

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

MINUTE ORDER

DATE: 08/16/2024

TIME: 1:30 PM

DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL

CLERK: S. Christensen

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2022-00048277-CU-OE-CTL** CASE INIT.DATE: 12/01/2022

CASE TITLE: **Johnson vs The JG Wentworth Company [E-File]**

CASE CATEGORY: Civil CASE TYPE: (U)Other Employment

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

There are no appearances by any party.

Motion for Final Approval of Class and PAGA Settlement

Prior to calendar call, counsel called to notify the Court that all parties submit(s) on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

Plaintiffs' motion for final approval of class and PAGA settlement is **GRANTED**.

Discussion

Fairness Determination

The Court finds the \$436,000.00 non-reversionary settlement to be fair, adequate and reasonable. See, e.g., *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1800–1801; Cal. Rules of Court, rule 3.769(g). Additionally, no objections have been made to the settlement and no one has opted out. MPA at p.1. This adds further support to finding the settlement is a fair and reasonable resolution of the parties' dispute.

Administration Costs

The claims administrator provided evidence that \$6,000.00 in claims administration costs was incurred. Mayra Gonzalez Decl. [ROA # 42] ¶ 16, Ex. B. The request is granted.

Class Representative

Incentive payments to class representatives “must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.” *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1395. The Court must also consider the “risk to the class representative in commencing suit” and any “personal difficulties” encountered because of the litigation. *Id.* at 1394. The request for a class representative incentive award of \$7,500 to each of the named plaintiffs was supported by declaration and is granted. Samuel Johnson Decl. [ROA # 44] ¶¶ 5-10; Jazmin Valerio Decl. [ROA # 45] ¶¶ 5-10.

Attorney Fees

A percentage method may be used to calculate a reasonable fee in a common fund case. *Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503. The reasonableness may be double checked against the lodestar. *Id.* at 504 (courts may, but are not required to, double check the reasonableness of a percentage fee through a lodestar calculation). Additionally, the lodestar may be increased or decreased “by applying a positive or negative ‘multiplier’ to take into account a variety of other factors, including the quality of the representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented.” *Laffitte, supra*, 1 Cal.5th at 489.

Here, plaintiffs request class counsel fees in the amount of \$130,800.00, which is thirty percent of the gross settlement amount. The lodestar is higher than the percentage requested of the common fund, which results in a negative multiplier. MPA at 14, citing Makin Decl. ¶ 25; Misty Lauby Decl. [ROA # 43] ¶ 12. This, coupled with the benefit obtained for the class, the contingent risks, and the favorable response from the class to the settlement, sufficiently shows the basis for the fee award is fair and reasonable. The request for attorney fees is granted. Class counsel state they seek litigation costs of \$12,839.79. The request is supported and granted. Brian Mankin Decl. [ROA # 41] ¶ 27.

PAGA Payment

The proposed PAGA payment is also “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* (2021) 72 Cal.App.5th 56, 77, disapproved on other grounds in *Turrieta v. Lyft* (2024) --- P.3d---, 2024 WL 3611975.. The allocation percentages are appropriately in line with PAGA’s requirements of 75% being paid to the LWDA and 25% to the aggrieved employees. Settlement Agreement, p.11, § C. 49.(g).

Conclusion

For the reasons stated, the motion for final approval and motion for fees, costs, and incentive award is **GRANTED**.

The minute order is the order of the Court.

Plaintiffs to serve notice on all parties.

Katherine A. Bacal

Judge Katherine A. Bacal

