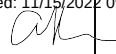


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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

Plaintiff AURELIO LANDA, on behalf of
himself and all others similarly situated,

Plaintiff,

vs.

CHRISTOPHER RANCH, LLC, a California
Corporation, B & A INTERNATIONAL FARM
LABOR SERVICES, INC. and DOES 1 through
20, inclusive,

Defendants.

Case No. 2015-1-CV-286346

**ORDER RE: MOTION FOR FINAL
APPROVAL OF CLASS [AND
REPRESENTATIVE ACTION]
SETTLEMENT; JUDGMENT**

The above-entitled matter came on for hearing on Wednesday, November 9, 2022, at 1:30 p.m. in Department 3, the Honorable Patricia M. Lucas presiding. The court reviewed and considered the written submissions filed by the parties and issued a tentative ruling on Tuesday, November 8, 2022. No party contested the tentative ruling, but counsel appeared at the hearing at the court's request to address several issues raised in the tentative ruling. The court hereby orders, adjudges and decrees as follows:

I. INTRODUCTION

This is a class and representative action arising out various alleged wage and hour violations. The operative Complaint, filed on September 30, 2015, sets forth the following

1 causes of action: (1) Failure to Pay Minimum Wages; (2) Failure to Provide Timely and
2 Complete Rest Periods or Pay Additional Wages in Lieu Thereof; (3) Failure to Pay Wages of
3 Terminated or Resigned Employees; (4) Knowing and Intentional Failure to Comply with
4 Itemized Employee Wage Statement Provisions; (5) Violation of Unfair Competition Law; and
5 (6) PAGA – Labor Code, § 2699, et seq.

6 Following a hearing on December 16, 2020, the court granted a motion for class
7 certification as to the following class and subclass:

8 Global Class 1 (B & A Only)

9 Former non-exempt field workers who were employed by Defendant B & A
10 International Farm Labor Services, Inc. in California from September 17, 2012
through January 29, 2017, and who worked on a piece rate basis for at least one
shift equal to or greater than three and one-half (3.5) hours.

11 Christopher Ranch Subclass

12 Former non-exempt field workers who were employed by Defendant B & A
13 International Farm Labor Services, Inc. at Christopher Ranch locations in
California from December 10, 2012 through October 3, 2015, and who worked on
a piece rate basis for at least one shift equal to or greater than three and one-half
(3.5) hours.

14 On September 23, 2021, on motion by plaintiff Aurelio Landa (“Plaintiff”), the court
15 issued an Order Re: Motion for Preliminary Approval of Class Action Settlement (“2021
16 Order”), which set the hearing on final approval for January 19, 2022.

17 On January 18, 2022, the parties advised the court by stipulation that a significant
18 disagreement had arisen regarding the number of class members and that the number of
19 employees who ultimately would receive a portion of the settlement funds would likely increase
20 significantly. As no motion for final approval had been filed, the court took the January 19, 2022
21 hearing off calendar.

22 On February 8, 2022, Plaintiff filed a Declaration of Stan Mallison In Support of
23 Plaintiff’s Request for Confirmation of Preliminary Approval and Approval of Proposed
24 Schedule for Notice and Final Approval, which notified the court that the parties now
25 contemplated different terms of settlement than those preliminarily approved in the 2021 Order.

26 After the parties conferred with the court, on March 11, 2022, Plaintiff filed a Renewed
27 Motion for Preliminary Approval of Class Settlement.
28

1 On April 4, 2022, the court entered an order vacating the 2021 Order and granting the
2 renewed motion for preliminary approval of settlement, subject to modification of the class
3 notice. The court subsequently approved the amended class notice on April 13, 2022.

4 On May 17, 2022, the court entered a Joint Stipulation and Order Approving Amended
5 Class Notice and Approving Amended Settlement Administration Schedule (“Stipulation and
6 Order”). The Stipulation and Order states that during settlement administration of the matter, the
7 parties found that the description of individual settlement shares in the class notice did not reflect
8 the description of individual settlement shares agreed upon in the settlement agreement. The
9 parties corrected the language in the class notice to reflect the language of the settlement
10 agreement, but administration of the settlement was delayed due to the necessary changes.
11 Consequently, the parties requested and the court approved a new schedule whereby the
12 amended class notice would be mailed to class members on May 18, 2022, and the final fairness
13 hearing was set for August 24, 2022.

14 On July 22, 2022, the court entered Plaintiff’s Request and Order Re Settlement
15 Administration, which explains that the settlement administrator provided the approved notice to
16 the majority of the class, but a portion of the class had not yet received notice and the
17 objection/opt-out period would not run before the August 24, 2022 hearing date. The court
18 ordered the settlement administrator to mail notice packets to class members who had not yet
19 received notice by July 25, 2022. The hearing date of August 24, 2022 was retained solely for
20 the purpose of allowing class members who received notice sent on May 18, 2022, to make
21 objections to the settlement. The court set a second hearing date of November 9, 2022, for class
22 member to appear who were mailed class notice on July 25, 2022, and for Plaintiff’s motion for
23 final approval of settlement.

