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Superior Court of California,
Contra Costa County
7/29/2025
By: N. McCallister-Villa, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

ISAIAS MENDOZA MEDINA, an individual, on behalf of himself, the State of California, as a private attorney general, and on behalf of all others similarly situated, Plaintiff, v. DESERT PARKS LANDSCAPING, INC. DBA PACIFIC SITE MANAGEMENT, an Arizona Corporation; and DOES 1 TO 50, Defendants.	Case Number: C22-02298 ~~[PROPOSED]~~ **JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT** **Date:** July 17, 2025 **Time:** 9:00 a.m. **Dept.**: 39 **Judge:** Hon. Edward Weil Action Filed: October 26, 2022 Trial Date: None Set

This matter having come for hearing on **<u>July 17, 2025, at 9:00 a.m.,</u>** regarding Plaintiff Isaias Mendoza Medina's ("Plaintiff") unopposed *Motion for Final Approval of Class Action Settlement* (the "Motion") on the terms set forth in the *Class Action and PAGA Stipulation of Settlement and Release* (the "Settlement Agreement"). In conformity with California Rules of Court, rule 3.769, with due and adequate notice having been given to Class Members (as defined in the Settlement Agreement and the Motion), and having considered the Settlement Agreement, all of the legal authorities and documents submitted in support thereof, all papers filed and proceedings had herein, all oral and written comments received regarding the Settlement Agreement, and having reviewed the record in this litigation, and good cause appearing, the Court **GRANTED** final approval of the Settlement Agreement. The Parties submitted on the Court's tentative ruling, except that argument was heard on the issue of attorneys' fees. The Court adopted the tentative ruling except that attorneys' fees were increased from $50,000.00 to $55,000.00. The tentative ruling made the following determinations, updated to reflect the revised attorney's fees:

A. Background and Settlement Terms

Defendant is a commercial landscaping company. Plaintiff Mendoza Medina worked as a commercial landscaper for defendant during the class period.

The original complaint was filed on October 26, 2022 as a class action, by then-plaintiff Oscar Gonzalez. PAGA claims were added by later amendment. Thereafter, however, Gonzalez fell out of touch with plaintiff counsel and could not continue as the plaintiff and class representative. With the cooperation of the defendant, counsel identified the present plaintiff, Mendoza Medina, as a suitable substitute plaintiff.

The settlement would create a gross settlement fund of $192,000. The class representative payment to the plaintiff would be $10,000. Attorney's fees would be $64,000 (one-third of the settlement). Litigation costs would not exceed $10,000. The settlement administrator's costs are estimated at $8,000. PAGA penalties would be $10,000, resulting in a payment of $7,500 to the LWDA. The net amount paid directly to the class members would be about $92,500, not including distribution of PAGA penalties. The fund is non-reversionary. There are an estimated 292 class members. Based on the estimated class size, the average net payment for each class member is approximately $317. The individual payments will vary considerably, however, because of the allocation formula prorating payments according to the number of weeks worked during the relevant time. The number of aggrieved employees for PAGA purposes is smaller, because the starting date of the relevant period is later.

The entire settlement amount will be deposited with the settlement administrator within 30 days after the effective date of the settlement.

The proposed settlement would certify a class of all current and former non-exempt employees employed at Defendants' California facilities between October 26, 2018 and November 9, 2023. For PAGA purposes, the period covered by the settlement is October 26, 2021 to November 9, 2023.

The class members will not be required to file a claim. Class members may object or opt out of the settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.) Funds would be apportioned to class members based on the number of workweeks worked during the class period.

A list of class members was provided to the settlement administrator within 30 days after preliminary approval. Various prescribed follow-up steps will be taken with respect to mail that is returned as undeliverable. Although the class initially was estimated at 292 members, it was ultimately determined to be somewhat larger, and 335 notices were mailed out. 21 were returned as undeliverable, and based on skip-tracing, 10 new addresses were obtained. Ultimately 11 out of 335 remain undeliverable. No objections or requests for exclusion were received.

Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to the controller's unclaimed property fund.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are outside the scope of the allegations of the complaint.") "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (Id., quoting *Marshall v. Northrop Grumman Corp*. (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. For example, much of plaintiff's allegations centers on possible off-the-clock work, including missed or skipped meal breaks and rest breaks. Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks. As to unreimbursed employee expenses (such as cell phone use, mileage, and masks), plaintiff would have been called on to show that such expenses were in fact incurred, were reasonably necessary to job performance, and were unreimbursed. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

Moreover, a critical factor in the negotiations was the seriously limited financial resources of defendant, leaving it unable to pay a more substantial settlement. Plaintiff counsel and the mediator looked into this factor, and agree that demanding a significantly larger settlement might simply put defendant out of business as an employer going forward, to the detriment of its employees.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include "stacking" of violations, the law may only allow application of the "initial violation" penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.")) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, e.g., *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion.

B. Legal Standards

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including "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 state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction … to the proposed settlement." (See also *Amaro*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In Moniz, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (Id., at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees". (Id., at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "The court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that Neary does not always apply, because "Where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

The settlement agreement includes an escalator provision, to be triggered in the event that the number of covered employees or work weeks turns out to be materially higher than now estimated. If the clause is triggered and the defendant elects to increase the total payment, no further approval will be needed. The parties are cautioned, however, that in the event the clause would result in a significant modification of the settlement (such as cutting back the covered period), it would be prudent to seek further approval from the Court.

C. Attorney Fees, costs, administrative costs, and Representative Award

Plaintiff seeks one-third of the total settlement amount as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id.*, at 505.) Following typical practice, however, the Court deferred consideration of the fee award until this motion.

Counsel have calculated a lodestar fee of $16,515, based on expenditure of 36 hours on this matter, at hourly rates ranging from $473 to $948. This results in an implied multiplier of 3.87. This does not include time yet to be spent on the matter or time of one attorney who apparently left the firm.

Counsel submitted a thorough declaration and brief, which emphasizes that they still seek an attorney's fee on the basis of the "common fund" theory, and argues extensively why this approach is superior to a lodestar approach, and that the calculation of a lodestar is unnecessary and inappropriate. As the Supreme Court noted in Lafitte, supra,1 Cal.5th at 503, "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citation omitted]—convince us the percentage method is a valuable tool that should not be denied our trial courts."

But the Supreme Court authorized trial courts to require a lodestar cross-check for a reason. As the Supreme Court stated "A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee. If a comparison between the percentage and lodestar calculations produces an imputed multiplier far outside the normal range, inculcating that the percentage fee will reward counsel for their services at an extraordinary rate even accounting for the factors customarily used to enhance a lodestar fee, the trial court will have reason to reexamine its choice of a percentage. (Id., at 504.)

As a result, this Court, which over time has reviewed a conservative estimate of 100-200 class action settlements, always requires a lodestar cross-check in "common fund" cases. But it has seldom required an adjustment in the fee as a result, even in instances where the implied multiplier was substantial.

There are 335 members of the class, who will receive an average of $276. The per member amount is higher than some cases, but that must be judged by the strength of this case, not the relatively small individual payment of others. While recognizing the many complex and difficult issues involved in wage and hour class actions, the claims in this case are typical of the claims in this type of case, rather than particularly novel or risky. Nor did it extend over a longer than typical period of time, running 24 months from filing the complaint to preliminary approval of the settlement.

Under the circumstances of this case, the Court finds that the requested fee would not be reasonable. Accordingly, the Court adjusts the fee award to $55,000, which still results in an implied multiplier of 3.33. As a percentage of the total recovery, the award is 28.65%. The balance increases the award to the class.

Litigation costs of $8,171.82 are reasonable and are approved.

Settlement administration costs of $8,000 are reasonable and are approved.

The requested representative payment of $10,000 for the plaintiff is reviewed under the criteria for evaluation of representative payment requests discussed in Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 804-07. Mr. Medina attests that he worked on the case with his attorneys, although he does not estimate the amount of time. He takes a risk that his participation in this case will hurt his future employment prospects. He gave a broader release than the other class members, but does not indicate that he had any other claims of significant value. The requested $10,000 is reasonable and is awarded.

