEEDINGS: Hearing on Motion for Final Approval of Settlement

9:22 a.m. Court convenes in this matter with no appearance by any party.

Counsel have received and read the Court's written tentative ruling.

Counsel Neil Larsen for plaintiff has contacted the court (previous to the hearing) and is submitting on the Tentative Ruling and will not appear.

Defendant submit on the Court's tentative ruling.

The Court finds/orders:

The Court's tentative is adopted as the Court's ruling as follows:

I. Ruling

The Court GRANTS Plaintiff's Motion for Final Approval of Class Action Settlement, Class Representative Service Payment, and Attorneys' Fees and Costs. Moving party to give notice.

The Court sets a non-appearance case review regarding settlement compliance on **January 23, 2026, at 8:40 a.m.** Five Court days before the non-appearance case review date, counsel shall file a declaration regarding the status of the distribution of settlement funds. If there are irregularities concerning same, the Court will set a compliance hearing.

II. Service

Plaintiff did not allow for sufficient notice of the hearing date under Code of Civil Procedure

section 1005, subdivision (b), which requires a motion be served 16 court days in advance of the hearing as calculated by Code of Civil Procedure section 12c, and Code of Civil Procedure, section 1010.6, subd. (a)(2)(B), which adds two days to the notice period when a document is served electronically. Per the proof of service, the Motion and declarations were emailed to LWDA and Defendant's counsel on September 5, 2025, 14 court days before the hearing. However, given the posture of this case, the lack of opposition/objection filed by Defendant, and the schedule outlined in the preliminary approval, the Court will consider the merits of this motion. Counsel are admonished to provide sufficient notice in accordance with statute in the future.

III. Relevant Background:

On September 19, 2022, plaintiff Victor Cardenas ("Plaintiff") filed a class action and PAGA complaint against defendant G.I. Security Inc. ("Defendant") for (1) failure to pay overtime wages; (2) failure to provide meal periods; (3) failure to permit rest periods; (4) failure to reimburse for business expenses; and (5) failure to issue accurate itemized wage statements. A first amended complaint was filed on November 21, 2022, adding the PAGA claim.

On May 13, 2025, Dept. 20 granted the *unopposed* motion for preliminary approval of class and representative action settlement and provisional class certification as follows: the Notice Packet was to be mailed to all class members and aggrieved employees in both English and Spanish pursuant to the settlement agreement; Phoenix Settlement Administrators was approved as the settlement administrator for the parties; a final approval hearing was set for September 25, 2025, with the motion for final approval to be filed in accordance with Code of Civil Procedure, section 1005, subdivision (b); June 18, 2025 was the date on which the Notice Packet was to be mailed, and September 3, 2025 was the deadline for Plaintiff's to file this motion.

Plaintiff attempted to file the Motion for Final Approval of Class Action Settlement on September 3, 2025, but was rejected by the Clerk's office. The clerk accepted the motion for filing on September 5, 2025. Plaintiff moves for an order for final approval of the class action settlement, on the following material terms:

- The gross settlement: \$122,184
(\$120,000 was estimated, *but due to the "escalator clause" in section 7.F, there was a 6.82% increase in workweeks and therefore a 1.82% increase in the gross settlement*)
- Attorneys' Fees requested: \$40,727.07 (\$40,000 was provisionally approved)
- Litigation Costs: \$22,500 (actual costs exceed this amount)
- Service Payment \$5,000
- Administrative fee: \$9,750 (\$10,000 was provisionally approved)
- PAGA Penalties: \$5,000.00

The PAGA Penalties will be split seventy-five percent (\$3,750) to the LWDA and the remaining twenty-five percent (\$1,250) to the aggrieved employees.

Accordingly, the net settlement amount is \$39,206.07 and total amount paid will be \$40,456.07 (including the PAGA penalties). The net settlement and PAGA penalties will be distributed on a

pro rata basis to the 398 settlement class members, and 227 aggrieved employees. The average estimated class payment is \$98.51; the highest payout amount is \$523.03, and the lowest is \$1.79. As for the PAGA claims, the average payout is \$5.51 with the highest being \$19.07. Payees will have 180 days to cash the check, or it will be sent to the California Unclaimed Property Fund in the payee's name.

The Court-approved Class Notice was mailed to the class members on June 23, 2025, and those notified had until August 22, 2025, to object, dispute, or exclude themselves. No members have objected, submitted disputes, or requested exclusion. This is a 100% participation rate. No Notices were considered undeliverable.

The settlement is fair and reasonable. Certification of the class for settlement purposes is warranted because there is an ascertainable class.

Plaintiff's counsel's declaration outlines the discovery and strengths and weaknesses of their case and the defenses.

IV. Discussion

California Rule of Court rule 3.769 sets forth the general procedures for settlement of a class action, and provides as follows:

(a) **Court approval** After hearing a settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party, requires the approval of the court after hearing.

(b) **Attorney's fees** Any agreement, express or implied, that has been entered into with respect to the payment of attorney's fees or the submission of an application for the approval of attorney's fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action.

(c) **Preliminary approval of settlement** Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion.

(d) **Order certifying provisional settlement class** The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing.