24 The minute order from the August 24, 2022 hearing states that there were no objections.

25 Plaintiff now moves for final approval of the settlement. Defendant Christopher Ranch,
26 LLC (“Defendant”) does not oppose the motion. No class members appeared at the hearing to
27 object.

28 //

II. LEGAL STANDARD

Generally, “questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court’s broad discretion.” (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235, citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794.)

In determining whether a class settlement is fair, adequate and reasonable, the trial court 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.” (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n, etc.* (9th Cir. 1982) 688 F.2d 615, 624.)

“The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case.” (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the “proposed settlement agreement 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.” (*Ibid.*, quoting *Dunk, supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com’n, etc.*, *supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

The burden is on the proponent of the settlement to show that it is fair and reasonable. However “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.” (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk, supra*, 48 Cal.App.4th at p. 1802.)

III. DISCUSSION

The case has been settled on behalf of the following subset of the certified subclass:

1 Former non-exempt field workers who were employed by Defendant B&A
2 International Farm Labor Services, Inc. at Christopher Ranch locations in
3 California from December 10, 2012, through October 3, 2015, whose names
4 appear in the spreadsheet, referenced in the memorandum of understanding
5 entitled "CHRISTOPHER RANCH AB 1513 REPORT 15-13," whose AB 1513
6 rest period check went uncashed, with checks Christopher Ranch previously
7 subpoenaed from B&A's bank being conclusive, and who are not among the
8 group of B&A employees whose AB 1513 payments were remitted by B&A to
9 the Department of Industrial Relations. The individuals whose payments were
10 remitted to the DIR are those whose names are listed on the document Bates-
11 stamped B&A/LANDA 5297-5328.

12 Plaintiff advised that the total recovery for employees as a result of this litigation is
13 \$1,145,543.50. Of this amount, \$345,543.50 has already been paid for AB 1513 settlement
14 payments. The current settlement includes an additional \$800,000, which is non-reversionary, to
15 be paid by Defendant. The \$800,000 settlement total includes attorney fees of \$320,000, costs
16 up to \$60,000, an incentive award of \$10,000 for the class representative, settlement
17 administration costs in the amount of \$13,598.41, and a PAGA allocation of \$50,000 (\$37,500 of
18 which will be paid to the Labor Workforce Development Agency).

19 Funds from checks not cashed within 60 days from the initial distribution will be
20 distributed pro rata to those class members who did cash their settlement checks. Checks
21 remaining uncashed 90 days after the second distribution will be voided and the funds will be
22 allocated to a *cy pres* recipient. Plaintiff has now identified California Rural Legal Assistance as
23 the *cy pres* recipient, which the court approves.

24 Defendant provided the settlement administrator with contact information for 1,061 class
25 members and on May 11, 2022, notice packets were mailed to 765 class members. (Declaration
26 of Stan Mallison, Esq. in Support of Plaintiff's Motion For Final Approval of Class Settlement
27 ("Mallison Dec."), Ex. 3 Declaration of Simpluris Settlement Administrator Evelin Reyes
28 Regarding Notice and Settlement Administration in the Matter of Landa v. Christopher Ranch, et
al. ("Reyes Dec."), ¶¶ 6 & 8.) On July 25, 2022, notice packets were mailed to 296 class
members. (Reyes Dec., ¶ 9.) Ultimately, 462 of the notices were undeliverable. (*Ibid.*)

Prior to the hearing on this motion, the parties did not provide the court with a copy of
the amended notice that was mailed to class members on July 25, 2022, containing the
November 9, 2022 hearing date. The court received the notice on the date of the hearing, and it
appears to be in order.

1 Plaintiff previously advised the court in connection with the motion for preliminary
2 approval of settlement that there were approximately 1,077 class members. However, Plaintiff
3 did not explain why notice packets were only mailed to 1,061 class members, and specifically
4 whether there are only 1,061 class member or if information for the additional class members
5 was never provided to the settlement administrator. Plaintiff was directed in the tentative ruling
6 to appear at the hearing and presented additional information sufficient to address the court's
7 concerns.