D. Discussion and Conclusion

The Court finds that the settlement is sufficiently fair, reasonable, and adequate to justify preliminary approval.

With the reduction in attorney's fees, the Court finds that the settlement is fair, reasonable, and adequate, and grants the motion for final approval. Counsel are directed to prepare an order reflecting this tentative ruling, the other findings in the previously submitted proposed order, and a judgment. The judgment must provide for a compliance hearing after the settlement has been completely implemented. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

The Court also **HEREBY ORDERS AND MAKES THE FOLLOWING DETERMINATIONS AND FINDINGS:**

1. All terms used in this order shall have the same meanings given as those terms are used and/or defined in the parties' Settlement Agreement and the Motion. A copy of the Settlement Agreement is attached to the *Declaration of Jonathan Melmed in Support of Plaintiff's Motion for Final Approval of Class Action Settlement* as **Exhibit 1** and is made a part of this order.

2. The Court has personal jurisdiction over Plaintiff and Defendant Desert Parks Landscaping, Inc. ("Defendant") (collectively, the "Parties") to this litigation and subject matter jurisdiction to approve this Settlement Agreement and all exhibits thereto.

3. The Court finds that no Class Members objected to the Settlement, and no Class Members requested exclusion from the Settlement. Similarly, the Court finds that no Class Members

disputed their workweek or pay period calculations.

4. For settlement purposes only, the Court finally certifies the Class, as defined in the Motion and the Settlement Agreement and as follows: "*all current and former hourly-paid or non-exempt employees employed by Defendant within the State of California at any time from October 26, 2018, through November 9, 2023.*" The Court deems this definition sufficient for the purpose of rule 3.765(a) of the California Rules of Court, and solely for the purpose of effectuating the Settlement Agreement.

5. For purposes of approving the Settlement only, this Court finds and concludes that: (a) the 335 Class Members are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the Class, and there is a well-defined community of interest among Class Members with respect to the subject matter of the claims in the action; (c) the claims of the Plaintiff are typical of the claims of the Class Members; (d) the Plaintiff has fairly and adequately protected the interests of the Class Members; (e) a class action is superior to other available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Plaintiff, i.e., Class Counsel, is qualified to serve as counsel for the Plaintiff in his individual and representative capacity and for the Class. In negotiating, entering into and implementing the Settlement Agreement, Plaintiff and Plaintiff's counsel have fairly and adequately represented and protected the interest of the Class Members.

6. The Court is satisfied that ILYM Group, Inc., which was appointed as the Settlement Administrator, completed the distribution of Class Notice to the Class in a manner that comports with California Rule of Court 3.766. The Class Notice informed 335 prospective Class Members of the Settlement Agreement's terms, their rights under the Settlement Agreement to receive their settlement share, their rights to submit a request for exclusion, their rights to comment on or object to the Settlement Agreement, and their rights to appear at the Final Approval and Fairness Hearing and be heard regarding approval of the Settlement Agreement. Sufficient periods of time to respond and to act were provided by each of these procedures.

7. The Court further finds that the Settlement satisfies the standards and applicable requirements for final approval of this class action settlement under California law, including the

provisions of California Code of Civil Procedure sections 382 and California Rules of Court, Rule 3.769, and applicable law.

8. The Court has considered all relevant factors for determining the fairness of the Settlement Agreement and has concluded that all such factors weigh in favor of **GRANTING** final approval. In particular, the Court finds that the Settlement Agreement was reached following meaningful investigation and informal discovery conducted by Class Counsel; that the Settlement Agreement is the result of informed, adversarial, and arm's-length negotiations between the Parties; and that the terms of the Settlement Agreement are in all respects fair, adequate, and reasonable. In so finding, the Court has considered all of the evidence presented, including evidence regarding the strength of the Plaintiff's case; the risk, expense, and complexity of the claims presented; the likely duration of further litigation; the amount offered in Settlement Agreement; the extent of investigation and discovery completed; and the experience and views of Class Counsel. Accordingly, the Court finally **APPROVES** of the terms and conditions contained in the Settlement Agreement as to the Settlement Class Members and the PAGA Releasees. The Court finds that the Settlement is, in all respects, fair, reasonable, adequate, and in the best interests of the Settlement Class Members and PAGA Releasees and hereby directs implementation of all remaining terms, conditions, and provisions of the Settlement Agreement.