(e) **Order for final approval hearing** If the court grants preliminary approval, its order must include the time, date, and place of the final approval hearing; the notice to be given to the class; and any other matters deemed necessary for the proper conduct of a settlement hearing.

(f) **Notice to class of final approval hearing** If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court. The notice must contain an explanation of the

proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.

(g) **Conduct of final approval hearing** Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement.

(h) **Judgment and retention of jurisdiction to enforce** If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment.”

The Court has wide discretion in determining whether a proposed settlement is fair and reasonable:

[T]o prevent fraud, collusion or unfairness to the class, the settlement or dismissal of a class action requires court approval.”” [Citations.] The court must determine the settlement is fair, adequate, and reasonable. [Citations.] The purpose of the requirement is ‘the protection of those class members, including the named plaintiffs, whose rights may not have been given due regard by the negotiating parties.’ [Citation.]

The trial court has broad discretion to determine whether the settlement is fair. [Citation.] It should consider relevant factors, such as 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 the 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. [Citation.] The list of factors is not exhaustive and should be tailored to each case. Due regard should be given to what is otherwise a private consensual agreement between the parties. The inquiry ‘must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned.’ [Citation.] ‘Ultimately, the [trial] court’s determination is nothing more than “an amalgam of delicate balancing, gross approximations and rough justice.” [Citation.]’ [Citation.]

Geer urges the burden was on *Dunk* to show the settlement was fair, adequate, and reasonable, but cites no case or statute for that proposition. [Citations.] However, since some federal cases seem to assume the burden is on the proponents, we will presume, for the sake of argument, the premise is correct. [Citations.]

Assuming the burden is on the proponents, a presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small. [Citations.]

(*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 2794, 1800-1802.)

Here, the settlement was reached at arms-length during mediation with Hon. Jeff Winikow on January 23, 2024, after extensive informal discovery. Accordingly, the first *Dunk* factor is satisfied.

Plaintiff's counsel engaged in mediation, investigation and discovery, including a 15% sampling of timekeeping and payroll data and hiring an expert data analyst from Berger Consulting Group. Accordingly, the evidence indicates that Plaintiff's counsel engaged in sufficient investigation and discovery to intelligently evaluate the claims of the Settlement Class Members. According to Keith M. Messerschmidt, Plaintiff's expert, it did not appear that Defendant could pay a class-wide settlement of more than \$120,000. Note that due to the "escalator clause" the settlement is slightly more than the \$120,000 limit. Accordingly, the second *Dunk* factor is satisfied.

Plaintiff's counsel has significant prior experience in acting as class counsel in wage and hour litigation. Accordingly, the third *Dunk* factor is satisfied.

The agreement defines the settlement class as:

All current and former non-exempt employees who were employed by GI Security, Inc. in California at any time from September 19, 2018, through January 23, 2024.

There are approximately 398 class members, resulting in an average settlement award of \$98.51 per member. All members of the class face common issues of the law and fact related to the causes of action asserted. There does not appear to be any evidence to give the Court cause to question the adequacy of Plaintiff as the class representative. There were no objections, and no members opted out. While the filing of Notice was late per the preliminary approval implementation schedule, there is no suggestion that this timing was prejudicial to any interested party. The deadline to object was shifted accordingly. The final *Dunk* factor weighs in favor of granting approval.

Based on the above, there is a presumption under *Dunk* as to the reasonableness of the Settlement. In addition, the Settlement Amount appears reasonable.

Attorney's Fees & Expenses

The amount of attorney's fees sought by Plaintiff's counsel are 33 1/3 % of the gross amount, now \$122,184, which is \$40,728 (counsel requests \$40,727.07). The amount sought is a reasonable percentage, and the Court allows the increase based on the escalator clause increasing the gross settlement amount. The lodestar check confirms the amount is reasonable, even if some reductions to the hourly rate were to be made.

As for litigation expenses, the amount requested, \$22,500 is relative to the recovery, however the amount was preliminarily approved and counsel actually incurred \$24,719.42. Plaintiff's counsel has provided an expense summary (attached as Exhibit B to the declaration of attorney Larsen). While only described in broad categories, the Court finds the amounts are reasonable.

Class Representative Enhancement and Appointment of Class Counsel

The Court finds appointment of Plaintiff as class representative, and Plaintiff's counsel as class counsel to be reasonable. The payment of a \$5,000 enhancement to Plaintiff as class representative in this action is also reasonable when considering the associated risks. The enhancement fee is supported by Plaintiff's declaration, which indicates he spent approximately 30-35 hours serving in his role.

Administration & Notice

The class notice procedure appears reasonable. Anyone who does not object or opt-out will be bound by the settlement. The administration costs at \$9,750.00 are reasonable and below the preliminary approval amount of \$10,000 for administration costs.

Release

The standard release for class members is fair and reasonable.

Conclusion re: Final Approval of Settlement & Notice

In summary, the substantive terms of the proposed settlement appear within the "range of possible approval," and the Court GRANTS Plaintiff's motion for final approval.

Non-Appearance Case Review regarding settlement compliance is scheduled for 01/23/26 at 08:40 AM in Department J4 at Juvenile Courthouse.

Notice to be given by Judicial Assistant.

Certificate of Clerk's Service is attached.