8 The court was also concerned that such a high percentage of notice packets
9 (approximately 43 percent) were ultimately undeliverable. Plaintiff has filed a supplemental
10 declaration from the settlement administrator, which merely reiterates information previously
11 provided to the court regarding the undeliverable notices. ([Supplemental] Declaration of
12 Simpluris Settlement Administrator Evelin Reyes Regarding Notice and Settlement
13 Administration in the Matter of Landa v. Christopher Ranch et al., ¶ 3.) Plaintiff has also filed a
14 supplemental declaration from his counsel. Plaintiff's counsel declares that Plaintiff's data
15 expert, Aaron Woolfson, worked with the claims administrator to process the class contact
16 information received from defendant B&A International Farm Labor Services, Inc., but the data
17 was in poor condition, had missing or error filled entries, and there were many missing or
18 questionable names, addresses, or social security numbers. (Supplemental Declaration of Stan
19 Mallison, Esq. Regarding Undeliverable Notices (in Support of Plaintiffs' Motion for Final
20 Approval of Class Settlement), ¶ 3.) Counsel states that as a result of these problems, the claims
21 administrator had problems curing the incomplete date and skip traces are ineffective. (*Ibid.*).
22 Finally, Plaintiff's counsel states that "B&A has defaulted and cannot be found so there is no
23 likely cure to improve the settlement" and, under the circumstances, Plaintiff has provided the
24 best practicable notice to the class. In light of the foregoing, the court finds that the declaration
25 from Plaintiff's counsel adequately addresses the court's concerns regarding the high percentage
26 of undeliverable notices.

27 As of October 14, 2022, there were three requests for exclusion. (Reyes Dec., ¶ 13.)
28 Counsel subsequently provided to the court the names of the class members requesting

1 exclusion: X, Y, and Z. There have been no objections to the settlement. (Reyes Dec., ¶ 14.)
2 The estimated average payment is \$611.95 and the estimated highest payment is \$13,292.64.
3 (Reyes Dec., ¶ 12.) The court previously found the proposed settlement is fair and the court
4 continues to make that finding for purposes of final approval.

5 Plaintiff requests an incentive award of \$10,000. Plaintiff has submitted a declaration
6 detailing his participation in the case stating that he spent over 29 hours on this case, including
7 responding to discovery, sitting for deposition, reviewing documents, and participating in
8 mediation. (Mallison Dec., Ex. 2, Declaration of Aurelio Landa Rodreguez in Support of
9 Plaintiff's Motion for Final Approval of Class Settlement, ¶¶ 7-11 & 15.)

10 The class representative's efforts in the case resulted in a benefit to the class. Moreover,
11 Plaintiff undertook risk by putting his name on the case because it might impact his future
12 employment. (See *Covillo v. Specialty's Cafe* (N.D. Cal. 2014) 2014 WL 954516, at *8
13 [incentive awards are particularly appropriate where a plaintiff undertakes a significant
14 "reputational risk" in bringing an action against an employer].) Accordingly, the court finds the
15 incentive award is warranted and it is approved.

16 The court also has an independent right and responsibility to review the requested
17 attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los*
18 *Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiffs' counsel
19 requests attorney fees in the amount of \$320,000 (40 percent of the total settlement). Plaintiffs'
20 counsel provides evidence demonstrating a total combined lodestar of \$700,680.15. (Mallison
21 Dec., ¶ 46; Declaration of Mario Martinez, Esq. in Support of Plaintiffs' Motion for Final
22 Approval of Class Settlement, ¶ 11.) This results in a negative multiplier. Although the
23 percentage is higher than the court would normally approve, the amount requested is
24 substantially less than the lodestar and counsel has litigated this matter for the past seven years.
25 Accordingly, the court finds that the fees requested are reasonable and are approved.

26 Plaintiffs' counsel requests costs of \$54,275.96 and provides evidence of these incurred
27 costs. (Mallison Dec., ¶ 47 & Ex. 4.) The costs are approved. The settlement administration
28 costs of \$13,500 are also approved. (Reyes Dec., ¶ 16.)

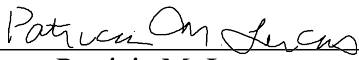
1 Accordingly, the motion for final approval of class action settlement is GRANTED.

2 Pursuant to Rule 3.769, subdivision (h), of the California Rules of Court, the court retains
3 jurisdiction over the parties to enforce the terms of the Settlement Agreement, and the final
4 Order and Judgment.

5 The court sets a compliance hearing for July 12, 2023 at 2:30 p.m. in Department 3. At
6 least ten court days before the hearing, class counsel and the settlement administrator shall
7 submit a summary accounting of the net settlement fund identifying distributions made as
8 ordered herein, the number and value of any uncashed checks, amounts remitted to Defendant,
9 the status of any unresolved issues, and any other matters appropriate to bring to the court's
10 attention. Counsel may appear at the compliance hearing remotely.

11 On September 29, 2020, default was entered against defendant B & A International Farm
12 Labor Services, Inc. ("B&A") but it appears that no application has been made seeking judgment
13 pursuant to the default. Pursuant to the court's request in the tentative ruling, at the hearing
14 Plaintiff's counsel advised the court that Plaintiff will shortly be filing a request to dismiss B&A.

15
16 Dated: November 10, 2022



Patricia M. Lucas
Judge of the Superior Court