9. The Court hereby approves the terms set forth in the Settlement Agreement and finds that the Settlement Agreement is, in all respects, fair, adequate, and reasonable, consistent, and compliant with all applicable requirements of the California Code of Civil Procedure, the California and United States Constitutions, including the Due Process clauses, the California Rules of Court, and any other applicable law, and in the best interests of each of the Parties and Class Members.

10. The Court directs the Parties to effectuate the Settlement Agreement according to its terms and declares the Settlement Agreement to be binding on all Class Members.

11. The Court finds that the Settlement Agreement has been reached as a result of informed and non-collusive arm's-length negotiations. The Court further finds that the Parties have conducted extensive investigation and research, and their attorneys were able to reasonably evaluate their respective positions.

12. The Court also finds that the Settlement Agreement will avoid additional and potentially substantial litigation costs, as well as delay and risks of the Parties were to continue to litigate the case. Additionally, after considering the monetary recovery provided as part of the Settlement Agreement in light of the challenges posed by continued litigation, and Court concludes that Class Counsel secured significant relief for Class Members.

13. The Settlement Agreement is not a concession or admission and shall not be used against Defendant, or by any other Released Party, as an admission of fault or indication with respect to any claim of any fault or omission by Defendant or any other Released Party. Except as necessary to enforce the terms of the Settlement Agreement, neither the Settlement, nor any document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted into evidence as, received as or deemed to be in evidence for any purpose adverse to the Defendant or any Released Party, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant or any of the other Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, except for legal proceedings concerning the implementation, interpretation, or enforcement of the Settlement Agreement.

14. The Court appoints Plaintiff Isaias Mendoza Medina as Class Representative and finds him to be adequate for purposes of Settlement.

15. The Court appoints Jonathan Melmed, Laura Supanich, and Hannah Becker of Melmed Law Group P.C. as Class Counsel and finds each of them to be adequate, experienced, and well-versed in class action litigation.

16. The Court finds that the approved Class Notice (attached as **Exhibit "A"** to the Settlement Agreement and ILYM Group's declaration in support of the Motion), along with the related notification procedure contemplated by the Settlement Agreement, constituted the best notice practicable under the circumstances. Notice was provided to the Class Members in compliance with the Settlement Agreement and Preliminary Approval Order, California Code of Civil Procedure section 382, California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable law. Specifically, the Class Notice: (i) fully and

accurately informed Class Members about the lawsuit and Settlement; (ii) provided sufficient information so that Class Members were able to decide whether to opt-out and pursue their own remedies, or object to the proposed Settlement; (iii) provided procedures for Class Members to request exclusion from the Settlement, to state written objections to the proposed Settlement, to dispute the number of workweeks, and to appear at the hearing; (iv) provided the time, date and place of the final fairness hearing; and (v) provided both English and Spanish translations of the Notice. A full opportunity has been afforded to the Class Members to participate in this hearing and all Settlement Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Settlement Class Members that did not submit a request for exclusion are bound by this Final Approval Order.

17. The terms of the Settlement Agreement, including the Gross Settlement Amount of **$192,000.00** and the individual settlement shares, are fair, adequate, and reasonable to the Class and to each Class Member, and the Courts grants final approval of the Settlement set forth in the Settlement Agreement, subject to this order.

18. The Court approves the following allocations, which fall within the ranges stipulated by and through the Settlement Agreement:

A. The Court awards **$8,000.00** to ILYM Group, Inc., the Settlement Administrator, and finds this amount to be fair and reasonable. The Court grants final approval of it and orders the Parties to make the payment to the Settlement Administrator in accordance with the Settlement Agreement.

B. The Court awards **$55,000.00** to Plaintiff's counsel as attorneys' fees and finds this amount to be fair and reasonable in light of the benefit obtained for the Class. The Court grants final approval of, awards, and orders the payment to Plaintiff's counsel to be made in accordance with the Settlement Agreement.

C. The Court awards **$8,171.82** in litigation costs, an amount which the Court finds to be reasonable in light of actual costs incurred. The Court grants final approval of, and orders the litigation expenses payment in this amount to be made to Plaintiff's counsel in accordance with the Settlement Agreement.

D. The Court awards **$10,000.00** to the class representative as payment requested by Plaintiff and finds this amount to be fair and reasonable. The Court grants final approval of, and orders the class representative payment to be made in accordance with the Settlement Agreement.

E. The Court approves the **$10,000.00** allocation for penalties under the Labor Code Private Attorneys General Act of 2004, and orders 75% thereof (i.e., $7,500.00) to be paid to the California Labor and Workforce Development Agency in accordance with the terms of the Settlement Agreement and the remainder to the Aggrieved Employees.

19. The Court finds that the Parties adequately performed their obligations under the Settlement Agreement and Preliminary Approval Order.

20. Pursuant to Labor Code Section 2699, subdivision (l)(2), the Court approves of the Settlement's provisions relating to settlement of claims under the Private Attorneys General Act of 2004, Labor Code Section 2698 et seq. ("PAGA").

21. Entry of this Final Approval Order shall constitute a full and complete bar against Plaintiff, Settlement Class Members and PAGA Releasees (whether individually, cumulatively or in any combination or in any manner) and in favor of the Released Parties (as defined in the Settlement Agreement) from bringing any Released Claims against Defendant and Released Parties (whether individually, cumulatively or in any combination or in any manner), and shall constitute *res judicata* and collateral estoppel with respect to the Released Claims. As such, as of the Effective Date, the Court finally and permanently enjoins all of the Settlement Class Members and PAGA Releasees from pursuing, or seeking to reopen, any released claims as defined in the Settlement Agreement and/or the Class Notice.

22. The Court orders the Parties to comply with and carry out all terms and provisions of the Settlement, to the extent that the terms thereunder do not contradict with this order, in which case the provisions of this order shall take precedence and supersede the Settlement Agreement.

23. Nothing in the Settlement Agreement or this order purports to extinguish or waive Defendant's rights to continue to oppose the merits of the claims in this action or class treatment of these claims in this case if the Settlement Agreement fails to become final or effective, or in any

other case without limitation.

24. All Class Members who did not request exclusion from the Settlement shall be bound by the Settlement and this order, including the release of claims as set forth in the Settlement Agreement.

25. The Parties shall bear their own respective attorneys' fees and costs except as otherwise provided in this order and the Settlement Agreement.

26. All checks mailed to the Class Members must be cashed within one hundred and eighty (180) days after mailing. If a Class Member fails to cash his/her check by the deadline, then the Settlement Administrator shall submit such funds the California State Controller's Unclaimed Property Fund. The Court finds that this meets the requirements of Code of Civil Procedure section 384.

27. Within seven days of this order, the Settlement Administrator shall give notice of judgment to Settlement Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy of this order and final judgment on its website.

28. Pursuant to the Parties' request, California Code of Civil Procedure section 664.6, and California Rule of Court 3.769(h), the Court retains continuing jurisdiction over the Action and the Settlement for purposes of **(a)** enforcing the Settlement Agreement, **(b)** addressing settlement administration matters, and **(c)** addressing such post-judgment matters as may be appropriate under court rules or applicable law.

29. Plaintiff shall file with the Court a report regarding the status of distribution within 180 days after all funds have been distributed.

30. This final judgment is intended to be a final disposition of the above-captioned action in its entirety and is intended to be immediately appealable. This final judgment resolves and extinguishes all claims released by the Settlement Agreement against Defendant.

31. **Judgment**. The Court finds that there is no reason for delay and directs the Clerk to enter judgment in accordance with the terms of this Final Approval Order as of the date of this order. By operation of the entry of this Final Approval Order, the Parties and Settlement Class Members are ordered to perform their respective duties and obligations under the Settlement Agreement.

32. **Notice of Judgment.** Plaintiff is to give notice to all Class Members of this Final Approval Order and Judgment in accordance with California Rule of Court 3.771(b) by filing a Notice of Entry of Judgment of this Final Approval Order and Judgment with the Court.

33. **Copy to LWDA**. Within 10 days of entry of this Final Approval Order and Judgment, Plaintiff shall provide a copy of this Final Approval Order and Judgment to the LWDA, pursuant to Labor Code Section 2699, subdivisions (l), (3), & (4).

34. The Court hereby sets a hearing date of **July 15, 2026 at 2:00 pm** for a hearing on the final accounting and distribution of the settlement funds.

IT IS SO ORDERED, ADJUDGED, AND DECREED. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 7/25/2025

Hon. Edward Weil

Hon. Edward Weil
Judge of the Superior Court, Contra Costa County

attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

8. 9:00 AM CASE NUMBER: C22-02298
CASE NAME: ISAIAS MENDOZA MEDINA VS. DESERT PARKS LANDSCAPING, INC
***HEARING ON MOTION IN RE: FINAL APPROVAL**
FILED BY:
****TENTATIVE RULING:****

Plaintiff Isaias Mendoza Medina moves for final approval of his class action and PAGA settlement with defendant Desert Parks Landscaping, Inc.

A. **Background and Settlement Terms**

Defendant is a commercial landscaping company. Plaintiff Mendoza Medina worked as a commercial landscaper for defendant during the class period.

The original complaint was filed on October 26, 2022 as a class action, by then-plaintiff Oscar Gonzalez. PAGA claims were added by later amendment. Thereafter, however, Gonzalez fell out of touch with plaintiff counsel and could not continue as the plaintiff and class representative. With the cooperation of the defendant, counsel identified the present plaintiff, Mendoza Medina, as a suitable substitute plaintiff.

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Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. For example, much of plaintiff's allegations centers on possible off-the-clock work, including missed or skipped meal breaks and rest breaks. Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks. As to unreimbursed employee expenses (such as cell phone use, mileage, and masks), plaintiff would have been called on to show that such expenses were in fact incurred, were reasonably necessary to job performance, and were unreimbursed. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

Moreover, a critical factor in the negotiations was the seriously limited financial resources of defendant, leaving it unable to pay a more substantial settlement. Plaintiff counsel and the mediator looked into this factor, and agree that demanding a significantly larger settlement might simply put defendant out of business as an employer going forward, to the detriment of its employees.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include "stacking" of violations, the law may only allow application of the "initial violation" penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.")) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, e.g., *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.)

Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion.

B. **Legal Standards**

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1801, including "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 state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction … to the proposed settlement." (See also *Amaro*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees". (*Id*., at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "The court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "Where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutatory purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

The settlement agreement includes an escalator provision, to be triggered in the event that the number of covered employees or work weeks turns out to be materially higher than now estimated. If the clause is triggered and the defendant elects to increase the total payment, no further approval will be needed. The parties are cautioned, however, that in the event the clause would result in a significant modification of the settlement (such as cutting back the covered period), it would be prudent to seek further approval from the Court.

C. **Attorney Fees, costs, administrative costs, and Representative Award**

Plaintiff seeks one-third of the total settlement amount ($64,000), as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id*., at 505.) Following typical practice, however, the Court deferred consideration of the fee award until this motion.

Counsel have calculated a lodestar fee of $16,515, based on expenditure of 36 hours on this matter, at hourly rates ranging from $473 to $948. This results in an implied multiplier of 3.87. This does not include time yet to be spent on the matter or time of one attorney who apparently left the firm.

Counsel submitted a thorough declaration and brief, which emphasizes that they still seek an attorney's fee on the basis of the "common fund" theory, and argues extensively why this approach is superior to a lodestar approach, and that the calculation of a lodestar is unnecessary and inappropriate. As the Supreme Court noted in *Lafitte, supra*,1 Cal.5th at 503, "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citation omitted]—convince us the percentage method is a valuable tool that should not be denied our trial courts."

But the Supreme Court authorized trial courts to require a lodestar cross-check for a reason. As the Supreme Court stated "A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee. If a comparison between the percentage and lodestar calculations produces an imputed multiplier far outside the normal range, inculcating that the percentage fee will reward counsel for their services at an extraordinary rate even accounting for the factors customarily used to enhance a lodestar fee, the trial court will have reason to reexamine its choice of a percentage. (*Id*., at 504.)

As a result, this Court, which over time has reviewed a conservative estimate of 100-200 class action settlements, always requires a lodestar cross-check in "common fund" cases. But it has seldom required an adjustment in the fee as a result, even in instances where the implied multiplier was substantial.

There are 335 members of the class, who will receive an average of $276. The per member amount is higher than some cases, but that must be judged by the strength of this case, not the relatively small individual payment of others. While recognizing the many complex and difficult issues involved in wage and hour class actions, the claims in this case are typical of the claims in this type of case, rather than particularly novel or risky. Nor did it extend over a longer than typical period of time, running 24 months from filing the complaint to preliminary approval of the settlement.

Under the circumstances of this case, the Court finds that the requested fee would not be reasonable. Accordingly, the Court adjusts the fee award to $50,000, which still results in an implied multiplier of 3.0. As a percentage of the total recovery, the award is 26%. The balance increases the award to the class.

Litigation costs of $8,171.82 are reasonable and are approved.

Settlement administration costs of $8,000 are reasonable and are approved.

The requested representative payment of $10,000 for the plaintiff is reviewed under the criteria for evaluation of representative payment requests discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07. Mr. Medina attests that he worked on the case with his attorneys, although he does not estimate the amount of time. He takes a risk that his participation in this case will hurt his future employment prospects. He gave a broader release than the other class members, but does not indicate that he had any other claims of significant value. The requested $10,000 is reasonable and is awarded.

D. **Conclusion**

With the reduction in attorney's fees, the Court finds that the settlement is fair, reasonable, and adequate, and grants the motion for final approval.

Counsel are directed to prepare an order reflecting this tentative ruling, the other findings in the previously submitted proposed order, and a judgment. The judgment must provide for a compliance hearing after the settlement has been completely implemented. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

9. 9:00 AM CASE NUMBER: C23-01207
CASE NAME: CHAND VS. KUMAR
HEARING ON SUMMARY MOTION ON PLTFS COMPLAINT
FILED BY: KUMAR, DEVENDRA
TENTATIVE RULING:

Continued to August 21, 2025, based on application and order of July 11, 2025.

10. 9:00 AM CASE NUMBER: C24-00239
CASE NAME: MANUEL MAGALLON VS. ADVANCED TRENCHLESS, INC.,
***HEARING ON MOTION IN RE: TO BE RELIEVED AS COUNSEL AS TO ADVANCED TRENCHLESS, INC.**
FILED BY: ADVANCED TRENCHLESS, INC.,
TENTATIVE RULING:

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF CONTRA COSTA

I am over the age of 18 years and am employed in the county of Los Angeles, State of California. I am not a party to this action. My business address is 1801 Century Park East, Suite 850, Los Angeles, California 90067.

I declare that on the date hereof, July 18, 2025, I served the foregoing document(s) described as:

- **[PROPOSED] JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

By causing a true copy to be sent to the following individuals and/or parties:

LITTLER MENDELSON, P.C.
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Attorneys for Defendant, Desert Parks Landscaping, Inc. dba
Pacific Site Management,

[XX] BY ELECTRONIC TRANSMISSION. Pursuant to CCP section 1010.6(e), I caused the document to be served on this date by electronic transmission in accordance with standard procedures and to the email address listed. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of California that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 18, 2025, in Los Angeles, California.

Gustavo Alvarez